

No. 3597

**SWITZERLAND
and
AUSTRIA**

**Air Transport Agreement (with annex). Signed at Vienna,
on 19 December 1949**

Official text: German.

Registered by the International Civil Aviation Organization on 1 December 1956.

**SUISSE
et
AUTRICHE**

**Accord relatif aux services aériens (avec annexe). Signé à
Vienne, le 19 décembre 1949**

Texte officiel allemand.

Enregistré par l'Organisation de l'aviation civile internationale le 1^{er} décembre 1956.

[TRANSLATION¹ — TRADUCTION²]

No. 3597. AIR TRANSPORT AGREEMENT³ BETWEEN SWITZERLAND AND AUSTRIA. SIGNED AT VIENNA, ON 19 DECEMBER 1949

The Swiss Federal Council and the Austrian Federal Government, desiring to stimulate scheduled air transportation between Switzerland and Austria, agree as follows :

Article 1

(a) The Contracting Parties grant each other in peacetime the rights specified in the Annex⁴ hereto for the establishment of the international air services described therein, which pass through or serve their respective territories.

(b) Each Contracting Party shall designate in writing to the other Contracting Party one or more airlines to operate the agreed services and shall decide upon the date of opening of such services.

Article 2

(a) Each Contracting Party shall, subject to paragraph (b) of this article and to the provisions of Article 8, issue without delay the requisite operating permit to the airline or airlines designated by the other Contracting Party.

(b) The aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to provide proof of qualification in accordance with the laws and regulations normally applied by the aeronautical authorities issuing the operating permit.

Article 3

(a) The capacity provided by the designated airlines shall be adapted to traffic demands. Account shall be taken not only of traffic demands between the country of the airline and the country of ultimate destination of the traffic, but also of traffic demands between these countries and third countries through which the airlines operate.

(b) The right to embark or disembark, at the points specified in the Annex hereto, passengers, mail and cargo coming from or destined to third parties,

¹ Translation by the Secretariat of the International Civil Aviation Organization.

² Traduction du Secrétariat de l'Organisation de l'aviation civile internationale.

³ Came into force on 19 December 1949, as from the date of signature, in accordance with article 12 (a).

⁴ See p. 302 of this volume.

shall be exercised in accordance with the general principles of orderly development to which the Austrian and Swiss Governments subscribe and in such a manner that capacity shall be related :

1. to traffic demands between the country of origin and the country of destination ;
2. to the requirements of economic operation of the agreed services ;
3. to the traffic demands of the areas through which the airline passes after taking account of local and regional services.

(c) In the operation of common routes, the designated airlines shall take into account their reciprocal interests so as not to affect unduly their respective services.

Article 4

(a) Rates shall be fixed at reasonable levels regard being paid to economy of operation, reasonable profit, characteristics of each service, such as speed and comfort, and the rates applied by other airlines operating the same routes. In fixing these rates regard shall also be paid to the recommendations of the International Air Transport Association (IATA). The rates shall be submitted to the aeronautical authorities of the Contracting Parties for approval.

(b) If the designated airlines are unable to reach agreement on the rates to be charged or if the aeronautical authorities do not approve such rates, those authorities shall endeavour to find a solution. In the last resort the procedure provided in Article 9 shall be applied.

Article 5

(a) The Contracting Parties agree that the charges imposed for the use of airports or other facilities by the airline or airlines designated by them shall not be higher than would be paid for the use of such airports and facilities by its nationals engaged in similar international services.

(b) Fuel, lubricating oil and spare parts introduced into or taken on board in the territory of one Contracting Party by or on behalf of a designated airline of the other Contracting Party and intended solely for use by aircraft of that airline shall be accorded, with respect to customs duties, or other duties or charges imposed by the other Contracting State, treatment not less favourable than that granted to its national airlines or to the airlines of the most favoured nation.

(c) All aircraft used by the designated airline or airlines, and the fuel, lubricating oils, spare parts, normal equipment and aircraft stores retained on board such aircraft, shall on arrival in or departure from the territory of the other Contracting Party, be exempt from custom duties and other similar duties and

charges, even though such supplies be used or consumed by or in such aircraft while in that territory.

Article 6

Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Contracting State and still valid shall be recognized as valid by the other Contracting State for the operation of the agreed services. Each Contracting State 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 State.

Article 7

(a) The laws and regulations of one Contracting Party relating to entry into or departure from its territory of aircraft engaged in international air navigation, or to flights of such aircraft above its territory, shall be applied to all the airlines designated by the Contracting Parties.

(b) The laws and regulations in force in the territory of one Contracting Party respecting the entry, stay and departure of passengers, crews, mail or cargo, as well as those relating to border crossings, procedure, immigration, passports, customs and quarantine, shall be applied to passengers, crews or cargo carried by the aircraft of the designated airlines of the other Contracting Party while within that territory.

Article 8

(a) Each Contracting Party shall have the right to withhold or revoke an operating permit in respect of an airline designated by the other Contracting Party, or to attach special conditions to such a permit whenever it is not satisfied that substantial ownership and effective control are vested in the Contracting Party which has designated the airline or in its nationals.

(b) Each Contracting Party may after consultation with the aeronautical authorities of the other Contracting Party, exercise the right specified in paragraph (a) of the present Article whenever an airline designated by the other Contracting Party fails to comply with the laws and regulations referred to in Article 7 or otherwise to operate in accordance with the conditions prescribed in the present Agreement.

Article 9

(a) If any dispute arises between the Contracting Parties relating to the interpretation or application of the present Agreement the Contracting Parties shall in the first place endeavour to settle it by negotiation between themselves.

(b) If the Contracting Parties fail to reach a settlement by negotiation, they shall refer the dispute for decision to an arbitral tribunal appointed by agreement between them.

(c) If the Contracting States cannot reach agreement as to the composition of the arbitral tribunal, either Contracting Party may refer the dispute to any competent tribunal established by the International Civil Aviation Organization or, if there is no such tribunal, to the Council of the said Organization.

(d) The Contracting Parties undertake to comply with any decision given under paragraphs (b) and (c) above. If and so long as either contracting party fails to comply with any such decision, the other contracting party may limit or revoke any rights granted by virtue of the present Agreement.

Article 10

This Agreement shall be registered in accordance with Article 83 of the Convention on International Civil Aviation signed at Chicago on 7 December 1944.¹

Article 11

For the purpose of the present Agreement :

(a) The term “ aeronautical authority ” means, in the case of Switzerland, the Federal Department of Posts and Railways (Air Office) and any person or body authorized to perform the functions presently exercised by the said Department; and, in the case of Austria, the Federal Ministry of Communications (Civil Air Office) and any person or body authorized to perform the functions presently exercised by the said Ministry;

(b) The term “ designated airline ” means an airline which the aeronautical authorities of either Contracting Party shall have notified in writing to the aeronautical authorities of the other Contracting Party as the airline designated by it in accordance with Article 1, para. (b) of the present Agreement.

(c) The terms “ territory ”, “ air service ”, “ international air service ”, “ airlines ”, “ stop for non-traffic purposes ” shall have the meanings respectively assigned to them in articles 2 and 96 of the Convention on International Civil Aviation signed at Chicago on 7 December, 1944.

Article 12

(a) The present Agreement shall enter into force on the date of signature.

(b) The aeronautical authorities of the Contracting Parties shall consult together from time to time in a spirit of close collaboration with a view to ensuring the observance of the principles and implementation of the provisions laid down

¹ See footnote 2, p. 265 of this volume.

in the present Agreement. They shall, in particular, take into account traffic statistics relating to the agreed services and undertake to exchange such statistics regularly.

(c) The present Agreement and its Annex shall be brought into harmony with any multilateral agreement which may come into force with respect to the Contracting Parties.

(d) The Contracting Parties may agree to modify the present Annex. Any such modifications shall come into force when they have been confirmed by an exchange of diplomatic notes.

Article 13

Either Contracting Party may denounce the present Agreement by giving one year's notice, such period to be reckoned as from the date on which the other Contracting Party received the notice.

DONE in duplicate at Vienna on 19 December 1949, in the German language.

For the Swiss Federal Government :

(Signed) FELDSCHER

For the Austrian Federal Government :

(Signed) GRUBER

A N N E X

I

The airlines designated by the competent Swiss authorities shall enjoy in the territory of Austria the right to make non-traffic stops and, with the exclusion of cabotage, the right to pick up and set down international passengers, mail and cargo traffic on the following routes :

Zurich and other points in Switzerland, with or without intermediate landings in other countries, to Vienna and other points in Austria and beyond, in both directions.

II

The airlines designated by the competent Austrian authorities shall enjoy in the territory of Switzerland the right to make non-traffic stops and, with the exclusion of cabotage, the right to pick up and set down international passengers, mail and cargo traffic on the following routes :

Vienna and other points in Austria, with or without intermediate landings in other countries, to Zurich or other points in Switzerland and beyond, in both directions.