

No. 3614

**FRANCE
and
JAPAN**

**Air Transport Agreement (with annex). Signed at Paris,
on 17 January 1956**

Official texts: French and Japanese.

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

**FRANCE
et
JAPON**

**Accord relatif aux transports aériens (avec annexe). Signé
à Paris, le 17 janvier 1956**

Textes officiels français et japonais.

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

[TRANSLATION — TRADUCTION]

No. 3614. AIR TRANSPORT AGREEMENT¹ BETWEEN FRANCE AND JAPAN. SIGNED AT PARIS, ON 17 JANUARY 1956

The Government of the French Republic and the Government of Japan,
Being parties to the Convention on International Civil Aviation signed at Chicago on 7 December 1944,² and

Desiring to conclude an Agreement for the purpose of establishing air services between and beyond their respective territories,

Have accordingly appointed their respective representatives for this purpose, who have agreed as follows :

Article I

1. For the purpose of this Agreement, unless the text otherwise provides :

(a) The term “the Convention” means the Convention on International Civil Aviation signed at Chicago on 7 December 1944 and any amendment adopted in accordance with the terms of that Convention ;

(b) The term “aeronautical authorities” means, in the case of France, the Secretariat-General of Civil and Commercial Aviation, and any person or body authorized to perform the functions at present exercised by the said Secretariat-General or similar functions, and in the case of Japan, the Ministry of Transportation and any person or body authorized to perform the functions at present exercised by the said Ministry or similar functions ;

(c) The term “designated airline” means an airline which one Contracting Party shall have designated by written notification to the other Contracting Party for the operation of air services on the routes specified in such notification, and which has the appropriate operating permission from that other Contracting Party, in accordance with article III of this Agreement ;

(d) The term “annex” means the annex³ to this Agreement or as amended in accordance with article XIII of this Agreement.

¹ Came into force on 24 May 1956, the date of the exchange of the instruments of ratification at Tokyo, in accordance with article XVII.

² See footnote 1, p. 13 of this volume.

³ See p. 315 of this volume.

2. The annex forms an integral part of this Agreement, and all reference to the "Agreement" shall include reference to the annex except where otherwise provided.

Article II

Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement to enable its designated airlines to establish international air services on the routes specified in the annex (hereinafter called "agreed services" and "specified routes" respectively).

Article III

1. On any specified route the agreed services may be inaugurated immediately or at a later date at the option of the Contracting Party to which the rights are granted under article II of this Agreement, but not before :

(a) The Contracting Party to which the rights have been granted has designated an airline or airlines for that route, and

(b) The Contracting Party granting the rights has given the operating permission to the airline or airlines concerned ; which it shall, subject to the provisions of paragraph 2 of this article and of paragraph 1 of article VI, be bound to grant without delay.

2. Each of the designated airlines of one Contracting Party may be required to satisfy the aeronautical authorities of the other Contracting Party that it is qualified to fulfil the conditions prescribed by the laws and regulations normally and reasonably applied by those authorities to the operation of international air services.

Article IV

1. Subject to the provisions of this Agreement, the designated airlines of each Contracting Party shall enjoy, for the purpose of operating an agreed service on a specified route, the following privileges :

(a) To fly without landing across the territory of the other Contracting Party ;

(b) To make stops in the said territory for non-traffic purposes ; and

(c) To make stops therein at the points specified for that route for the purposes of putting down and of taking on international traffic in passengers, cargo and mail.

2. Nothing in paragraph 1 of this article shall be deemed to confer on the airlines of one Contracting Party the privilege of taking up, in the territory of the other Contracting Party, passengers, cargo or mail carried for remuneration and destined for another point in the territory of that other Contracting Party.

Article V

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 designated airlines 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 engaged in similar international services ;

2. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores intended solely for use by aircraft of the designated airlines of one Contracting Party and introduced into or taken on board aircraft in the territory of the other Contracting Party for use in that territory shall be accorded by the latter Contracting Party, with respect to the imposition of customs duties, inspection fees or other charges or duties, treatment as favourable as that granted to its national aircraft engaged in similar international services or to the aircraft of the most-favoured nation ;

3. Aircraft of a designated airline of one Contracting Party, 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 charges or duties, even though such supplies be consumed or used on flights over that territory ;

4. The supplies listed in paragraph 3 of this article and enjoying the exemption defined therein may not be unloaded in the territory of the other Contracting Party save with the approval of the customs authorities of that 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 designated airline.

Article VI

1. Each Contracting Party reserves the right to withhold or revoke the privileges specified in article IV, paragraph 1, of the present Agreement which may be enjoyed by a designated airline of the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of those privileges, in any case where it is not satisfied that substantial ownership and effective control of such airline are vested in the Contracting Party designating the airline or in nationals of such Contracting Party.

2. Each Contracting Party reserves the right to suspend the exercise by a designated airline of the other Contracting Party of the privileges referred to in paragraph 1 of this article, or to impose such conditions as it may deem necessary on the exercise of those privileges, in any case where such airline fails to comply, in pursuance of articles 11 and 13 of the Convention, with the laws and regulations of the Contracting Party granting those privileges or with the conditions prescribed in the present Agreement.

This right shall be exercised only after consultation between the aeronautical authorities of the Contracting Parties. Such consultation shall begin no later than one month from the date of the request for consultation. If the consultation fails to produce an agreement within a further period of one month, the complaining Party shall then be entitled to exercise the right it has reserved.

Nevertheless, when it is a matter of preventing the recurrence of serious infringements of the laws and regulations in question, special conditions may be imposed forthwith on the operation of the services of the designated airline; the suspension of that operation may be given immediate effect in the case of serious infringements of the laws and regulations relating to air security.

Article VII

There shall be fair and equal opportunity for the airlines of the two Contracting Parties to operate the agreed services as specified in the annex.

Article VIII

In the operation of the agreed services by the designated airlines of either Contracting Party, the interests of the designated 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 part of the routes operated jointly.

Article IX

1. The agreed services shall retain as their primary objective the provision, at a reasonable load factor, of capacity adequate to satisfy the normal and reasonably foreseeable requirements of international air traffic originating in or destined for the Contracting Party which has designated the airline operating the said services.

In addition, the airlines designated by either of the Contracting Parties may, subject to the limits of the total capacity provided for in the preceding paragraph, satisfy traffic requirements between the territories of other countries at which stops are made by the agreed services and the territory of the other Contracting Party.

2. Supplementary capacity may also be provided in addition to that referred to in paragraph 1 of this article whenever it is warranted by the traffic requirements of the countries in which stops are made by the said services.

Article X

The rates on the agreed services shall be established at reasonable levels, due regard being paid to all factors, particularly cost of operation, reasonable profit, characteristics of service (such as standards of speed and accommodation) and the rates charged by other airlines for the specified route.

These rates shall be fixed in accordance with the following provisions :

1. The rates to be charged by the designated airlines of one Contracting Party between a point in the territory of the other Contracting Party and one of the other points specified on the routes listed in the annex shall, so far as possible, be fixed by agreement between the designated airlines. The same procedure shall be applied for common sections of routes on the agreed services, regardless of the points served.

These rates shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

2. Whenever possible, the designated airlines shall fix the rates in accordance with the procedure established by the International Air Transport Association.

When this is not possible, the rates shall be agreed between the designated airlines.

This agreement shall not be required for the establishment of the rates charged by a designated airline of one Contracting Party for a branch of an agreed route which does not pass through the territory of the other Contracting Party and which is not served by a designated airline of that other Contracting Party. The rates in question shall not be subject to the approval of the aeronautical authorities of the other Contracting Party, but they shall, however, be communicated to those aeronautical authorities.

3. If the designated airlines cannot agree on the rates, or if the aeronautical authorities of the two Contracting Parties do not approve the rates submitted to them in accordance with the provisions of paragraph 1 of this article, those authorities shall endeavour to reach agreement.

4. If the agreement under paragraph 3 of this article cannot be reached, the dispute shall be settled in accordance with the procedure provided for in article XII of this Agreement.

5. No new rate shall come into effect if the aeronautical authorities of either Contracting Party are not in agreement on it, except under the provisions of article XII, paragraph 3, of this Agreement.

Pending determination of the rates in accordance with the provisions of this article, the rates already in force shall be maintained.

Article XI

There shall be regular and frequent consultation between the aeronautical authorities of the Contracting Parties to ensure close collaboration in all matters affecting the application of this Agreement.

Article XII

1. If any dispute arises 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, the dispute may at the request of either Contracting Party be submitted for decision 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 a period of sixty days from the date of receipt of a diplomatic note from the Contracting Party requesting arbitration. The third arbitrator shall be agreed upon within a further period of sixty days.

If either of the Contracting Parties fails to designate its own arbitrator within a period of sixty days or if the third arbitrator has not been designated within the period indicated, the President of the International Court of Justice may be requested by either Contracting Party to appoint an arbitrator or arbitrators.

3. The Contracting Parties undertake to comply with any decision given under paragraph 2 of this article.

Article XIII

Either Contracting Party may at any time request consultation with the other Contracting Party for the purpose of amending this Agreement, such consultation to take place within a maximum period of sixty days from the date of request. If the amendment relates only to the annex, the consultation shall be between the aeronautical authorities of the Contracting Parties. When these authorities agree on a new or revised annex, their recommendations on the matter will come into effect after they have been confirmed by an exchange of diplomatic notes.

Article XIV

If both Contracting Parties accede to a multilateral convention concerning air transport, this Agreement shall be amended so as to conform with the provisions of such convention.

Article XV

Either of the Contracting Parties may at any time notify the other of its intention to terminate this Agreement. A copy of the notice shall be sent simultaneously to the International Civil Aviation Organization established by the Convention. This Agreement shall terminate one year after the date of receipt of the notice by the other Contracting Party, unless the notice is withdrawn by agreement between the Contracting Parties before the expiry of that period. If the other Contracting Party fails to acknowledge receipt, notice shall be deemed to have been received fourteen days after receipt by the International Civil Aviation Organization of its copy.

Article XVI

This Agreement and the diplomatic notes exchanged in accordance with article XIII shall be registered with the International Civil Aviation Organization.

Article XVII

This Agreement shall be ratified and the instruments of ratification shall be exchanged at Tokyo as soon as possible. It shall enter into force on the date of the exchange of the instruments of ratification.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE in duplicate at Paris, on 17 January 1956, in the French and Japanese languages, both texts being equally authentic.

For France :

R. MASSIGLI

For Japan :

K. NISHIMURA

ANNEX

ROUTES WHICH MAY BE OPERATED BY FRENCH AIRLINES

(Any one or more of the points on the routes listed below may be omitted at the option of the designated airlines.)

1. Points in France, Algeria and/or Tunisia—points in Germany, Switzerland, Italy, Greece, Turkey¹—Cairo or a point in the Near East—points in the Middle East—French Somaliland—points in Pakistan and India—Colombo—Rangoon—Bangkok—Saigon—Hanoi or Haiphong—Hong Kong or Manilla—points on the mainland of China² and/or on Formosa—Okinawa—Tokyo.

2. Points in French territory—a point in Iceland—a point in Greenland—a point in Canada—a point in Alaska—a point in the Aleutians—Tokyo.

ROUTES WHICH MAY BE OPERATED BY JAPANESE AIRLINES

(Any one or more of the points on the routes listed below may be omitted at the option of the designated airlines.)

1. Tokyo—Osaka—Fukuoka—Okinawa—points on the mainland of China² and/or on Formosa—Hong Kong or Manila—Saigon, Hanoi or Haiphong—Bangkok—Rangoon—Colombo—points in India and Pakistan—points in the Middle East—a point in the Near East or Cairo—Athens, Rome, Geneva, Zurich, Frankfurt-on-Main¹—Paris—London—Prestwick.

2. Points in Japan—a point in the Aleutians—a point in Alaska—a point in Canada—a point in Greenland—a point in Iceland—a point in Scandinavia³—Paris.

¹ Any two but only two of these points may be served.

² These points will be agreed upon later.

³ Scandinavia includes Denmark, Norway and Sweden.