

No. 3617

**THAILAND
and
INDIA**

Agreement relating to air services (with annex and exchange of notes). Signed at Bangkok, on 12 June 1956

Official text: English.

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

**THAÏLANDE
et
INDE**

Accord relatif aux services aériens (avec annexe et échange de notes). Signé à Bangkok, le 12 juin 1956

Texte officiel anglais.

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

No. 3617. AGREEMENT¹ BETWEEN THE GOVERNMENT
OF THE KINGDOM OF THAILAND AND THE GOV-
ERNMENT OF INDIA RELATING TO AIR SERVICES.
SIGNED AT BANGKOK, ON 12 JUNE 1956

The Government of the Kingdom of Thailand and the Government of India
DESIRING to conclude an agreement for the operation of air services between
and beyond their respective territories,

AGREE as follows :

Article I

Each Contracting Party grants to the other Contracting Party the right to operate the air services specified in the Annex² 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").

Article II

A. Each of the specified air services may be inaugurated immediately or at a later date at the option of the Contracting Party to whom the rights under this Agreement are granted, on condition that :

- (1) The Contracting Party to whom the rights have been granted shall have designated an airline or airlines (hereinafter referred to as the "designated airline(s)") for the specified air routes concerned, and
- (2) The Contracting Party which grants the rights shall have given the appropriate operating permission to the airline concerned pursuant to paragraph B of this Article which it shall do with the least possible delay.

B. A designated airline may be required to satisfy the aeronautical authorities of the Contracting Party granting the rights that it is qualified to fulfil the conditions prescribed by or under the laws and regulations normally applied by those authorities to the operation of international commercial air services.

C. The operation of each of the specified air services shall be subject to the agreement of the Contracting Party concerned that its route organisation available

¹ Came into force on 12 June 1956, the date of signature, in accordance with article XI.

² See p. 358 of this volume.

for Civil Aviation on the specified air route is adequate for the safe operation of air services.

Article III

The designated airlines of each Contracting Party operating the specified air services may, subject to the provisions of Article IV, set down or pick up in or carry across the territory of the other Contracting Party, at the points specified in the Annex, international traffic originating in or destined for the territory of the former Contracting Party or of a third country on the specified air route concerned.

Article IV

A. The aeronautical authorities of the Contracting Parties shall jointly determine in respect of an agreed period the total capacity required for the carriage, at a reasonable load factor, of all traffic, that is to say passengers, cargo and mail, which may reasonably be expected to originate in the territory of each Contracting Party and to be disembarked in the territory of the other Contracting Party on the specified air services to be operated during that period on each of the specified air routes.

B. Subject to the provisions of paragraph C of this Article each Contracting Party shall have the right to authorise its designated airlines to make available for the carriage of the traffic specified in paragraph A of this Article whether on services terminating in or on services passing through the territory of the other Contracting Party half the capacity for the specified air services determined in accordance with the provisions of the said paragraph A.

C. (1) If the designated airlines of either Contracting Party are not able or willing to provide the whole of the capacity to which that Contracting Party is entitled in accordance with paragraph B of this Article, the aeronautical authorities of the Contracting Parties shall authorise the designated airlines of the other Contracting Party to provide additional capacity equal to the difference between the capacity actually provided by the designated airlines of the first Contracting Party and the capacity to which that Contracting Party is entitled under the said paragraph B (hereinafter referred to as "the deficient capacity").

(2) If the designated airlines of one Contracting Party which have been providing less than the capacity to which that Contracting Party is entitled become able and willing to provide the whole or part of the deficient capacity, they may serve a notice of not less than three months to this effect on the aeronautical authorities of both Contracting Parties and also on the airlines which have been providing the additional capacity. In such event, and unless both the said aero-

nautical authorities direct within 30 days of the receipt of the notice that the notice shall not take effect, the latter airlines shall on or before the expiry of the said notice accordingly withdraw the whole or part of the additional capacity which they had been providing and the former airlines shall then provide the deficient capacity or part thereof, as the case may be.

D. The designated airlines of either Contracting Party may set down and pick up in the territory of the other Contracting Party traffic coming from or destined for third countries on any specified air routes, only in accordance with the following provisions :

- (1) If such third country is situated between the territories of the Contracting Parties, any part of the capacity provided by those airlines, in accordance with the provisions of paragraphs A, B and C of this Article may be used for this purpose.
- (2) If such third country is situated beyond the territory of the other Contracting Party, the capacity that may be used for this purpose shall be such as shall be agreed between the aeronautical authorities of both Contracting Parties as being unlikely to prejudice unduly, during an agreed period, the interests of the airlines of the other Contracting Party operating between the latter's territory and the third country concerned.

E. In order to meet seasonal fluctuation or unexpected demands of a temporary character the designated airlines may agree upon such temporary increases in the agreed capacities as are necessary to meet the traffic need. Any such increases shall be reported forthwith to the aeronautical authorities of the Contracting Parties either of whom may disapprove such increases. Upon such disapproval such increases shall cease to operate.

F. (1) In this Article "agreed period" means the first six months from the date this Agreement comes into force and, thereafter, every succeeding period of six months unless otherwise agreed between the aeronautical authorities.

(2) The capacity to be provided shall be discussed in the first instance between the designated airlines of the Contracting Parties and, if possible, agreed between them. The aeronautical authorities of both Contracting Parties shall have the right to be represented at these discussions.

(3) Any agreement so reached between the designated airlines of the Contracting Parties shall be subject to the approval of the aeronautical authorities of the Contracting Parties. Such approval by the aeronautical authorities shall constitute an agreement as required by paragraphs A, C and D of this Article.

(4) If the aeronautical authorities of the Contracting Parties fail to agree on any matter on which their agreement is required under the provisions of this Article the Contracting Parties themselves shall endeavour to reach agreement thereon. If the Contracting Parties fail to reach such agreement the provisions of Article X of this Agreement shall apply.

(5) Pending the completion of any review of capacity in accordance with the provisions of this Article the designated airlines of the Contracting Parties shall be entitled to continue to make available the capacities provided in their existing air services.

Article V

A. The tariffs to be charged for the carriage of passengers and cargo on any of the specified air services shall be fixed at reasonable levels, due regard being paid to all relevant factors, including economical operation, reasonable profit, difference of characteristics of service (including standards of speed and accommodation) and the tariffs charged by other airlines on the route or section thereof concerned.

B. The tariffs in respect of each route and each section thereof shall be agreed between the designated airlines concerned and shall have regard to any relevant rates adopted by the International Air Transport Association. The tariffs so agreed shall be subject to the approval of the aeronautical authorities of both Contracting Parties, except that the approval of the aeronautical authorities of a Contracting Party shall not be necessary in respect of tariffs for a route or section in which no designated airline of that Contracting Party is concerned. In the event of disagreement between the designated airlines concerned or in case the aeronautical authorities do not approve the tariffs as required under this paragraph, the Contracting Parties shall endeavour to reach agreement between themselves failing which the dispute shall be dealt with in accordance with Article X. Pending determination of the tariffs in accordance with this Article, the tariffs already in force shall prevail.

C. Nothing in this Article shall be deemed to prevent either Contracting Party, in agreement with the other Contracting Party, from bringing into force tariffs fixed in accordance with practice commended from time to time by International Civil Aviation Organization.

Article VI

A. Supplies of fuel, lubricating oils, spare parts, regular equipment and aircraft stores introduced into or taken on board aircraft of the designated airline of one Contracting Party in the territory of the other Contracting Party and re-

maining on board on departure from the last airport of call in that territory shall be accorded, with respect to customs duty, inspection fees or similar charges, treatment not less favourable than that granted by the second Contracting Party to its national airlines engaged in international public transport, provided that neither Contracting Party shall be obliged to grant to the designated airlines of the other Contracting Party exemption or remission of customs duty, inspection fees or similar charges unless such other Contracting Party grants exemption or remission of such charges to the designated airlines of the first Contracting Party.

B. If, in the opinion of the aeronautical authorities of one of the Contracting Parties, the administration of regulations relating to customs, immigration, quarantine and similar matters in the territory of the other Contracting Party imposes an onerous burden on its designated airlines in the operation of the air services pursuant to this Agreement, the aeronautical authorities of such other Contracting Party shall, upon request, enter into consultation to examine the situation.

Article VII

A. The aeronautical authorities of each Contracting Party shall supply to the aeronautical authorities of the other Contracting Party on request :

- (1) Information concerning the authorisations extended to its designated airlines to operate the specified air services ;
- (2) such traffic statistics as may be appropriate for the purpose of reviewing the capacity of the specified air services ;
- (3) such periodical statements as may reasonably be required relating to the traffic carried by the designated airlines on the specified air services including information concerning the origin and destination of such traffic ; and
- (4) such other information in respect of the operation of the specified air services as may be required to enable the aeronautical authorities to satisfy themselves that the requirements of this Agreement are being duly observed.

B. Each Contracting Party shall cause its designated airlines to supply to the aeronautical authorities of the other Contracting Party, as long in advance as practicable, copies of time tables and tariff schedules and particulars concerning the types of aircraft to be operated on the specified air services.

Article VIII

A. Each Contracting Party reserves the right to withhold or revoke or impose such appropriate conditions as it may deem necessary with respect to an operating permission to a designated airline of the other Contracting Party, if

- (1) the first Contracting Party is not satisfied that substantial ownership and effective control of such designated airline are vested in the other Contracting Party or its nationals,
- (2) such designated airline fails to comply with the laws and regulations of the first Contracting Party, or
- (3) in the judgment of the first Contracting Party, there is a failure to fulfil the conditions under which the rights are granted to the other Contracting Party in accordance with this Agreement.

B. Except in the case of failure to comply with laws and regulations, such action shall be taken only after due notice has been given to the designated airline concerned and after opportunity has been given for consultation between the Contracting Parties. In the event of action by one Contracting Party under this Article the rights of the other Contracting Party under Article X shall not be prejudiced.

Article IX

A. In a spirit of close collaboration, the aeronautical authorities of the two Contracting Parties will consult regularly with a view to assuring the observance of the principles and the implementation of the provisions contained in this Agreement.

B. Either Contracting Party may at any time request consultation with the other with a view to initiating any amendments of this Agreement which it may deem desirable. Such consultation shall begin within a period of sixty days from the date of the request. Any modification of this Agreement agreed as a result of such consultation shall come into effect when it has been confirmed by an exchange of diplomatic Notes.

C. Changes made by either Contracting Party in the intermediate stopping places on the specified air routes authorised to its designated airlines except those which

- (1) change the places served by a designated airline in the territory of the other Contracting Party, or
- (2) result in the route ceasing to be reasonably direct,

shall not be considered as modifications of this Agreement and either Contracting Party may therefore make such changes provided that notice of any such changes shall be given without delay to the aeronautical authorities of the other Contracting Party. If the aeronautical authorities of such second Contracting Party find that the principles set forth in Article IV of this Agreement are thereby infringed and such infringement affects the interests of any of their airlines because of the carriage by a designated airline of the first Contracting Party of traffic between the territory of the second Contracting Party and the new point in the territory of a third country

the aeronautical authorities of the second Contracting Party may request consultation in accordance with the provisions of paragraph A of this Article.

D. Whether or not the procedure for consultation provided for in paragraph B of this Article has been initiated, either Contracting Party may at any time give notice to the other of its desire to terminate this Agreement and such notice shall be simultaneously communicated to the International Civil Aviation Organization. This Agreement shall terminate one year after the date of receipt by the other Contracting Party of the notice to terminate unless the notice is withdrawn by agreement before the expiration of such period. In the absence of acknowledgment of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen days after the receipt of the notice by the International Civil Aviation Organization.

Article X

A. If any dispute arises between the Contracting Parties relating to the interpretation or application of the present Agreement or of its Annex 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,

- (1) they may agree to refer the dispute for decision to an arbitral tribunal or some other person or body appointed by agreement between them ; or
- (2) 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, either Contracting Party may submit the dispute for decision to any tribunal competent to decide it established within the International Civil Aviation Organization, or, if there be no such tribunal to the International Court of Justice.

C. The Contracting Parties undertake to comply with any decision given, including any interim recommendation made, under paragraph B of this Article.

D. If and so long as either Contracting Party or a designated airline of either Contracting Party fails to comply with the requirements of paragraph C of this Article, the other Contracting Party may limit, withhold or revoke any rights which it has granted by virtue of the present Agreement and its Annex.

Article XI

This Agreement shall come into force on the date of signature.

Article XII

In the event of the coming into force of a multilateral agreement concerning international air transport to which both Contracting Parties adhere, this Agreement shall be modified to conform with the provisions of such multilateral agreement.

Article XIII

To the extent to which they are applicable to the air services established under the present Agreement, the provisions of the Convention shall remain in force in their present form between the Contracting Parties for the duration of the Agreement, as if they were an integral part of the Agreement, unless both Contracting Parties ratify any amendment to the Convention which shall have duly come into force in which case the Convention as amended shall remain in force for the duration of the present Agreement.

Article XIV

A. For the purposes of this Agreement the terms "territory", "air service" and "airline" shall have the meanings specified in the Convention on International Civil Aviation opened for signature on the seventh day of December, 1944¹, in this Agreement referred to as "the Convention".

B. The term "aeronautical authorities" shall mean in the case of Thailand the Director-General of the Department of Transport, Ministry of Communications, Thailand, and in the case of India the Director-General of Civil Aviation, India, and in both cases any person or body authorised to perform the functions exercised by the above mentioned authorities.

C. The term "capacity" in relation to a specified air service means the extent of accommodation provided and permitted under this Agreement for the carriage of passengers, cargo and mails on the route or section of a route concerned, during an agreed period.

D. The Annex to this Agreement shall be deemed to be part of the Agreement and all references to the "Agreement" shall include references to the Annex, except where otherwise expressly provided.

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

DONE this 12th day of June B. E. 2499 (1956), in duplicate, at Bangkok, in the English language.

For the Government of the Kingdom of Thailand :

(Signed) WAN WAITHAYAKON

KROMMUN NARADHIP BONGSPABANDH

For the Government of India :

(Signed) P. ACHUTA MENON

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

A N N E X

SECTION I

The airline(s) designated by the Government of the Kingdom of Thailand shall be entitled to operate air services in both directions on the route(s) specified in this section and to land for traffic purposes in the territory of India at each of the points specified :

- (1) Thailand—points in Burma and East Pakistan—Calcutta and beyond.
- (2) Thailand—points in Burma and East Pakistan—Calcutta—points in Ceylon and beyond.

SECTION II

The airline(s) designated by the Government of India shall be intitled to operate air services in both directions on the route(s) specified in this section and to land for traffic purposes in the territory of Thailand at each of the points specified:

- (1) India—points in East Pakistan and Burma—Bangkok and, if desired, points in Indo-China—a point in the Philippines—a point in Malaya—a point in Indonesia—a point in New Guinea—a point in Borneo—points in Australia and/or Fiji or beyond.
- (2) India—points in East Pakistan and Burma—Bangkok—points in Indo-China—a point in the Philippines—Hong Kong—points in China and Japan, and, if desired, beyond.

SECTION III

Points on any of the specified routes may, at the option of the designated airline, be omitted on any or all flights.

SECTION IV

No specified air services shall be operated unless the starting point or the terminal points of the service lies within the territory of the Contracting Party designating the airline.

EXCHANGE OF NOTES

I

EMBASSY OF INDIA, BANGKOK

No. 4330/83/2/56.

June 12th, 1956

Monsieur le Ministre,

I have the honour to refer to the Agreement between the Government of India and the Government of the Kingdom of Thailand relating to air services, which was signed on behalf of both Governments to-day¹, and to record hereunder the understanding of the Government of India concerning the following matter :

That either Contracting Party shall be entitled to realise in its territory, in respect of aircraft of the other Contracting Party, on a reciprocal basis the same aerodrome and route charges, including fees for landing, housing, communication, navigation, meteorological and other facilities as are charged from its designated airline in the territory of the other Contracting Party.

I have the honour to request your confirmation of the understanding recorded herein and to suggest that this Note and the reply thereto should constitute an agreement between our two Governments in this regard.

I avail myself of this opportunity, Monsieur le Ministre, to renew to Your Royal Highness the assurance of my highest consideration.

(Signed) P. ACHUTA MENON
Ambassador of India in Thailand

His Royal Highness Prince Naradhip Bongsprabandh
Minister of Foreign Affairs
Bangkok

¹ See p. 342 of this volume.

II

MINISTRY OF FOREIGN AFFAIRS
SARANROM PALACE

No. 17381/2499

12th June B. E. 2499

Monsieur l'Ambassadeur,

I have the honour to acknowledge the receipt of Your Excellency's Note No. 4330/83/2/56 dated the 12th June, 1956, which reads as follows :

[*See note I*]

In reply, I have the honour to inform Your Excellency that the Government of the Kingdom of Thailand approve of the understanding recorded in the above Note and agree that Your Excellency's Note and the present reply shall constitute an agreement between our two Governments in this regard.

I avail myself of this opportunity, Monsieur l'Ambassadeur, to renew to Your Excellency the assurance of my highest consideration.

(Signed) NARADHIP
Minister of Foreign Affairs

His Excellency Monsieur P. Achuta Menon
Ambassador Extraordinary and Plenipotentiary of India
Bangkok