

No. 4509

**JAPAN
and
SWITZERLAND**

**Agreement (with annex) relating to air services. Signed at
Tokyo, on 24 May 1956**

Official texts: French and Japanese.

Registered by the International Civil Aviation Organization on 9 September 1958.

**JAPON
et
SUISSE**

**Accord (avec annexe) relatif aux services aériens. Signé à
Tokyo, le 24 mai 1956**

Textes officiels français et japonais.

Enregistré par l'Organisation de l'aviation civile internationale le 9 septembre 1958.

[TRANSLATION — TRADUCTION]

No. 4509. AGREEMENT¹ BETWEEN JAPAN AND SWITZERLAND RELATING TO AIR SERVICES. SIGNED AT TOKYO, ON 24 MAY 1956

The Government of Japan and the Swiss Federal Council,

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

Being parties to the Convention on International Civil Aviation signed at Chicago on 7 December 1944² (hereinafter called "the Convention"),

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

Article 1

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

- (a) The expression "aeronautical authorities" means, in the case of Japan, the Ministry of Transportation and any person or body authorized to perform the civil aviation functions exercised by the said Ministry or similar functions and, in the case of Switzerland, the Air Office of the Federal Department of Posts and Railways and any person or body authorized to perform the civil aviation functions exercised by the said Office or similar functions ;
- (b) The expression "designated airline" means the airline which one Contracting Party shall have designated by written notification to the other Contracting Party for the operation of air services on the route or routes specified in such notification, and which has received the appropriate operating permit from the other Contracting Party, in accordance with article 3 of this Agreement ;
- (c) The expression "territory", with reference to a State, means the land areas and adjacent territorial waters under the sovereignty, suzerainty, protection or mandate of such State ;

¹ Came into force on 3 April 1957, the date of the exchange of diplomatic notes indicating the approval of the Agreement by each Contracting Party, in accordance with article 18.

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 ; Vol. 139, p. 469 ; Vol. 178, p. 420 ; Vol. 199, p. 362, and Vol. 252, p. 410.

- (d) The expression "air service" means any scheduled air service performed by aircraft for the public transport of passengers, cargo or mail ;
- (e) The expression "international air service" means any air service which passes through the air space over the territory of more than one State ;
- (f) The expression "airline" means any air transport enterprise offering or operating an international air service ;
- (g) The expression "stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging passengers, cargo or mail.

2. The annex¹ to this Agreement forms an integral part thereof, and all reference to the "Agreement" shall include reference to the annex except where otherwise provided.

Article 2

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

Article 3

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 2 of this Agreement, but not before :

- (a) The Contracting Party to which the rights have been granted has designated an airline for that route, and
- (b) The Contracting Party granting the rights has issued the operating permit to the airline concerned ; which it shall, subject to the provisions of paragraph 2 of this article and of paragraph 1 of article 6, be bound to do without delay.

2. The designated airline 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 applied by those authorities to the operation of international air services.

¹ See p. 41 of this volume.

Article 4

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

- (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 airline of one Contracting Party the right to take on, 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 5

1. The charges which either Contracting Party may impose or permit to be imposed for the use by the designated airline of the other Contracting Party of airports and other facilities under its control 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 airline of one Contracting Party and introduced into or taken on board such aircraft in the territory of the other Contracting Party for use in that territory in operating the agreed services shall be accorded by the latter Contracting Party, with respect to the imposition of customs duties, inspection fees or other similar duties and charges, treatment as favourable as that granted to the aircraft of the most-favoured nation or to its national aircraft engaged in international services. Neither Contracting Party shall, however, be obliged to grant to the designated airline of the other Contracting Party exemption from or remission of customs duties, inspection fees or similar duties or charges, unless the other Contracting Party grants exemption from or remission of the duties or charges in question to the designated airline of the first Contracting Party.

Article 6

1. Each Contracting Party reserves the right to withhold or revoke the rights specified in article 4, paragraph 1, of this Agreement in respect of the designated airline of the other Contracting Party, or to impose such conditions as it may deem

necessary on the exercise of those rights, 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 the designated airline of the other Contracting Party of the rights referred to in paragraph 1 of this article, or to impose such conditions as it may deem necessary on the exercise of those rights, in any case where such airline fails to comply with the laws and regulations of the Contracting Party granting those rights or with the conditions prescribed in this Agreement. It is understood that this right shall be exercised only after consultation with the other Contracting Party, unless immediate suspension or imposition of conditions is essential to prevent further infringements of the aforementioned laws and regulations.

Article 7

There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to operate the agreed services established on the specified routes between their respective territories.

Article 8

In the operation of the agreed services by the designated airline of either Contracting Party, the interests of the designated airline of the other Contracting Party shall be taken into consideration so as not to affect unduly the services which the latter provides on all or part of the same routes.

Article 9

1. The agreed services provided by the designated airlines of the Contracting Parties shall bear a close relationship to traffic requirements.

2. The agreed services provided by a designated airline shall have as their primary objective the provision of capacity adequate to current and reasonably foreseeable requirements for the carriage of passengers, cargo and mail originating in or destined for the territory of the Contracting Party which has designated the airline. The capacity provided for the carriage of passengers, cargo and mail taken on and set down at points on the specified routes in the territory of States other than that which has designated the airline shall be determined in accordance with the following principles : it shall be related :

(a) To the requirements of traffic destined for and originating in the territory of the Contracting Party which has designated the airline ;

- (b) To the requirements of through airline operation ;
- (c) To the traffic requirements of the areas through which the airline passes, after taking account of local and regional services.

Article 10

1. The tariffs applied on the agreed services shall be established at reasonable levels, due regard being paid to all relevant factors and, in particular, cost of operation, reasonable profit, characteristics of service (such as standards of speed and accommodation) and the tariffs applied by other airlines on any sector of the specified route. These tariffs shall be fixed in accordance with the provisions of this article.

2. So far as possible, the designated airlines shall agree on the tariffs in accordance with the procedure established by the International Air Transport Association (IATA). When this is not possible, the tariffs to be applied on each of the specified routes shall be agreed between the designated airlines. In either case the said tariffs shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

3. If the designated airlines cannot agree on the tariffs, or if the aeronautical authorities of either Contracting Party do not approve the tariffs submitted to them in accordance with the provisions of paragraph 2 of this article, the authorities of the Contracting Parties shall endeavour to reach agreement.

4. If agreement under paragraph 3 of this article cannot be reached, the dispute shall be settled in accordance with the procedure provided by article 13 of this Agreement.

5. No new or modified tariff shall come into effect if the aeronautical authorities of either Contracting Party do not agree to it, save in pursuance of article 13, paragraph 3, of this Agreement. Pending determination of the tariffs in accordance with the provisions of this article, the tariffs already in force shall be maintained.

Article 11

1. The aeronautical authorities of either Contracting Party shall supply to the aeronautical authorities of the other Contracting Party, at the latter's request :

- (a) Traffic statistics indicating the frequency and capacity of the agreed services ;
- (b) Such periodic reports as may reasonably be requested concerning the traffic carried by the designated airlines on the agreed services, including particulars of origin and destination of such traffic ; and

(c) Such other information as may reasonably be requested concerning the operation of the agreed services.

2. The designated airline of each Contracting Party shall supply as far in advance as possible to the aeronautical authorities of the other Contracting Party, time-tables, tariffs and particulars of the types of aircraft to be used on the agreed services.

Article 12

At the request of the aeronautical authorities of either Contracting Party, consultations shall be held between the aeronautical authorities in order to ensure close co-operation in all matters affecting the application of this Agreement.

Article 13

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 Party, be submitted for decision to a tribunal of three arbitrators, one to be designated by each Contracting Party and the third to be designated by the two arbitrators so chosen, provided that such third arbitrator shall not be a national of either Contracting Party. Each Contracting Party 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 designated within a further period of sixty days. If either Contracting Party fails to designate its own arbitrator within a period of sixty days, or if the third arbitrator is not designated within the prescribed period, either Contracting Party may refer the matter to the President of the Council of the International Civil Aviation Organization established by the Convention, who shall appoint an arbitrator or arbitrators.

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

Article 14

Either Contracting Party may at any time request consultation with the other Contracting Party for the purpose of amending this Agreement, such consultation to begin within a period of sixty days from the date of the 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 in the matter shall come into effect after they have been confirmed by an exchange of diplomatic notes.

Article 15

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 16

Either Contracting Party 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. If such notice is given, 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 17

This Agreement and such diplomatic notes as may be exchanged in accordance with article 14 shall be registered with the International Civil Aviation Organization.

Article 18

This Agreement shall be approved by each Contracting Party in accordance with its legal procedure. It shall enter into force on the date of the exchange of diplomatic notes indicating such approval.

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

DONE at Tokyo, on 24 May 1956, in duplicate, in the Japanese and French languages, both texts being equally authentic.

For the Government of Japan :

MAMORU SHIGEMITSU

For the Swiss Federal Council :

TROENDLE

A N N E X

Route which the designated Japanese airline may serve in both directions

Points in Japan – Hong Kong and/or Manila – a point in Indochina – Bangkok – Rangoon – Colombo – points in India and Pakistan – points in the Middle and Near East – Athens – Rome – points in Switzerland and points beyond in Europe.

The agreed services operated on this route by the designated Japanese airline shall begin at a point in Japan, but stops on the route may at the option of the designated airline be omitted on all or certain flights.

Route which the designated Swiss airline may serve in both directions

Points in Switzerland – Rome – Athens – points in the Near and Middle East – points in Pakistan and India – Colombo – Rangoon – Bangkok – a point in Indochina – Manila and/or Hong Kong – Tokyo.

The agreed services operated on this route by the designated Swiss airline shall begin at a point in Switzerland, but stops on the route may at the option of the designated airline be omitted on all or certain flights.