

No. 4207

**UNITED STATES OF AMERICA
and
KOREA**

**Air Transport Agreement (with schedule). Signed at
Washington, on 24 April 1957**

Official texts: English and Korean.

Registered by the United States of America on 17 March 1958.

**ÉTATS-UNIS D'AMÉRIQUE
et
CORÉE**

**Accord de transports aériens (avec tableau). Signé à Wa-
shington, le 24 avril 1957**

Textes officiels anglais et coréen.

Enregistré par les États-Unis d'Amérique le 17 mars 1958.

No. 4207. AIR TRANSPORT AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF KOREA, SIGNED AT WASHINGTON, ON 24 APRIL 1957

The Government of the United States of America and the Government of the Republic of Korea,

Desiring to conclude an Agreement for the purpose of promoting air communications between their respective territories,

Have accordingly appointed their plenipotentiaries for this purpose as follows :
The Government of the United States of America :

Christian A. Herter, Under Secretary of State ;

The Government of the Republic of Korea :

You Chan Yang, Ambassador of the Republic of Korea ;

Who, having exhibited and exchanged their full powers and found them to be in due form, have agreed as follows :

Article 1

(A) The term "aeronautical authorities" shall mean in the case of the United States of America, the Civil Aeronautics Board and any person or agency authorized to perform the functions exercised at the present time by the Civil Aeronautics Board and, in the case of the Republic of Korea, the Ministry of Transportation and any person or agency authorized to perform the functions exercised at present by the said Ministry of Transportation.

(B) The term "designated airline" shall mean an airline that one contracting party has notified the other contracting party, in writing, to be the airline which will operate a specific route or routes listed in the Schedule² of this Agreement.

(C) The term "territory" in relation to a State shall mean the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection, mandate or trusteeship of that State.

(D) The term "air service" shall mean any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo.

¹ Came into force on 24 April 1957, the date of signature, in accordance with article 17.

² See p. 260 of this volume.

(E) The term "international air service" shall mean an air service which passes through the air space over the territory of more than one State.

(F) The term "stop for non-traffic purposes" shall mean a landing for any purpose other than taking on or discharging passengers, cargo or mail.

Article 2

Each contracting party grants to the other contracting party rights necessary for the conduct of air services by the designated airlines, as follows: the rights of transit, of stops for nontraffic purposes, and of commercial entry and departure for international traffic in passengers, cargo, and mail at the points in its territory named on each of the routes specified in the appropriate paragraph of the Schedule annexed to the present Agreement.

Article 3

Air Service on a specified route may be inaugurated by an airline or airlines of one contracting party at any time after that contracting party has designated such airline or airlines for that route and the other contracting party has given the appropriate operating permission. Such other party shall, subject to Article 4, be bound to give this permission provided that the designated airline or airlines may be required to qualify before the competent aeronautical authorities of that party, under the laws and regulations normally applied by these authorities, before being permitted to engage in the operations contemplated by this Agreement.

Article 4

Each contracting party reserves the right to withhold or revoke the operating permission provided for in Article 3 of this Agreement from an airline designated by the other contracting party in the event that it is not satisfied that substantial ownership and effective control of such airline are vested in nationals of the other contracting party, or in case of failure by such airline to comply with the laws and regulations referred to in Article 5 hereof, or in case of the failure of the airline or the government designating it otherwise to perform its obligations hereunder, or to fulfill the conditions under which the rights are granted in accordance with this Agreement.

Article 5

(A) The laws and regulations of one contracting party relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its

territory, shall be applied to the aircraft of the airline or airlines designated by the other contracting party, and shall be complied with by such aircraft upon entering or departing from and while within the territory of the first contracting party.

(B) The laws and regulations of one contracting party relating to the admission to or departure from its territory of passengers, crew, or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew or cargo of the other contracting party upon entrance into or departure from, and while within the territory of the first contracting party.

Article 6

Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one contracting party, and still in force, shall be recognized as valid by the other contracting party for the purpose of operating the routes and services provided for in this Agreement, provided that the requirements under which such certificates or licenses were issued or rendered valid are equal to or above the minimum standards which may be established pursuant to the Convention on International Civil Aviation.¹ Each contracting party reserves the right, however, to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licenses granted to its own nationals by another State.

Article 7

In order to prevent discriminatory practices and to assure equality of treatment, both contracting parties agree that :

(A) Each of the contracting parties may impose or permit to be imposed just and reasonable charges for the use of public airports and other facilities under its control. Each of the contracting parties agrees, however, that these charges 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.

(B) Fuel, lubricating oils, consumable technical supplies, spare parts, regular equipment, and stores introduced into the territory of one contracting party by the other contracting party or its nationals, and intended solely for use by aircraft of such contracting party shall be exempt on a basis of reciprocity from customs duties, inspection fees and other national duties or charges.

¹ See footnote 2, p. 4 of this volume.

(C) Fuel, lubricating oils, other consumable technical supplies, spare parts, regular equipment, and stores retained on board aircraft of the airlines of one contracting party authorized to operate the routes and services provided for in this Agreement shall, upon arriving in or leaving the territory of the other contracting party, be exempt on a basis of reciprocity from customs duties, inspection fees and other national duties or charges, even though such supplies be used or consumed by such aircraft on flights in that territory.

(D) Fuel, lubricating oils, other consumable technical supplies, spare parts, regular equipment, and stores taken on board aircraft of the airlines of one contracting party in the territory of the other and used in international services shall be exempt on a basis of reciprocity from customs duties, excise taxes, inspection fees and other national duties or charges.

Article 8

There shall be a fair and equal opportunity for the airlines of each contracting party to operate on any route covered by this Agreement.

Article 9

In the operation by the airlines of either contracting party of the trunk services described in this Agreement, the interest of the airlines 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 10

The air services made available to the public by the airlines operating under this Agreement shall bear a close relationship to the requirements of the public for such services.

It is the understanding of both contracting parties that services provided by a designated airline under the present Agreement shall retain as their primary objective the provision of capacity adequate to the traffic demands between the country of which such airline is a national and the countries of ultimate destination of the traffic. The right to embark or disembark on such services international traffic destined for and coming from third countries at a point or points on the routes specified in this Agreement shall be applied in accordance with the general principles of orderly development to which both contracting parties subscribe and shall be subject to the general principle that capacity should be related :

- (a) to traffic requirements between the country of origin and the countries of ultimate destination of the traffic ;
- (b) to the requirements of through airline operation ; and,
- (c) to the traffic requirements of the area through which the airline passes after taking account of local and regional services.

Article 11

Rates to be charged on the routes provided for in this Agreement shall be reasonable, due regard being paid to all relevant factors, such as cost of operation, reasonable profit, and the rates charged by any other carriers, as well as the characteristics of each service, and shall be determined in accordance with the following paragraphs :

(A) The rates to be charged by the airlines of either contracting party between points in the territory of the United States of America and points in the territory of the Republic of Korea referred to in the annexed Schedule shall, consistent with the provisions of the present Agreement, be subject to the approval of the aeronautical authorities of the contracting parties, who shall act in accordance with their obligations under this Agreement, within the limits of their legal powers.

(B) Any rate proposed by an airline of either contracting party shall be filed with the aeronautical authorities of both contracting parties at least thirty (30) days before the proposed date of introduction ; provided that this period of thirty (30) days may be reduced in particular cases if so agreed by the aeronautical authorities of each contracting party.

(C) During any period for which the Civil Aeronautics Board of the United States of America has approved the traffic conference procedures of the International Air Transport Association (hereinafter called IATA), any rate agreements concluded through these procedures and involving United States airlines will be subject to approval of the Board. Rate agreements concluded through this machinery may also be required to be subject to the approval of the aeronautical authorities of the Government of the Republic of Korea pursuant to the principles enunciated in paragraph (A) above.

(D) The contracting parties agree that the procedure described in paragraphs (E), (F) and (G) of this Article shall apply :

1. If, during the period of the approval by both contracting parties of the IATA traffic conference procedure, either, any specific rate agreement is not approved within a reasonable time by either contracting party, or, a conference of IATA is unable to agree on a rate, or
2. At any time no IATA procedure is applicable, or

3. If either contracting party at any time withdraws or fails to renew its approval of that part of the IATA traffic conference procedure relevant to this Article.

(E) In the event that power is conferred by law upon the aeronautical authorities of the United States of America to fix fair and economic rates for the transport of persons and property by air on international services and to suspend proposed rates in a manner comparable to that in which the Civil Aeronautics Board at present is empowered to act with respect to such rates for the transport of persons and property by air within the United States of America, each of the contracting parties shall thereafter exercise its authority in such manner as to prevent any rate or rates proposed by one of its airlines for services from the territory of one contracting party to a point or points in the territory of the other contracting party from becoming effective, if in the judgment of the aeronautical authorities of the contracting party whose airline or airlines is or are proposing such rate, that rate is unfair or uneconomic. If one of the contracting parties on receipt of the notification referred to in paragraph (B) above is dissatisfied with the rate proposed by the airline or airlines of the other contracting party, it shall so notify the other contracting party prior to the expiry of the first fifteen (15) of the thirty (30) days referred to, and the contracting parties shall endeavor to reach agreement on the appropriate rate.

In the event that such agreement is reached, each contracting party will exercise its best efforts to put such rate into effect as regards its airline or airlines.

If agreement has not been reached at the end of the thirty (30) day period referred to in paragraph (B) above, the proposed rate may, unless the aeronautical authorities of the country of the air carrier concerned see fit to suspend its application, go into effect provisionally pending the settlement of any dispute in accordance with the procedure outlined in paragraph (G) below.

(F) Prior to the time when such power may be conferred upon the aeronautical authorities of the United States of America, if one of the contracting parties is dissatisfied with any rate proposed by the airline or airlines of either contracting party for services from the territory of one contracting party to a point or points in the territory of the other contracting party, it shall so notify the other prior to the expiry of the first fifteen (15) of the thirty (30) day period referred to in paragraph (B) above, and the contracting parties shall endeavor to reach agreement on the appropriate rate.

In the event that such agreement is reached, each contracting party will use its best efforts to cause such agreed rate to be put into effect by its airline or airlines.

It is recognized that if no such agreement can be reached prior to the expiry of such thirty (30) days, the contracting party raising the objection to the rate may

take such steps as it may consider necessary to prevent the inauguration or continuation of the service in question at the rate complained of.

(G) When in any case under paragraphs (E) or (F) of this Article the aeronautical authorities of the two contracting parties cannot agree within a reasonable time upon the appropriate rate after consultation initiated by the complaint of one contracting party concerning the proposed rate or an existing rate of the airline or airlines of the other contracting party, upon the request of either, the terms of Article 13 of this Agreement shall apply.

Article 12

Consultation between the competent authorities of both contracting parties may be requested at any time by either contracting party for the purpose of discussing the interpretation, application, or amendment of the Agreement or Schedule. Such consultation shall begin within a period of sixty (60) days from the date of the receipt of the request by the Department of State of the United States of America or the Ministry of Foreign Affairs of the Republic of Korea as the case may be. Should agreement be reached on amendment of the Agreement or its route schedule, such amendment will come into effect upon confirmation by an exchange of diplomatic notes.

Article 13

Except as otherwise provided in this Agreement, any dispute between the contracting parties relative to the interpretation or application of this Agreement which cannot be settled through consultation shall be submitted for an advisory report 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 two months of the date of delivery by either party to the other party of a diplomatic note requesting arbitration of a dispute; and the third arbitrator shall be agreed upon within one month after such period of two months.

If either of the contracting parties fails to designate its own arbitrator within two months, or if the third arbitrator is not agreed upon within the time limit indicated, either party may request the President of the International Court of Justice to make the necessary appointment or appointments by choosing the arbitrator or arbitrators.

The contracting parties will use their best efforts under the powers available to them to put into effect the opinion expressed in any such advisory report. A moiety of the expenses of the arbitral tribunal shall be borne by each party.

Article 14

This Agreement, all amendments thereto, and contracts connected therewith shall be registered with the International Civil Aviation Organization.

Article 15

If a general multilateral air transport Convention accepted by both contracting parties enters into force, the present Agreement shall be amended so as to conform with the provisions of such Convention.

Article 16

Either of the contracting parties may at any time notify the other of its intention to terminate the present Agreement. Such a notice shall be sent simultaneously to the International Civil Aviation Organization. In the event such communication is made, this Agreement shall terminate one year after the date of its receipt, unless by agreement between the contracting parties the notice of intention to terminate is withdrawn before the expiration of that time. If the other contracting party fails to acknowledge receipt, notice shall be deemed as having been received fourteen days after its receipt by the International Civil Aviation Organization.

Article 17

This Agreement will come into force on the day it is signed.

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

DONE in duplicate at Washington, this twenty-fourth day of April, 1957, in the English and Korean languages, each of which shall be of equal authenticity.

For the Government of the United States of America :

Christian A. HERTER

For the Government of the Republic of Korea :

YOU CHAN YANG

SCHEDULE

1. An airline or airlines designated by the Government of the United States of America shall be entitled to operate air services on each of the air routes specified via intermediate points, in both directions, to make scheduled landings in the Republic of Korea at the points specified in this paragraph :

From points in the United States of America to Seoul and beyond.

2. An airline or airlines designated by the Government of the Republic of Korea shall be entitled to operate air services on each of the air routes specified via intermediate points, in both directions, and to make scheduled landings in the United States at the points specified in this paragraph :

From points in the Republic of Korea to Alaska and Seattle.

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