

No. 4776

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and
AUSTRALIA**

**Agreement (with schedule) for air services between and
through their respective territories. Signed at London,
on 7 February 1958**

Official text: English.

Registered by the International Civil Aviation Organization on 17 June 1959.

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
et
AUSTRALIE**

**Accord (avec tableau) relatif aux services aériens entre
leurs territoires respectifs et au-delà. Signé à Londres,
le 7 février 1958**

Texte officiel anglais.

Enregistré par l'Organisation de l'aviation civile internationale le 17 juin 1959.

No. 4776. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE COMMONWEALTH OF AUSTRALIA FOR AIR SERVICES BETWEEN AND THROUGH THEIR RESPECTIVE TERRITORIES. SIGNED AT LONDON, ON 7 FEBRUARY 1958

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Commonwealth of Australia,

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on the 7th day of December 1944² (hereinafter referred to as "the Convention"), and

Recognising the great advantages which have accrued to both countries from the partnership operations of their airlines over many years on the route between the United Kingdom and Australia, and

Noting that such partnership operations are consistent with the said Convention and in particular with Chapter XVI thereof, and

Desiring not only to maintain the high degree of co-operation which has been established during that time in respect of the existing route between the two countries but also to extend that co-operation to other routes which may be brought into partnership operation in the future, and

Having in mind the vital importance of air communications to the countries of the Commonwealth and in particular the need to maintain and develop air routes between the territories of the United Kingdom and Australia, and

Desiring also to foster the development of air travel as a means of promoting international understanding and good will, and

Desiring to conclude an agreement, supplementary to the said Convention, for the purpose of promoting the development of air services between and through their respective territories,

Have agreed as follows :

Article 1

(1) For the purpose of the present Agreement, unless the context otherwise requires :

(a) the term "aeronautical authorities" means, in the case of the United Kingdom, the Minister of Transport and Civil Aviation and any person or

¹ Came into force on 7 February 1958, the date of signature, in accordance with article 14.

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

- body authorised to perform any functions at present exercised by the said Minister or similar functions, and, in the case of the Commonwealth of Australia, the Director-General of Civil Aviation and any person or body authorised to perform any functions at present exercised by the said Director-General or similar functions;
- (b) the term “ designated airline ” means an airline which one Contracting Party shall have designated, by written notification to the other Contracting Party, in accordance with Article 3 of the present Agreement, for the operation of air services on the routes specified in such notification;
 - (c) subject to paragraph (2) of this Article, the term “ territory ” in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or trusteeship of that State; and
 - (d) the terms “ air service, ” “ international air service, ” “ airline ” and “ stop for non-traffic purposes ” have the meanings respectively assigned to them in Article 96 of the Convention.

(2) This Agreement shall not apply to any part of the territory of a Contracting Party where, for constitutional reasons, the consent of the Government of that part to its application is necessary, until that consent has been obtained.

Article 2

(1) Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing air services on the routes specified in the appropriate Section of the Schedule¹ thereto (hereinafter called “ the agreed services ” and “ the specified routes ”).

(2) Subject to the provisions of the present Agreement, the airlines designated by each Contracting Party shall enjoy, while 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 in the said territory at the points specified for that route in the Schedule to the present Agreement for the purpose of putting down or taking on international traffic in passengers, cargo or mail.

(3) Nothing in paragraph (2) of this Article shall be deemed to confer on the airlines of one Contracting Party the privilege of carrying the cabotage traffic of the other Contracting Party.

Article 3

(1) Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines for the purpose of operating the agreed services on the specified routes.

¹ See p. 38 of this volume.

(2) On receipt of the designation, the other Contracting Party shall, subject to the provisions of paragraphs (3) and (4) of this Article, without delay grant to the airline or airlines designated the appropriate operating authorisation.

(3) The aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied by them in conformity with the provisions of the Convention to the operation of commercial international air services.

(4) Each Contracting Party shall have the right to refuse to accept the designation of an airline and to withhold or revoke the grant to an airline of the privileges specified in paragraph (2) of Article 2 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those privileges in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of the Contracting Party designating the airline.

(5) At any time after the provisions of paragraphs (1) and (2) of this Article have been complied with, an airline so designated and authorised may begin to operate the agreed services provided that a service shall not be operated unless a tariff established in accordance with the provisions of Article 7 of the present Agreement is in force in respect of that service.

(6) Each Contracting Party shall have the right to suspend the exercise by an airline of the privileges specified in paragraph (2) of Article 2 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those privileges in any case where the airline fails to comply with the laws or regulations of the Contracting Party granting those privileges or otherwise fails to operate in accordance with the conditions prescribed in the present Agreement; provided that, unless immediate suspension or imposition of conditions is essential to prevent further infringements of laws or regulations, this right shall be exercised only after consultation with the other Contracting Party.

Article 4

(1) Fuel, lubricating oils, spare parts, regular aircraft equipment and aircraft stores introduced into the territory of the United Kingdom, or taken on board aircraft of the designated airline of the Government of Australia in that territory, by or on behalf of that designated airline and intended solely for use in such aircraft shall be accorded the following treatment by the Government of the United Kingdom in respect of customs duties, inspection fees and other similar national or local duties and charges :

(a) in the case of fuel and lubricating oils remaining on board aircraft at the

- last airport of call before departure from the territory of the United Kingdom, exemption, and
- (b) in the case of fuel and lubricating oils not included under (a) and spare parts, regular aircraft equipment and aircraft stores, treatment not less favourable than that accorded to similar supplies introduced into the territory of the United Kingdom, or taken on board aircraft in that territory, and intended solely for use in the aircraft of a national airline of the United Kingdom or of the foreign airline most favoured by the Government of the United Kingdom, engaged in international air services.

(2) Fuel, lubricating oils, spare parts, regular aircraft equipment and aircraft stores introduced into Australian territory or taken on board aircraft of the designated airline of the Government of the United Kingdom in that territory by or on behalf of that designated airline and intended solely for use in such aircraft shall be accorded by the Government of Australia in respect of customs duties, inspection fees, and other similar national or local duties and charges, exemptions or remissions in those cases in which such exemptions or remissions are accorded to the designated airline of the Government of Australia by the Government of the United Kingdom.

(3) This treatment shall be in addition to and without prejudice to that which each Contracting Party is under obligation to accord under Article 24 of the Convention.

Article 5

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

(2) In operating the agreed services, the designated airlines of each Contracting Party shall take into account the interests of the airlines of the other Contracting Party so as not to affect unduly the services which the latter provide on the whole or part of the same routes.

(3) The agreed services provided by the designated airlines of the Contracting Parties shall bear a close relationship to the requirements of the public for transport on the specified routes. The agreed services provided by each designated airline shall have as their primary objective the provision of capacity adequate for the requirements of traffic originating in, or destined for, the territory of the Contracting Party which has designated that airline. Provision for the carriage on the agreed services of passengers, cargo and mail both originating in and destined for the territories of States other than that designating

the airline shall be made in accordance with the general principles that capacity shall be related to :

- (a) the requirements of traffic originating in or destined for the territory of the Contracting Party which has designated the airline;
- (b) the traffic requirements of the area through which the airline passes, after taking account of local and regional services;
- (c) the requirements of through airline operation.

Article 6

In operating any agreed service on any specified route a designated airline of one Contracting Party may substitute one aircraft for another at a point in the territory of the other Contracting Party only on the following conditions :

- (a) that it is justified by reason of economy of operation;
- (b) that the aircraft used on the section of the route more distant from the terminal in the territory of the first Contracting Party is no larger in capacity than that used on the nearer section;
- (c) that the aircraft used on the more distant section shall operate only in connection with and as an extension of the service provided by the aircraft used on the nearer section and shall be scheduled so to do; the former shall arrive at the point of change for the purpose of carrying traffic transferred from, or to be transferred into, the aircraft used on the nearer section; and its capacity shall be determined with primary reference to this purpose;
- (d) that there is an adequate volume of through traffic;
- (e) that the airline shall not hold itself out to the public by advertisement or otherwise as providing a service which originates at the point where the change of aircraft is made;
- (f) that the provisions of Article 5 of the present Agreement shall govern all arrangements made with regard to change of aircraft;
- (g) that in connection with any one aircraft flight into the territory in which the change of aircraft is made, only one flight may be made out of that territory.

Article 7

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

(2) The tariffs referred to in paragraph (1) of this Article, together with the rates of agency commission used in conjunction with them shall, if possible, be agreed in respect of each of the specified routes between the designated airlines concerned, in consultation with other airlines operating over the whole or part of that route, and such agreement shall, where possible, be reached through the rate-fixing machinery of the International Air Transport Association. The tariffs so agreed shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

(3) If the designated airlines cannot agree on any of these tariffs, or if for some other reason a tariff cannot be agreed in accordance with the provisions of paragraph (2) of this Article, the aeronautical authorities of the Contracting Parties shall try to determine the tariff by agreement between themselves.

(4) If the aeronautical authorities cannot agree on the approval of any tariff submitted to them under paragraph (2) of this Article or on the determination of any tariff under paragraph (3), the dispute shall be settled in accordance with the provisions of Article 10 of the present Agreement.

(5) No tariff shall come into force if the aeronautical authorities of either Contracting Party are dissatisfied with it except under the provisions of paragraph (3) of Article 10 of the present Agreement.

(6) When tariffs have been established in accordance with the provisions of this Article these tariffs shall remain in force until new tariffs have been established in accordance with the provisions of this Article.

Article 8

The aeronautical authorities of either Contracting Party shall supply to the aeronautical authorities of the other Contracting Party at their request such periodic or other statements of statistics as may be reasonably required for the purpose of reviewing the capacity provided on the agreed services by the designated airlines of the first Contracting Party. Such statements shall include all information required to determine the amount of traffic carried by those airlines on the agreed services and the origins and destinations of such traffic.

Article 9

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

Article 10

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

(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 nominated by each Contracting Party and the third to be appointed by the two so nominated. Each of the Contracting Parties shall nominate an arbitrator within a period of sixty days from the date of receipt by either Contracting Party from the other of a notice through the diplomatic channel requesting arbitration of the dispute and the third arbitrator shall be appointed within a further period of sixty days. If either of the Contracting Parties fails to nominate an arbitrator within the period specified or if the third arbitrator is not appointed within the period specified, the President of the International Court of Justice may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires.

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

Article 11

(1) If either of the Contracting Parties considers it desirable to modify any provision of the present Agreement, such modification, if agreed between the Contracting Parties, shall come into effect when confirmed by an Exchange of Notes.

(2) In the event of the conclusion of any general multilateral convention concerning air transport by which both Contracting Parties become bound, the present Agreement shall be amended by agreement between the Contracting Parties so as to conform with the provisions of such convention.

Article 12

Either Contracting Party may at any time give notice to the other if it desires to terminate the present Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organisation. If such notice is given, the present Agreement shall terminate twelve months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry of this 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 Organisation.

Article 13

The present Agreement and any Exchange of Notes in accordance with Article 11 shall be registered with the International Civil Aviation Organisation.

Article 14

The present Agreement shall come into force on the date of signature.

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

DONE in duplicate at London this seventh day of February, One Thousand Nine Hundred and Fifty-Eight.

For the Government
of the United Kingdom of Great
Britain and Northern Ireland :

Harold WATKINSON

For the Government
of the Commonwealth of Australia :

Shane PALTRIDGE

SCHEDULE

(a) ROUTES TO BE SERVED BY THE DESIGNATED AIRLINES OF THE UNITED KINGDOM

<i>Points of departure (any one or more of the following):</i>	<i>Intermediate points (any one or more of the following, if desired):</i>	<i>Destination in Australian Territory (any one or more of the following):</i>	<i>Points beyond (any one or more of the following, if desired):</i>
1. United Kingdom	Points in Europe Points in the Middle East (including Bahrein) Points in India, Pakistan and Ceylon Points in South and South-East Asia (including Singapore and Labuan) Cocos (Keeling) Islands	Darwin Perth Sydney Melbourne Brisbane	
2. United Kingdom	Republic of Ireland Iceland Points in Canada Points in the United States of America Honolulu Canton Island American Samoa Fiji New Caledonia New Zealand	Brisbane Sydney Melbourne Perth	
3. United Kingdom	Points in Greenland Points in Canada Points in the United States of America (including Alaska) Kurile Islands Honolulu Tokyo Hong Kong	Port Moresby Darwin Sydney Melbourne	

<i>Points of departure (any one or more of the following):</i>	<i>Intermediate points (any one or more of the following, if desired):</i>	<i>Destination in United Kingdom Territory (any one or more of the following):</i>	<i>Points beyond (any one or more of the following, if desired):</i>
	Points in the Philippines Labuan		
4. Hong Kong Labuan	Points in Indonesia Points in the Philippines Labuan Points in Indonesia Points in Netherlands New Guinea	Port Moresby Darwin Brisbane Sydney	
5. United Kingdom	Points in Europe Points in Africa Madagascar Mauritius Cocos (Keeling) Islands	Perth Melbourne Sydney	
6. United Kingdom	Republic of Ireland Azores Bermuda Points in the United States of America Points in the Caribbean (including British West Indies) Points in Mexico Honolulu Tahiti Fiji New Zealand	Brisbane Sydney Melbourne	
7. United Kingdom	Points in Europe Points in West Africa Points in South America Easter Island Tahiti Fiji New Zealand	Brisbane Sydney Melbourne	

(b) ROUTES TO BE SERVED BY THE DESIGNATED AIRLINES OF AUSTRALIA

1. Australia	Points in South and South-East Asia (including Singapore and Labuan) Points in India, Pakistan and Ceylon Points in the Middle East (including Bahrein)	London
2. Australia	Points in Europe Cocos (Keeling) Islands Points in Indonesia Labuan	Singapore
3. Australia	New Zealand New Caledonia Fiji American Samoa Canton Island Honolulu	London

<i>Points of departure (any one or more of the following):</i>	<i>Intermediate points (any one or more of the following, if desired):</i>	<i>Destination in Australian Territory (any one or more of the following):</i>	<i>Points beyond (any one or more of the following, if desired):</i>
	Points in the United States of America		
	Points in Canada		
	Iceland		
	Republic of Ireland		
4. Australia	Points in Indonesia	London	
Australian Territory of Papua and Trust Territory of New Guinea	Labuan		
	Points in the Philippines		
	Hong Kong		
	Tokyo		
	Kurile Islands		
	Points in the United States of America (including Alaska)		
	Points in Canada		
	Points in Greenland		
5. Australia	Points in Indonesia	Hong Kong	Tokyo
Australian Territory of Papua and Trust Territory of New Guinea	Labuan		
	Points in the Philippines		
6. Australia	New Zealand	London	
	Fiji		
	Tahiti		
	Honolulu		
	Points in Mexico		
	Points in the United States of America		
	Points in the Caribbean (including British West Indies)		
	Bermuda		
	Azores		
	Republic of Ireland		
7. Australia	New Zealand	London	
	Fiji		
	Tahiti		
	Easter Island		
	Points in South America		
	Points in West Africa		
	Points in Europe		
8. Australia	Cocos (Keeling) Islands	Mauritius	Madagascar
			South Africa
9. Australia	New Caledonia	Fiji	Australian Territory of Papua and Trust Territory of New Guinea
Australian Territory of Papua and Trust Territory of New Guinea		New Hebrides	
		British Solomon Islands	New Caledonia