

No. 5653

**AUSTRIA
and
ITALY**

**Air Transport Agreement (with annex and protocol).
Signed at Rome, on 23 January 1956**

Official text: French.

Registered by the International Civil Aviation Organization on 27 March 1961.

**AUTRICHE
et
ITALIE**

**Accord (avec annexe et procès-verbal) relatif aux transports
aériens. Signé à Rome, le 23 janvier 1956**

Texte officiel français.

Enregistré par l'Organisation de l'aviation civile internationale le 27 mars 1961.

[TRANSLATION — TRADUCTION]

No. 5653. AIR TRANSPORT AGREEMENT¹ BETWEEN AUSTRIA AND ITALY. SIGNED AT ROME, ON 23 JANUARY 1956

The Federal Government of Austria and the Government of the Italian Republic, considering :

That the possibilities of commercial aviation as a means of transport have increased considerably;

That it is desirable to organize air communications in a safe and orderly manner and to continue to develop international co-operation in this field to the fullest possible extent; and

That it is necessary to conclude an agreement regulating scheduled air services between the territories of Austria and Italy and beyond those territories; have appointed representatives for this purpose, who, being duly authorized, have agreed on the following provisions :

Article 1

(a) The Contracting Parties grant each other the rights specified in the annex² to this Agreement for the establishment of the international air services therein described.

(b) Each Contracting Party shall designate to the other Contracting Party an airline or airlines to operate these air services and shall fix the date of inauguration of these services, subject to issue of the permit provided for in article 2.

Article 2

(a) Each Contracting Party shall, subject to the provisions of article 7 hereunder, issue the necessary operating permit without delay to the airline or airlines designated by the other Contracting Party.

(b) The aeronautical authorities of either Contracting Party may, before authorizing the airlines designated by the other Contracting Party to inaugurate the services described in the annex, require the said airlines to satisfy them that they are qualified to fulfil the conditions prescribed by the laws and regulations currently and normally applied by these authorities to the operation of international air services.

¹ Came into force on 1 July 1957 by an exchange of notes, in accordance with article 12.

² See p. 109 of this volume.

Article 3

(a) The tariffs shall be fixed 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 accomodation) and the tariffs of other airlines operating over the whole or part of the specified route. These tariffs shall be fixed in accordance with the following provisions of this article.

(b) The tariffs referred to in paragraph (a) of this article, together with the rates of agency commission used in conjunction with them, shall be agreed, in respect of each of the specified routes, between the designated airlines, in consultation with other airlines operating over the whole or part of that route. Such agreement shall, where possible, be reached through the tariff-fixing procedure of the International Air Transport Association. The tariffs so agreed shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

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

(d) If the aeronautical authorities cannot approve any tariff submitted to them under paragraph (b) of this article or cannot determine any tariff under paragraph (c), the dispute shall be settled in accordance with the provisions of article 8 of this Agreement.

Article 4

(a) Each Contracting Party agrees that the charges imposed for the use of airports and other services by the airline or airlines designated by the other Contracting Party shall not be higher than those which would be paid for the use of such airports and services by its national aircraft engaged in similar international air services.

(b) Fuel, lubricating oils, spare parts, regular equipment and aircraft stores introduced into or placed on board aircraft in the territory of either Contracting Party by or on behalf of an airline designated by the other Contracting Party and intended solely for use by aircraft employed by that airline for the operation of the services specified in the annex shall be accorded, with respect to customs duties, inspection fees and other national duties and charges, treatment not less favourable than that applied to national airlines or to the airlines of the most favoured State.

(c) All aircraft operated on the air services specified in the annex by an airline designated by one Contracting Party and fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board such aircraft on their arrival in or departure from the territory of the other Contracting Party shall be exempt from customs duties, inspection fees and other national duties and charges, even though such supplies be used or consumed by or on such aircraft on flights over the said territory.

(d) Supplies exempted under the above provisions may not be unloaded without the consent of the customs authorities of the other Contracting Party. If they cannot be used or consumed they shall be re-exported. Pending use or re-exportation, they shall be kept under the supervision of the said authorities but shall remain at the disposal of the airlines.

Article 5

Certificates of airworthiness, certificates of competency and licences issued or rendered valid by either Contracting Party shall be recognized by the other Contracting Party for the purpose of operating the services specified in the annex. Each Contracting Party reserves the right, however, to refuse to recognize as valid, for flights over its own territory, certificates of competency and licences issued to its own nationals by the other Contracting Party or by a third State.

Article 6

(a) The laws and regulations of either Contracting Party governing the admission to, stay in and departure from its territory of aircraft engaged in international air navigation or the operation, control and navigation of such aircraft while within its territory, shall also apply to aircraft of any airline designated by the other Contracting Party.

(b) Passengers, crews, consignors of cargo and designated airlines shall be required to comply, either in person or through a third party acting in their name and on their behalf, with the laws and regulations governing in the territory of each Contracting Party the admission, stay and departure of passengers, crews or cargo carried by air such as those relating to entry, clearance, immigration, passports, customs and health.

Article 7

Each Contracting Party reserves the right to withhold an operating permit from an airline designated by the other Contracting Party or to revoke such

permit in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the other Contracting Party or in nationals or bodies of either Contracting Party, or in any case where the airline fails to comply with the laws and regulations referred to in article 6 or with an arbitral award made in accordance with the provisions of article 8, fails to fulfil its obligations under this Agreement or ceases to meet the conditions under which rights were granted under this Agreement and its annex.

However, unless revocation of the permit is essential to prevent further infractions, this right shall be exercised only after consultation with the other Contracting Party.

Article 8

(a) The Contracting Parties agree to submit to arbitration any dispute relating to the interpretation or application of this Agreement or its annex which cannot be settled by direct negotiation between the airlines concerned, between the aeronautical authorities or between the two Governments.

(b) Such arbitration shall be conducted in accordance with the rules provided in chapter XVIII of the Convention on International Civil Aviation, signed at Chicago on 7 December 1944.¹

(c) Nevertheless, the Contracting Parties may by agreement settle the dispute by referring it to an arbitral tribunal or to any other person or body designated by them.

(d) The question of the cost of the arbitration shall be settled by the arbitral award.

(e) The Contracting Parties undertake to comply with the award made.

Article 9

This Agreement and any modification thereof shall be registered with the International Civil Aviation Organization set up by the Convention on International Civil Aviation.

Article 10

(a) In a spirit of close collaboration, the aeronautical authorities of the Contracting Parties shall consult each other from time to time with a view to ensuring the application of the principles defined in this Agreement and its annex and their satisfactory execution.

¹ See footnote 2, p. 56 of this volume.

(b) This Agreement and its annex shall be brought into harmony with any multilateral agreement which may become binding upon the two Contracting Parties.

(c) If either Contracting Party wishes to modify a provision of this Agreement, such modification, if agreed upon by the Contracting Parties, shall enter into force when it has been confirmed by an exchange of diplomatic notes. Such modification may be effected as a result of a consultation between the Contracting Parties, which must commence within sixty days from the date of the request therefor by either Party.

The annex may be modified by direct agreement between the aeronautical authorities of the two Contracting Parties.

(d) Each Contracting Party may at any time give notice to the other of its desire to terminate this Agreement. Such notice shall be communicated simultaneously to the International Civil Aviation Organization. This Agreement shall terminate twelve months after the date of receipt of the said notice by the other Contracting Party, unless the notice is withdrawn by agreement before the expiry of that period. If the other Contracting Party fails to acknowledge receipt of the notice, addressed to it, the notice shall be deemed to have been received by that Contracting Party fourteen days after receipt thereof by the International Civil Aviation Organization.

Article 11

For the purposes of this Agreement and its annex, except where the text otherwise provides :

(a) The expression "aeronautical authority" means: in the case of Austria, the Bundesministerium für Verkehr und verstaatlichte Betriebe, Amt für Zivilluftfahrt (Federal Ministry of Transport and Nationalized Industries, Civil Air Office) or any person or body authorized to perform the functions at present exercised by that authority; in the case of Italy, the Direzione Generale dell'Aviazione Civile e del Traffico Aereo (General Directorate of Civil Aviation and Air Traffic) or any person or body authorized to perform the functions at present exercised by that authority;

(b) The expression "designated airline" means any airline notified in writing by the aeronautical authority of one Contracting Party to the aeronautical authority of the other Contracting Party as being the airline designated by it under articles 1 and 2 of this Agreement to operate the air services mentioned in the notification;

(c) The term "territory" shall have the meaning given to it in article 2 of the Convention on International Civil Aviation;

(d) Account shall be taken of the definitions given in article 96 of the Convention on International Civil Aviation.

Article 12

The date of entry into force of this Agreement and its annex shall be fixed by an exchange of diplomatic notes.

Upon the entry into force of this Agreement, the Treaty between Austria and Italy regarding aerial navigation, signed at Rome on 11 May 1928,¹ shall be deemed to be formally abrogated.

DONE at Rome on 23 January 1956 in duplicate in the French language.

For the Federal Government
of Austria :
Max LOEWENTHAL

For the Government
of the Italian Republic :
G. DE ASTIS

ANNEX

I

The airlines designated by each Contracting Party shall enjoy, in the territory of the other Contracting Party, the right of transit and the right to make non-traffic stops; they may also use airports and other services provided for international traffic. They shall also enjoy, in the territory of the other Contracting Party, the right to pick up and set down international traffic in passengers, mail and cargo in accordance with the terms of this Agreement², excluding any cabotage in the territory of the other Contracting Party.

II

The airlines designated by each Contracting Party shall enjoy fair and equitable treatment so as to have equal opportunities for the operation of the agreed services under the terms laid down in this Agreement and this annex.

III

(a) The transport capacity provided by each of the designated airlines shall be adapted to traffic requirements.

(b) In the operation of common routes, the designated airlines shall take into account their mutual interests so as not to affect unduly each other's air services.

(c) The air services specified in this annex shall have as their primary objective the provision of capacity adequate to meet the traffic requirements between the country to which the designated airline belongs and the country of destination.

¹ League of Nations, *Treaty Series*, Vol. C, p. 41, and Vol. CIV, p. 550.

² See p. 99 of this volume.

(d) The right to pick up and set down in the territory of either Contracting Party, at the points specified in this annex, international traffic destined for or coming from third countries shall be exercised in accordance with the general principles of orderly development to which the Contracting Parties subscribe and in such a manner that capacity shall be related to :

1. The requirements of traffic between the country of origin and the countries of destination;
2. The requirements of economic operation of the air services specified in this annex;
3. The traffic requirements of the areas through which the airlines pass, local and regional air services being taken into account.

IV

(a) The airline or airlines designated by Austria may operate international air services as follows :

Austria—two points in Italy; intermediate points and points beyond to be agreed between the aeronautical authorities of the two Contracting Parties.

(b) The airline or airlines designated by Italy may operate international air services as follows :

Italy—an intermediate point in a third country—a point in Austria; other intermediate points and points beyond to be agreed between the aeronautical authorities of the two Contracting Parties.

PROTOCOL

In the course of the negotiations which led to the drafting of article III of the annex¹ to the Air Transport Agreement between Austria and Italy signed today,² the delegations of the two Contracting Parties agreed that the time-tables of the services operated by the authorized airlines of either Contracting Party should be subject to prior approval by the aeronautical authorities of the other Party.

DONE at Rome in duplicate in the French language on 23 January 1956.

Ford the Federal Government
of Austria :

(Signed) Max LOEWENTHAL

For the Government
of the Italian Republic :

(Signed) G. DE ASTIS

¹ See p. 109 of this volume.

² See p. 99 of this volume.