No. 5786

UNITED STATES OF AMERICA
and
MEXICO

Air Transport Agreement. Signed at Mexico, on 15 August 1960

Official texts: English and Spanish.

Registered by the United States of America on 7 August 1961.

ÉTATS-UNIS D'AMÉRIQUE
et
MEXIQUE

Accord relatif aux transports aériens. Signé à Mexico, le 15 août 1960

Textes officiels anglais et espagnol.

Enregistré par les États-Unis d'Amérique le 7 août 1961.

No. 5786. AIR TRANSPORT AGREEMENT[1] BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED MEXICAN STATES. SIGNED AT MEXICO, ON 15 AUGUST 1960

The Government of the United States of America and the Government of the United Mexican States,

Considering the contiguity of their respective territories and the friendly relations between them;

Desiring to strengthen even more the cultural and economic bonds which link their peoples and the understanding and goodwill which exists among them;

Recognizing the increasing importance of international air travel between the two countries and within the Hemisphere and desiring to ensure its continued development in the common welfare on bases of equality and reciprocity; and

Desiring to conclude an Agreement which will facilitate the attainment of the aforementioned objectives;

Have accordingly appointed duly authorized representatives for this purpose, who have agreed as follows :

Article 1

For the purposes of the present Agreement :

A. The word " Agreement " shall mean the Agreement and the Route Schedule[2] annexed thereto.

B. The term " aeronautical authorities " shall mean, in the case of the United States of America, the Civil Aeronautics Board or any peron or agency authorized to perform the functions exercised at the present time by the Civil Aeronautics Board; and, in the case of the United Mexican States, the Ministry of Communications and Transport or any person or entity authorized to perform the functions exercised at present by the Ministry of Communications and Transport.

C. The term " airline " shall mean any air transport enterprise offering or operating an international air service.

[1] Came into force provisionally on 15 August 1960 and definitively on 17 January 1961, upon receipt by the Government of the United States of America of notification from the Government of Mexico that the Agreement has been approved by the Senate of the Republic, in accordance with the provisions of article 18.

[2] See p. 194 of this volume.

D. The term " designated airline " shall mean an airline which the aeronautical authorities of one contracting party have notified the aeronautical authorities of the other contracting party to be the airline which will operate a route or routes specified in the Route Schedule annexed to the Agreement. Such notification must have been communicated in writing, through diplomatic channels.

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

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

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

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

Article 2

Each party grants to the other party rights necessary for the conduct of air services by the designated airlines, as follows : the rights of transit, of stops for non-traffic 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 annexed Route Schedule. The fact that such rights may not be exercised immediately shall not preclude the subsequent inauguration of air services by the airlines of the party to whom such rights are granted over the routes specified in the said Route Schedule.

Article 3

Air service on a specified route may be inaugurated immediately or at a later date at the option of the party to whom the rights are granted by an airline or airlines of such party at any time after that party has designated such airline or airlines for that route and the other 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 in this Agreement.

Article 4

Each 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 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 party or in case of failure by such airline to comply with the laws and regulations referred to in Article 5 of this Agreement, or in case of the failure of the airline or the Government designating it to fulfill the conditions under which the rights are granted in accordance with this Agreement.

Article 5

A. The laws and regulations of one party relating to the admission to or departure from its territory of aircraft engaged in international air navigation of such aircraft while within its territory, shall be applied to the aircraft of the airline or airlines designated by the other party and shall be complied with by such aircraft upon entering or departing from, and while within the territory of the first party.

B. The laws and regulations of one 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 party upon entrance into or departure from, and while within the territory of the first party.

Article 6

Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one party, and still in force, shall be recognized as valid by the other 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 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.

[1] 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; Vol. 252, p. 410; Vol. 324, p. 340, and Vol. 355, p. 418.

Article 7

In order to prevent discriminatory practices and to assure equality of treatment, both parties agree further to observe the following principles :

(*a*) Each of the 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 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 party by the other party or its nationals, and intended solely for use by aircraft of such party shall be exempt on a basis of reciprocity from custom duties, inspection fees and other national duties or charges.

(*c*) Fuel, lubricating oils, other consumable technical supplies, spare parts, regular equipment, and stores retained on board aircraft of the airlines of one party authorized to operate the routes and services provided for in this Agreement shall, upon arriving in or leaving the territory of the other 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 party in the territory of the other and use 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 party to operate on any route listed in this Agreement.

Article 9

In the operation by the airlines of either party of the trunk services described in this Agreement, the interest of the airlines of the other 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 understood 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 the Route Schedule shall be applied in accordance with the general principles of orderly development to which both 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.

Both parties agree to recognize that the fifth freedom traffic is complementary to the traffic requirements on the routes between the territories of the parties, and at the same time is subsidiary in relation to the traffic requirements of the third and fourth freedom between the territory of the other party and a country on the route.

In this connection both parties recognize that the development of local and regional services is a legitimate right of each of their countries. They agree therefore to consult periodically on the manner in which the standards mentioned in this Article are being complied with by their respective airlines in order to assure that their respective interests in the local and regional services as well as through services are not being prejudiced.

Every change of gauge justifiable for reasons of economy of operation, shall be permited at any stop on the specified routes. Nevertheless, no change of gauge may be made in the territory of one or the other party when it modifies the characteristics of the operation of a through airline service or if it is incompatible with the principles enunciated in the present Agreement.

When one of the parties after a period of observation of not less than ninety days considers that an increase in capacity or frequency offered by an airline of the other party is unjustified or prejudicial to the services of its respective airline it shall notify the other party of its objection to the end that consultation is initiated between the appropriate aeronautical authorities and decision on the objection is made by mutual agreement within a period which

may not be more than ninety days beginning on the date of such notification. For this purpose the operating companies shall supply all traffic statistics that may be necessary and required of them.

Article 11

1. All rates to be charged by an airline of one contracting party to or from points in the territory of the other contracting party shall be established at reasonable levels, due regard being paid to all relevant factors, such as costs of operation, reasonable profit, and the rates charged by any other carriers, as well as the characteristics of each service. Such rates shall be subject to the approval of the aeronautical authorities of the parties, who shall act in accordance with their obligations under this Agreement within the limits of their legal powers.

2. Any rate proposed to be charged by an airlines of either contracting party for carriage to or from the territory of the other contracting party, shall, if so required, be filed by such airline with the aeronautical authorities of the other contracting party at least thirty (30) days before the proposed date of introduction unless the contracting party with whom the filing is to be made permits filing on shorter notice. The aeronautical authorities of each contracting party shall use their best efforts to insure that the rates charged and collected conform to the rates filed with either contracting party, and that no carrier rebates any portion of such rates, by any means, directly or indirectly, including the payment of excessive sales commissions to agents or the use of unrealistic currency conversion rates.

3. It is recognized by both contracting parties that during any period for which either contracting party has approved the traffic conference procedures of the International Air Transport Association, or other associations of international air carriers, any rate agreements concluded through these procedures and involving airlines of that contracting party will be subject to the approval of that contracting party.

4. If a contracting party, on receipt of the notification referred to in paragraph 2 above, is dissatisfied with the rate proposed, it shall so inform the other contracting party at least fifteen (15) days prior to the date that such rate would otherwise become effective, and the contracting parties shall endeavor to reach agreement on the appropriate rate.

5. If a contracting party upon review of an existing rate charged for carriage to or from its territory be an airline of the other contracting party is dissatisfied with that rate, it shall so notify the other contracting party and the contracting parties shall endeavor to reach agreement on the appropriate rate.

6. In the event that an agreement is reached pursuant to the provisions of paragraph 4 or 5, each contracting party will exercise its best efforts to put such rate into effect.

7. (*a*) If under the circumstances set forth in paragraph 4 no agreement can be reached prior to the date that such rate would otherwise become effective, or

(*b*) If under the circumstances set forth in paragraph 5 no agreement can be reached prior to the expiry of sixty (60) days from the date of notification :

then the contracting party raising the objection to the rate may take such steps as it may consider necessary to prevent the inauguration or the continuation of the service in question at the rate complained of *provided, however*, that the contracting party raising the objection shall not require the charging of a rate higher than the lowest rate charged by its own airline or airlines for comparable service between the same pair of points.

8. When in any case under paragraphs 4 and 5 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. In rendering its advisory opinion, the arbitral tribunal shall be guided by the principles laid down in this Article.

9. Unless otherwise agreed between the parties, each contracting party undertakes to use its best efforts to insure that any rate specified in terms of the national currency of one of the parties will be established in an amount which reflects the effective exchange rate (including all exchange fees or other charges) at which the airlines of both parties can convert and remit the revenues from their transport operations into the national currency of the other party.

Article 12

Consultation between the competent authorities of both parties may be requested at any time by either party for the purpose of discussing the interpretation, application, or amendment of this Agreement. 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 Relations of the United Mexican States as the case may be. Should agreement be reached on amendment of the Agreement, such amendment will come into effect upon confirmation by a further exchange of diplomatic notes.

Article 13

Except as otherwise provided, any dispute between the 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 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 party. Each of the 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 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 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 parties enters into force, the present Agreement shall be amended so as to conform with provisions of such Convention.

Article 16

Either of the two parties may at any time notify the other party of its intention to terminate the present Agreement. Such notice shall be sent simultaneously to the International Civil Aviation Organization. In case such notification should be given the Agreement would terminate six months after the date on which the notice of termination may have been received, unless the communication under reference is annulled before the end of this period by agreement between both parties. Should the other party not acknowledge receipt it shall be considered that the notification was received by it 14 days subsequent to the date on which it is received by the International Civil Aviation Organization.

Article 17

Upon entry into effect of the present Agreement the aeronautical authorities of the two parties must communicate to each other as soon as possible the information relating to authorizations given to the airline or airlines designated by them to operate the routes set forth in the Route Schedule.

Article 18

The present Agreement shall enter into effect provisionally as of the fifteenth day of August, one thousand nine hundred sixty, and will enter into force definitively upon receipt by the Government of the United States of America of notification from the Government of the United Mexican States that the Agreement has been approved by the Senate of the Republic.

The Agreement will remain effective for a period of three years from the fifteenth day of August, one thousand nine hundred sixty unless terminated earlier by action pursuant to Article 16 of this Agreement.

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

DONE in duplicate at Mexico City in the English and Spanish languages, both texts being equally authentic, this fifteenth day of August, one thousand nine hundred sixty.

For the Government of the United States of America :
Robert C. HILL

ROUTE 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, and to make scheduled stops in Mexico at the points specified in this paragraph :

A. New York, Washington–Mexico City.

B. Chicago, Dallas, Fort Worth–Mexico City, via intermediate points in the United States.

C. Los Angeles–Mexico City, via intermediate points in the United States.

D. New Orleans–Mexico City.

E. New Orleans–Merida and beyond to Guatemala and beyond.

F. Miami–Merida and beyond to Guatemala and beyond.

G. Houston–Mexico City and beyond to Guatemala and beyond, via intermediate points in the United States.

H. San Antonio–Mexico City.

I. Miami, Tampa/St. Petersburg–Merida and Cozumel and beyond (cargo and mail only).

J. Miami, Tampa–Merida, Mexico City.

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

A. Mexico City–Washington, New York and beyond New York to Europe.

B. Mexico City–Dallas, Fort Worth, Chicago, via intermediate points in Mexico.

C. Mexico City–Los Angeles, via intermediate points in Mexico.

D. Mazatlan, Torreon, Monterrey–San Antonio, via intermediate points in Mexico.

E. Mexico City–Miami and beyond.

F. La Paz, Baja California–Los Angeles, via intermediate points in Mexico.

G. Mexico City, Monterrey–San Antonio.

H. Hermosillo–Tucson, via intermediate points in Mexico.

I. (Pending).

3. Points on any of the specified routes may at the option of the designated airlines be omitted on any or all flights with the exception of United States Route J, on which the designated airline is required to make an intermediate stop at Merida.

Robert C. HILL

[SEAL]