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No. 5911

**BELGIUM
and
JAPAN**

**Agreement (with annex) relating to air services. Signed
at Tokyo, on 20 June 1959**

Official texts : French and Japanese.

Registered by Belgium on 23 October 1961.

**BELGIQUE
et
JAPON**

**Accord (avec annexe) relatif aux services aériens. Signé à
Tokyo, le 20 juin 1959**

Textes officiels français et japonais.

Enregistré par la Belgique le 23 octobre 1961.

[TRANSLATION — TRADUCTION]

No. 5911. AGREEMENT¹ BETWEEN BELGIUM AND JAPAN
RELATING TO AIR SERVICES. SIGNED AT TOKYO,
ON 20 JUNE 1959

The Belgian Government and the Japanese Government,

Being parties to the Convention on International Civil Aviation signed at Chicago on 7 December 1944,² and

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

Have 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 “the Convention” means the Convention on International Civil Aviation, signed at Chicago on 7 December 1944, and any amendment adopted in accordance with the provisions of the Convention ;

(b) The expression “aeronautical authorities” means, in the case of Belgium, the Ministry of Communications, Aeronautical Administration, and, in the case of Japan, the Ministry of Transportation and any person or body authorized to perform the functions presently exercised by the said Ministry or similar functions ;

(c) 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 routes specified in such notification and in respect of which the appropriate operating permit has been granted by the other Contracting Party, in accordance with the provisions of article 3 of this Agreement ;

(d) The expression “air service” means any scheduled air service performed by aircraft for the public transport of passengers, cargo and mail ;

(e) The expression “international air service” means an air service which passes through the air space over the territory of more than one State ;

¹ Came into force on 3 July 1961, the date of the exchange of the instruments of ratification at Brussels, 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 ; Vol. 252, p. 410 ; Vol. 324, p. 340 ; Vol. 355, p. 418, and Vol. 409.

(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 ;

(h) The expression "annex" means the annex¹ to this Agreement or as amended in accordance with the provisions of article 14 of this Agreement.

2. The annex forms an integral part of this Agreement, 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 to enable its designated airlines to establish international air services on the routes specified in the appropriate section of the annex to this Agreement (hereinafter called "agreed services" and "specified routes" respectively).

Article 3

1. The agreed services on any specified route may be inaugurated immediately or later 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 or airlines to operate on that route, and

(b) The Contracting Party granting the rights has duly given the operating permit to the airline or airlines concerned, it being bound, subject to the provisions of paragraph 2 of this article and of article 6, paragraph 1, to give such permit 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 customarily and normally applied by the said authorities to the operation of international air services.

Article 4

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

(a) To fly without landing across the territory of the other Contracting Party ;

¹ See p. 39 of this volume.

(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 annex to this Agreement for the purposes of putting down and of taking on international traffic in passengers, cargo or mail.

2. Nothing in paragraph 1 of this article shall be deemed to confer on the airlines of one Contracting Party the privilege of taking up, 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 or other fees which either of the Contracting Parties may impose or permit to be imposed on the designated airlines of the other Contracting Party for the use of airports and other facilities under its control shall not be higher than those payable for the use of such airports and facilities by any national airline of the first Contracting Party operating similar international air services.

2. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores introduced into the territory of one Contracting Party or taken on board aircraft of the designated airline of the other Contracting Party and intended solely for use by such aircraft shall be accorded by the first-mentioned Contracting Party, with respect to customs duties, inspection fees and other similar national or local duties or charges, treatment not less favourable than that granted by the said first-mentioned Contracting Party to the airlines of the most-favoured nation or to its national airlines engaged in international air services. Neither Contracting Party shall, however, be obliged to grant to the designated airlines of the other Contracting Party exemption or remission of customs duties, inspection fees or other similar national or local duties or charges, unless the other Contracting Party grants exemption or remission of the duties or charges in question to the designated airlines of the first-mentioned 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 an airline designated by the other Contracting Party, or to impose such conditions as it may consider necessary on the exercise of the said 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 that Contracting Party.

2. Each Contracting Party reserves the right to suspend the exercise by a designated airline of the other Contracting Party of the rights referred to in paragraph 1 or to impose such conditions as it may consider necessary on the exercise of the said rights, in any case where such airline fails to comply, pursuant to articles 11 and 13 of the Convention, with the laws and regulations of the Contracting Party granting those rights or with the conditions prescribed in this Agreement. However, 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 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 between their respective territories.

Article 8

In the operation of the agreed services, the designated airlines of each Contracting Party shall take into consideration the interests of the designated airlines of the other Contracting Party so as not to affect unduly the services which the latter airlines provide on all or part of the same routes.

Article 9

1. The agreed services shall have as their primary objective the provision, at a load factor which is regarded as reasonable, of capacity adequate to the normal and reasonably foreseeable requirements of international air traffic originating in or destined for the Contracting Party which has designated the airline operating the services.

Additionally, the designated airlines of one Contracting Party may, within the limit of the over-all capacity referred to in the previous paragraph, satisfy the requirements of traffic between the territories of third countries in which the agreed services are provided and the territory of the other Contracting Party.

2. Traffic capacity additional to that mentioned in paragraph 1 may be furnished whenever justified by the traffic requirements of the countries in which the said services are provided.

Article 10

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

2. Agreement on the tariffs shall, wherever possible, be reached by the designated airlines concerned through the rate-fixing machinery of the International Air Transport Association. Where this is not possible, tariffs in respect of each of the specified routes shall be agreed between the designated airlines concerned. In every case the tariffs shall be submitted for approval to the aeronautical authorities of both Contracting Parties.

3. If the designated airlines concerned 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 aeronautical authorities of the Contracting Parties shall endeavour to reach agreement on the appropriate tariffs.

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

5. Subject to the provisions of article 13, paragraph 3, of this Agreement, no new tariffs shall come into effect if the aeronautical authorities of either Contracting Party are dissatisfied with them. Pending determination of the tariffs in accordance with the present article, the tariffs already in force shall be maintained.

Article 11

The aeronautical authorities of either Contracting Party shall supply to the aeronautical authorities of the other Contracting Party, at the latter's request, such periodic or other statements of statistics as they may reasonably require 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 12

There shall be regular and frequent consultation between the aeronautical authorities of the Contracting Parties to ensure close collaboration 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 Contracting Party, be submitted for decision to a tri-

bunal 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 the third arbitrator shall not be a national of either Contracting Party. Each Contracting Party shall appoint an arbitrator within a period of sixty days from the date of receipt of a diplomatic note from the other 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 International Court of Justice, 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 shall 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 both Contracting Parties. When these authorities have agreed on a new or revised annex, their recommendations on the matter shall come into effect after they have been confirmed by an exchange of diplomatic notes.

Article 15

If a multilateral convention concerning air transport comes into force in respect of both Contracting Parties, the present 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 Contracting Party of its intention to terminate this Agreement. A copy of such notice shall be sent simultaneously to the International Civil Aviation Organization formed by the Convention. 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, by agreement between the Contracting Parties, the notice is withdrawn before the expiry of that period. If the other Contracting Party fails to acknowledge receipt of the notice, the 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 ratified, and the exchange of the instruments of ratification shall take place at Brussels as soon as possible. This Agreement shall enter into force on the date of the exchange of the instruments of ratification.

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

DONE at Tokyo, on 20 June 1959, in duplicate in the French and Japanese languages, both texts being equally authentic.

For Belgium :
R. HERREMANS

For Japan :
Aiichiro FUJIYAMA

A N N E X

Route on which the designated Belgian airline or airlines may operate

Points in Belgium – points in Europe – points in the Near and Middle East, including Iran and Afghanistan – points in West and East Pakistan – points in India – Colombo – Rangoon – Bangkok – Manila and/or Okinawa – Tokyo and points beyond, in both directions.

The agreed services operated by the designated Belgian airline or airlines shall begin at a point in the territory of Belgium, but other points on the route may at the option of the designated airline be omitted on all or certain flights.

Route on which the designated Japanese airline or airlines may operate

Tokyo – Osaka – Fukuoka – Okinawa – points on the Chinese mainland and/or on the Island of Formosa – Hong Kong or Manila – points in Indochina – Bangkok – Rangoon – Colombo – points in India – points in East and West Pakistan – points in the Middle and Near East, including Iran and Afghanistan – Cairo – Athens – Rome – Geneva, Zurich or Madrid – Frankfurt am Main – Paris – Brussels and points beyond, in both directions.

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