

No. 7262

TUNISIA
and
NETHERLANDS

Air Transport Agreement (with annex and exchange of letters dated 27 February 1959). Signed at Tunis, on 19 March 1959

Official text: French.

Registered by the International Civil Aviation Organization on 8 June 1964.

TUNISIE
et
PAYS-BAS

Accord relatif aux transports aériens (avec annexe et échange de lettres en date du 27 février 1959). Signé à Tunis, le 19 mars 1959

Texte officiel français.

Enregistré par l'Organisation de l'aviation civile internationale le 8 juin 1964.

[TRANSLATION — TRADUCTION]

No. 7262. AIR TRANSPORT AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF TUNISIA AND THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS. SIGNED AT TUNIS, ON 19 MARCH 1959

The Government of the Republic of Tunisia and the Government of the Kingdom of the Netherlands (hereinafter referred to as the Contracting Parties), desiring to promote civil air transport between and through Tunisia and the Netherlands and having regard to the Convention adopted at the International Civil Aviation Conference at Chicago, Illinois, U.S.A., on 7 December 1944,² have agreed as follows :

Article 1

(1) Each Contracting Party grants to the other Contracting Party, for the benefit of the airline or airlines to be designated by the latter (hereinafter referred to as the designated airline or airlines), the rights specified in paragraph 2 of this article.

(2) The airline or airlines designated by each Contracting Party shall enjoy, in the territory of the other Contracting Party, the right to fly over that territory, the right of transit and the right to make stops for non-traffic purposes.

They shall also enjoy, for the purpose of operating air services (hereinafter referred to as the agreed services) on the routes specified in the annex³ (hereinafter referred to as the specified routes), the right to pick up and set down international traffic and passengers, mail and cargo.

Article 2

(1) The agreed services may be inaugurated immediately or at a later date at the option of the Contracting Party to which the rights are granted, but not before :

(a) The Contracting Party to which the rights are granted has notified the other Contracting Party of the designated airline or airlines and

¹ Applied provisionally from 19 March 1959, the date of signature, and came into force on 12 June 1963, the date of the exchange of notes indicating that the formalities prescribed by the domestic legislation of each of the Contracting Parties had been complied with, in accordance with the provisions of article 12.

² See footnote 2, p. 30 of this volume.

³ See p. 73 of this volume.

(b) The Contracting Party granting the rights has issued the appropriate operating permit to the designated airline or airlines, which, subject to the provisions of paragraph 2 of this article and those of article 6, it shall do without unreasonable delay.

(2) The designated airline or airlines may be required to prove that it or they is or are qualified in accordance with the laws and regulations normally applied by the aeronautical authorities of the other Contracting Party to the operation of international air services.

Article 3

In order to prevent any discriminatory practice and to ensure equality of treatment :

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

(b) Fuel, lubricating oils and spare parts introduced into the territory of one Contracting Party by or on behalf of the airline or airlines designated by the other Contracting Party, and intended solely for use by the aircraft of that airline or those airlines shall be accorded, with respect to customs duties, inspection fees or other national duties and charges, the treatment applied to national airlines or most-favoured-nation treatment.

(c) Fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board civil aircraft of the airlines of one Contracting Party authorized to operate the agreed routes and services shall, on arrival in or departure from the territory of the other Contracting Party, be exempt from customs duties, inspection fees or similar duties, even though such supplies be used or consumed by such aircraft on non-stop flights over that territory.

Stocks covered by the exemption specified above may not be unloaded save with the approval of the customs authorities of the other Contracting Party. When unloaded they shall be kept under customs supervision until they are used for the aircraft referred to above or are re-exported.

Article 4

(1) The airline or airlines designated by the two Contracting Parties shall enjoy equal rights to operate the agreed services.

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

(3) The agreed services operated by the airline or airlines designated by each Contracting Party shall be related to the demand for transport of passengers, cargo and mail on the specified routes and shall have as their primary objective the provision, at a reasonable load factor, of capacity adequate to meet the demand for the transport of passengers, cargo and mail from or to the territory of the Contracting Party which has designated the airline.

Article 5

(1) The laws and regulations of one Contracting Party relating to the admission to and 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 apply equally and without regard to nationality, to aircraft of the airline or airlines designated by the other Contracting Party.

The said aircraft shall comply with the said laws and regulations on arrival in and departure from and during their stay within the territory of the first Contracting Party.

(2) The laws and regulations of one Contracting Party relating to the admission to and departure from its territory of passengers, crews or cargo carried by aircraft, such as those governing entry, clearance, immigration, passports, customs and quarantine, shall be complied with, either in person or through a third party acting in their name, by the passengers, crews and cargo carried by aircraft of the airline or airlines of the other Contracting Party while they are within the territory of the first Contracting Party.

Article 6

Each Contracting Party reserves the right to deny the exercise of the rights specified in the annex to this Agreement by an airline designated by the other Contracting Party or to revoke permission for such exercise if it is not satisfied that substantial ownership and effective control of that airline are vested in nationals of the other Contracting Party, or if that airline fails to comply with the laws and regulations referred to in article 5.

Article 7

(1) The tariffs for the agreed services shall be fixed at reasonable levels, regard being paid to all relevant factors, including economy of operation, reasonable profit

and differences in the characteristics of the service, as well as the tariffs applied by other scheduled airlines operating on all or part of the specified routes.

(2) The tariffs to be applied by each of the airlines designated under this Agreement in respect of traffic on any of the specified routes between the territories of the two Contracting Parties, or between the territories of third countries and the territory of one of the Contracting Parties, shall be fixed either :

- (a) In accordance with such tariff resolutions as may have been adopted by an airlines association of which the designated airlines are members, and accepted for that purpose by the two Contracting Parties, or
- (b) By agreement between the designated airlines where these are not members of the same airlines association or where no resolutions as referred to in paragraph 2 above exist.

The tariffs so fixed shall be submitted to the aeronautical authorities of the two Contracting Parties and shall enter into force forty-five days after notice thereof is received by the said aeronautical authority, unless either Contracting Party has signified its disapproval.

Article 8

This Agreement and all related contracts shall be registered with the International Civil Aviation Organization (ICAO).

Article 9

Consultation between the competent authorities of the two Contracting Parties may be requested at any date by either Contracting Party for the purpose of discussing the interpretation, application or modification of this Agreement. Such consultation shall begin within sixty days from the date of receipt of the request by the Ministry of Foreign Affairs of the Kingdom of the Netherlands or by the Secretariat of State for Foreign Affairs of the Republic of Tunisia, as the case may be.

If a modification of the Agreement is agreed upon, it shall enter into force as soon as it has been confirmed by an exchange of diplomatic notes.

Article 10

The Contracting Parties shall settle any dispute relating to the interpretation or application of this Agreement by direct agreement between the aeronautical authorities. Settlements so reached shall be approved through the diplomatic channel.

If the authorities fail to agree on a settlement, the Contracting Parties shall enter into negotiations through the diplomatic channel. During such negotiations the *status quo* shall be maintained.

Article 11

Either Contracting Party may give notice at any time to the other Contracting Party of its desire to terminate this Agreement. Such notice shall be communicated at the same time to the International Civil Aviation Organization.

This Agreement shall cease to have effect no less than twelve months after the date of receipt of the notice by the second Contracting Party, unless the notice is withdrawn by agreement before the expiry of the above-mentioned period.

Should the other Contracting Party fail to acknowledge receipt of the notice, the latter shall be deemed to have been received fourteen days after its receipt by the International Civil Aviation Organization.

Article 12

This Agreement shall be applied provisionally from the date of its signature ; it shall enter into force as from a date to be set by an exchange of notes stating that the formalities required by the internal legislation of each of the Contracting Parties have been completed.

With regard to the Kingdom of the Netherlands, the Agreement shall apply only to its territory in Europe.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized for the purpose by their respective Governments, have signed this Agreement and have thereto fixed their seals.

DONE at Tunis, on 19 March 1959, in duplicate in the French language.

For the Government
of the Republic of Tunisia :

(Signed) Ridha KLIBI

Head of the European Division
Secretariat of State
for Foreign Affairs

For the Government
of the Kingdom of the Netherlands :

(Signed) W. F. L. VAN BYLANDT

Ambassador
of the Kingdom of the Netherlands
in Tunisia

ANNEX¹I. *Schedule of routes to be operated by the airline or airlines designated by the Government of the Kingdom of the Netherlands :*

Netherlands – Brussels – Frankfurt or Düsseldorf or Munich – Zürich or Geneva to Tunis and from there, if desired, to :

- (a) points in Libya and, if desired, points beyond in East Africa and/or South Africa, in both directions ;
- (b) points in Libya, Nigeria and Ghana and other points in West Africa and/or Equatorial Africa and/or South Africa, in both directions ;
- (c) Algiers and beyond, in both directions.

II. *Schedule of routes to be operated by the airline or airlines designated by the Government of the Republic of Tunisia :*

Tunisia – Zürich or Geneva – Frankfurt or Düsseldorf or Munich – Brussels to Amsterdam and beyond.

N.B. The designated airline or airlines may omit on any flight one or more of the stops mentioned in the above annex.

EXCHANGE OF LETTERS

I

THE CHAIRMAN OF THE TUNISIAN DELEGATION

Tunis, 27 February 1959

Sir,

During the discussions relating to the Air Transport Agreement between the Kingdom of the Netherlands and the Republic of Tunisia, signed this day,² the two delegations have agreed as follows :

The expression “effective control”, as used in article 6 of the said Agreement, does not refer to the technical or commercial management of any designated airline.

I have the honour to request you to confirm the agreement of the Netherlands Government to the foregoing.

I have the honour to be, etc.

The Chairman of the Kingdom of the Netherlands delegation

¹ In the certified true copy of the Agreement transmitted for registration the annex is reproduced twice, firstly with the Netherlands routes listed before the Tunisian and secondly in reverse order, but otherwise identical.

² The Agreement was signed on 19 March 1959 ; see p. 63 of this volume.

II

THE CHAIRMAN OF THE NETHERLANDS DELEGATION

Tunis, 27 February 1959

Sir,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows :

[*See letter I*]

I have the honour to confirm that my Government agrees to the contents of the above letter.

Accept, Sir, the assurances of my highest consideration.

The Chairman of the Tunisian delegation
