

No. 7564

**SENEGAL
and
SWITZERLAND**

**Air Transport Agreement (with annex). Signed at Berne,
on 23 January 1963**

Official text: French.

Registered by the International Civil Aviation Organisation on 3 February 1965.

**SÉNÉGAL
et
SUISSE**

**Accord (avec annexe) relatif au transport aérien. Signé à
Berne, le 23 janvier 1963**

Texte officiel français.

Enregistré par l'Organisation de l'aviation civile internationale le 3 février 1965.

[TRANSLATION — TRADUCTION]

No. 7564. AIR TRANSPORT AGREEMENT¹ BETWEEN THE
REPUBLIC OF SENEGAL AND SWITZERLAND. SIGNED
AT BERNE, ON 23 JANUARY 1963

The Government of the Republic of Senegal and the Swiss Federal Council,

Desiring to promote the development of air services between Senegal and Switzerland and to further as much as possible international co-operation in this field,

Desiring to apply to such services the principles and provisions of the Convention on International Civil Aviation signed at Chicago on 7 December 1944,²

Have agreed as follows :

I. GENERAL

Article 1

The Contracting Parties grant to each other the rights specified in this Agreement for the establishment of the international civil air services listed in the annex³ hereto.

Article 2

For the purposes of this Agreement and its annex :

1. The term "territory" shall be understood as it is defined in article 2 of the Convention on International Civil Aviation,
2. The expression "aeronautical authorities" means, in the case of each of the Contracting Parties, the department in charge of civil aviation.

Article 3

1. Aircraft operated on international services by the designated airlines of either Contracting Party, as well as their regular equipment, supplies of fuels and lubricants, and aircraft stores (including food, beverages and tobacco) on board

¹ Applied provisionally from 23 January 1963, the date of signature, and came into force definitively on 7 September 1964, one month after the date on which the Contracting Parties notified each other that the constitutional formalities had been completed, in accordance with the provisions of article 21.

² See footnote 2, p. 5 of this volume.

³ See p. 39 of this volume.

such aircraft shall, upon entry into the territory of the other Contracting Party, be exempt from all customs duties, inspection fees and other similar duties and charges, provided such equipment and supplies remain on board the aircraft until re-exported.

2. The following shall likewise be exempt from the same duties and charges, excluding fees and charges levied as consideration for services rendered :

- (a) Aircraft stores, irrespective of origin, obtained in the territory of either Contracting Party, within the limits fixed by the authorities of the said Contracting Party, and placed on board aircraft of the other Contracting Party engaged in international service;
- (b) Spare parts imported into the territory of either Contracting Party for the maintenance or repair of aircraft used in international navigation by the designated airlines of the other Contracting Party;
- (c) Fuels intended for aircraft employed in international traffic by the designated airlines of the other Contracting Party, even though such supplies be consumed during that part of the flight which takes place over the territory of the Contracting Party in which they were taken on board.

3. Regular aircraft equipment, materials and stores retained on board the aircraft of either Contracting Party, may be unloaded in the territory of the other Contracting Party only with the approval of the customs authorities of that territory. In such case, they may be placed under the supervision of the said authorities until they are re-exported or declared to customs.

Article 4

Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Contracting Party and still valid shall be recognized as valid by the other Contracting Party for the purpose of operating the air services specified in the annex hereto. Each Contracting Party reserves the right, however, to refuse to recognize as valid for flight above its own territory certificates of competency and licences granted to its own nationals by the other Contracting Party.

Article 5

1. The laws and regulations of each Contracting Party relating to the admission to and departure from its territory of aircraft engaged in international navigation or to the operation and navigation of such aircraft while within its territory shall apply to the aircraft of the airline of the other Contracting Party.

2. Passengers, crews and shippers of goods shall be required to comply either personally or through a third party acting in their name and on their behalf, with the laws and regulations in force in the territory of each Contracting Party governing the entry, stay and departure of passengers, crews and cargo, such as those relating to entry, clearance, immigration, customs and quarantine.

3. Passengers in direct transit who do not leave the airport zone reserved for them shall be subject only to a very simplified form of control.

4. Each Contracting Party agrees not to grant any preference to its own airlines over the designated airline of the other Contracting Party in the application of regulations relating to customs, visas, immigration, quarantine, currency control or other regulations affecting air transport.

Article 6

Subject to the provisions of article 14, each Contracting Party reserves the right to withhold an operating permit from an airline designated by the other Contracting Party or to revoke such a permit whenever it considers on sufficient grounds that it has no proof that substantial ownership and effective control of that airline are vested in the other Contracting Party or its nationals or in case of failure by that airline to comply with the laws and regulations referred to in article 5 or to fulfil its obligations under this Agreement.

Article 7

Either Contracting Party may at any time request a consultation between the competent authorities of the two Contracting Parties concerning the interpretation, application or modification of this Agreement.

Such consultation shall begin within sixty days from the date of receipt of the request.

Such modifications of this Agreement as are decided upon shall enter into force after they have been confirmed by an exchange of notes through the diplomatic channel.

Article 8

Either Contracting Party may at any time give notice to the other Contracting Party of its desire to terminate this Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organization. The Agreement shall terminate one year after the date of receipt of the notice by the

other Contracting Party, unless the notice is withdrawn by agreement before the expiry of this period. If the Contracting Party receiving such notice fails to acknowledge receipt thereof, the said notice shall be deemed to have been received fifteen days after its receipt at the headquarters of the International Civil Aviation Organization.

Article 9

1. Any dispute relating to the interpretation or application of this Agreement which cannot be settled between the aeronautical authorities or between the Governments of the Contracting Parties in accordance with the provisions of article 7 shall, at the request of either Contracting Party, be referred to an arbitral tribunal.
2. Such arbitral tribunal shall consist of three members. Each of the two Governments shall appoint one arbitrator; these two arbitrators shall agree upon the appointment of a national of a third State as Chairman. If the two arbitrators have not been appointed within two months after the date on which one of the two Governments proposed the arbitral settlement of the dispute, or if the arbitrators have not agreed upon the appointment of a Chairman within a further period of one month, each Contracting Party may request the President of the Council of the International Civil Aviation Organization to make the necessary appointments.
3. If the arbitral tribunal cannot arrive at an amicable settlement of the dispute, it shall take a decision by majority vote. Unless the Contracting Parties agree otherwise, it shall establish its own rules of procedure and determine its place of meeting.
4. The Contracting Parties undertake to comply with any provisional measures ordered in the course of the proceedings and with the arbitral award, which shall in all cases be considered final.
5. If and so long as either Contracting Party fails to comply with the arbitral awards, the other Contracting Party may limit, suspend or revoke any rights or privileges which it has granted by virtue of this Agreement to the Contracting Party in default. Each Contracting Party shall pay the remuneration for the services of its own arbitrator and half of the remuneration of the Chairman appointed and of the other costs arising from the proceedings.

II. AGREED SERVICES

Article 10

Each Contracting Party grants to the other Contracting Party the right to have the air services specified in the route schedules appearing in the annex

to this Agreement operated by a designated airline. The said services shall hereinafter be referred to as "agreed services".

Article 11

1. Subject to the provisions of article 6 above, each Contracting Party shall issue the necessary operating permit without delay to the designated airline of the other Contracting Party.
2. However, before being authorized to inaugurate the agreed services, the designated airline may be required to satisfy the aeronautical authority of the other Contracting Party that it fulfils the conditions prescribed by the laws and regulations normally applicable by that authority to the operation of international air services.

Article 12

Subject to the provisions of this Agreement, the Contracting Parties grant to each other :

1. The right to fly, without landing, over the territory of the other Contracting Party,
2. The right to make non-traffic stops in the said territory.

Article 13

1. The airline designated by the Government of Senegal under this Agreement shall enjoy, in Swiss territory, the right to set down and pick up international traffic in passengers, mail and cargo at the points and on the Senegalese routes listed in the annex hereto.
2. The airline designated by the Swiss Federal Council under this Agreement shall enjoy, in Senegalese territory, the right to set down and pick up international traffic in passengers, mail and cargo at the points and on the routes listed in the annex hereto.

Article 14

Notwithstanding the provisions of article 6 of this Agreement, either Contracting Party may designate a joint airline constituted in conformity with articles 77 and 79 of the Convention on International Civil Aviation signed at Chicago on 7 December 1944, and such airline shall be accepted by the other Contracting Party.

Article 15

1. The airlines designated by the two Contracting Parties shall be assured fair and equitable treatment so that they may enjoy equal opportunity to operate the agreed services.

2. On common routes, they shall take their mutual interests into account so as not to affect unduly their respective services.

Article 16

1. The operation of services between the territories of the Contracting Parties, on the routes specified in the schedule annexed to this Agreement, shall constitute a basic and primordial right of the Contracting Parties.

2. For the purpose of operation of these services :

- (a) The transport capacity offered on common routes shall be divided between the designated airlines of the two Contracting Parties, taking into account the principle of equality, subject to paragraph (d) below.
- (b) The total capacity provided on each of the routes shall be adapted to the traffic demand.
- (c) In order to meet unforeseen or temporary traffic demands on these same routes, the designated airlines shall decide among themselves on appropriate measures to deal with such temporary increase in traffic. They shall report such measures immediately to the aeronautical authorities of their respective countries, which may consult together if they see fit.
- (d) If either Contracting Party should not wish to use, on one or more routes, part or all of the transport capacity allocated to it, the other Contracting Party shall come to an agreement with the first Contracting Party with a view to disposing, for a specified period, of all or part of the transport capacity not used by the first Contracting Party. The Contracting Party which has transferred all or part of its rights may recover them at the end of the said period.

Article 17

1. The designated airlines shall inform the aeronautical authorities of the two Contracting Parties, not later than thirty days before the inauguration of the agreed services, of the operating conditions, the types of aircraft to be used and the proposed time-tables. The same rule shall apply in respect of any subsequent changes.

2. The aeronautical authorities of each Contracting Party shall supply to the aeronautical authorities of the other Contracting Party upon request such periodic or other statistical information as may be reasonably required for the purpose of reviewing the transport capacity offered by the designated airline of the first Contracting Party. Such statistics shall contain the information necessary to determine the volume of traffic to and from the territory of the other Contracting Party, by points of embarkation and debarkation.

Article 18

The two Contracting Parties agree to consult together whenever necessary in order to co-ordinate their respective air services.

Article 19

Tariffs for all agreed services shall be fixed at reasonable levels, regard being paid to all relevant factors, including cost of operation, reasonable profit, the characteristics of each service and the tariffs charged by other airlines operating over all or part of the same route. Tariffs shall be fixed in accordance with the following provisions :

1. The tariffs shall, if possible, be fixed by agreement between the designated airlines, after consultation with other airlines operating on all or part of the same route. Such agreement shall be reached, as far as possible, within the framework of the International Air Transport Association. The tariffs so agreed shall be submitted to the aeronautical authorities of the Contracting Parties for approval. If the aeronautical authorities of either Contracting Party do not approve these tariffs, they shall notify the aeronautical authorities of the other Contracting Party thereof, in writing, within fifteen days following the date of communication of the tariffs or within another period to be agreed upon.
2. If the designated airlines fail to agree or if the tariffs are not approved by the aeronautical authorities of one of the Contracting Parties, the aeronautical authorities of the two Contracting Parties shall endeavour to reach agreement on the tariffs to be fixed.
3. In the last resort, the dispute shall be submitted to arbitration as provided for in article 9 above.
4. The tariffs already established shall remain in force until new tariffs are fixed in accordance with this article or with article 9 above.

III. FINAL PROVISIONS

Article 20

Each Contracting Party undertakes to enable the other Contracting Party to transfer freely, at the official rate, the net income accruing in its territory in connexion with the carriage of passengers, baggage, mail and cargo by the designated airline of the other Contracting Party. In all cases where the handling of payments between the Contracting Parties is regulated by a special agreement, that agreement shall apply.

Article 21

This Agreement shall be applied provisionally as from the date of signature and shall enter into force one month after the date on which the Parties notify each other of the completion of their respective constitutional formalities.

Article 22

This Agreement and its annex shall be communicated to the International Civil Aviation Organization for registration.

DONE at Berne, on 23 January 1963, in duplicate, in the French language.

For the Government of Senegal :
Baboucar N'DIAYE

For the Swiss Federal Council :
F. T. WAHLEN

Ambassador of Senegal at Berne

Head of Political Department

ANNEX

ROUTE SCHEDULE

I. *Senegalese routes*

From Dakar via a point in North Africa to a point in Switzerland and beyond to five points in Europe, in both directions.

II. *Swiss routes*

From Switzerland via a point on the Iberian Peninsula or in North Africa, to Dakar and beyond to five points in South America and Central America, in both directions.

* *

1. Any points situated on either of the routes described may, at the option of the designated airline of a Contracting Party, be omitted on all or some flights.
2. An airline designated by either Contracting Party may serve one or more points other than those listed in the route schedule; however, no traffic right may be exercised between such point or points and the territory of the other Contracting Party unless such rights have been specially granted by the latter.