

No. 8162

**SWITZERLAND
and
SOUTH AFRICA**

**Agreement relating to air services (with annex). Signed at
Berne, on 19 October 1959**

Official texts: French and English.

Registered by the International Civil Aviation Organization on 15 March 1966.

**SUISSE
et
AFRIQUE DU SUD**

**Accord relatif aux services aériens (avec annexe). Signé à
Berne, le 19 octobre 1959**

Textes officiels français et anglais.

Enregistré par l'Organisation de l'aviation civile internationale le 15 mars 1966.

No. 8162. AGREEMENT¹ RELATING TO AIR SERVICES BETWEEN THE UNION OF SOUTH AFRICA AND SWITZERLAND. SIGNED AT BERNE, ON 19 OCTOBER 1959

The Government of the Union of South Africa and the Swiss Federal Council,

considering that it is desirable to regulate air transport between the territories of the Parties to this Agreement, and beyond, by an agreement and to foster as much as possible international co-operation in this field,

have appointed representatives who, duly authorised to that effect, agree as follows :

Article 1

For the purposes of the present agreement, which shall include the annex² hereto—

- (a) the term “ Party ” or “ Parties ” means a party or the parties, as the case may be, to this agreement;
- (b) the term “ territory ” in relation to a Party means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection, administration or trusteeship of that Party;
- (c) the term “ air service ” means any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo;
- (d) the term “ stop for non-traffic purposes ” means a landing for any purposes other than picking up or setting down passengers, mail or cargo.

Article 2

1. The Parties grant each other the rights specified in the annex hereto for the operation of the international scheduled air services therein described to or through their respective territories.

2. Each Party may designate an airline for the operation of the air service specified in the annex.

¹ Applied provisionally from 19 October 1959, the date of signature, and came into force on 19 September 1961, the date on which the Swiss Government notified its ratification of the Agreement to the Government of South Africa, in accordance with article 11 (1).

² See p. 267 of this volume.

Article 3

1. Each Party, subject to the provisions of article 8 shall, without undue delay, deliver the appropriate operating permission to the designated airline of the other Party.

2. A designated airline may, however, before being authorised to inaugurate the services, specified in the annex, be required to satisfy the aeronautical authorities of the other Party that it is qualified to fulfil the conditions prescribed under the laws and regulations normally applied by this authority.

3. Each Party reserves the right to withhold or revoke the grant of an operating permission to the designated airline of the other Party, when it is not satisfied that substantial ownership and effective control of that designated airline are vested in that other Party or citizens thereof.

Article 4

1. The fares and rates to be charged by the airlines designated by the Parties and the conditions of carriage applicable to each such airline shall be those agreed upon by the International Air Transport Association and approved by the aeronautical authorities of the Parties.

2. If the International Air Transport Association fails to agree upon such fares and rates or if such an agreement is not approved by the aeronautical authorities of a Party, the aeronautical authorities of the Parties shall endeavour to secure agreement on the fares and rates to be charged by the designated airlines.

3. If the position set out in paragraph 2 obtains, the fares and rates in force on the date on which the International Air Transport Association so fails to agree or the aeronautical authorities concerned fail to approve, shall continue to be applied until new fares and rates have been established as provided in paragraph 2.

Article 5

1. The laws and regulations of the one Party governing entry into and departure from its territory of aircraft engaged in international air navigation or flights of such aircraft within its territory shall apply to the designated airline of the other Party.

2. The laws and regulations of the one Party governing entry into, sojourn in, or departure from its territory of passengers, crew, mail or cargo such as those relating to formalities, immigration, passports, customs and quarantine, shall apply to passengers, crew, mail or cargo carried by the aircraft of the designated airline of the other Party while they are within the said territory.

3. Passengers in transit across the territory of the one Party shall be subject to a simplified control. Baggage and cargo in direct transit shall be exempt from customs duties, inspection fees and similar charges.

4. Each Party agrees not to give preference to its own airlines over the airline of the other Party in the application of its regulations concerning customs, visas, immigration, quarantine, exchange control or other regulations affecting air transportation.

Article 6

1. Fuel introduced into, or taken on board aircraft in any territory of one Party by, or on behalf of, the designated airline of the other Party and remaining on board on departure from the last airport of call in this territory shall, subject to compliance in other respects with the customs regulations of the territory, be exempt from customs duties, inspection fees and similar charges imposed therein.

2. The treatment set out in paragraph 1 shall be in addition to that accorded under Article 24 of the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944.¹

Article 7

1. The airline designated by a Party shall, at the request of the aeronautical authorities of the other Party supply such periodic or other statements of statistics as may be necessary to determine the amount of traffic carried on the service specified in the annex and the origins and destinations of such traffic.

2. Discussions between representatives of the aeronautical authorities of the Parties, for the purpose of reviewing the position in the light of traffic statistics, shall take place from time to time.

Article 8

Notwithstanding the provisions of article 3, a Party shall have the right to suspend the air service operated in terms of this agreement by the airline designated by the other Party if that airline fails to comply with any law or regulation of the first-mentioned Party or fails to comply with any term or condition prescribed in this agreement or in the annex: Provided that unless immediate suspension is essential to prevent further infringement of a law or regulation or term or condition above-mentioned this right shall be exercised only after consultation with the other Party.

¹ See footnote 2, p. 68 of this volume.

Article 9

Amendments to the annex may be agreed upon between the aeronautical authorities of the Parties.

Article 10

This agreement and its annex shall be modified to accord with any multi-lateral convention which may hereafter become binding on both Parties.

Article 11

1. This agreement shall be applied provisionally as from the date on which it is signed and it will enter into force on the day on which the Swiss Federal Council notifies its ratification to the Government of the Union of South Africa.

2. If the ratification is not notified, as provided in paragraph 1, within a period of twelve months from the date of signature, either Party may terminate the provisional application of this agreement by giving six months' notice in writing to the other Party.

3. As from the day on which ratification is notified, as provided in paragraph 1, this agreement shall remain in force indefinitely unless six months' notice in writing of termination is given by either Party to the other.

4. This agreement shall supersede the agreement entered into at Berne between the Union of South Africa and Switzerland on the twenty-sixth day of August, 1954.¹

DONE at Berne, in duplicate original, this nineteenth day of October, one thousand nine hundred and fifty-nine, in the English and French languages, both texts being equally authentic.

For the Government
of the Union of South Africa :

M. I. BOTHA

For the Swiss Federal Council :

M. PETITPIERRE

¹ United Nations, *Treaty Series*, Vol. 216, p. 19.

ANNEX

I

A. The air service undertaken by the airline designated by the Government of the Union of South Africa shall be operated on one of the following routes in both directions :

- (a) South Africa–Salisbury/Livingstone–Nairobi–Khartoum/Cairo–Athens–Rome–Zurich–Frankfurt/Amsterdam–London; or
- (b) South Africa–Leopoldville/Brazzaville–Kano–Algiers/Rome–Zurich–Frankfurt/Amsterdam–London.

B. The air service undertaken by the airline designated by the Swiss Federal Council shall be operated on one of the following routes in both directions :

- (a) Switzerland–Milan/Rome–Tunis/Algiers/Tripoli–Kano/Lagos–Accra–Leopoldville/Brazzaville–Livingstone/Salisbury–Johannesburg; or
- (b) Switzerland–Milan/Rome–Athens–Beirut–Cairo–Khartoum–Addis Ababa–Entebbe/Nairobi–Livingstone/Salisbury–Johannesburg.

C. Any or all of the points on a route specified in sub-paragraph A or B may be omitted on any or all flights at the option of the designated airline concerned.

II

The points on the route specified in sub-paragraph A of paragraph I at which, subject to the concurrence of any third country that may be involved, traffic from or for Swiss territory—

- (a) may be set down or picked up, that is, are agreed traffic stops; and
- (b) may not be set down or picked up, that is, are stops for non-traffic purposes,
- by the airline designated by the Government of the Union of South Africa, are the following :

Country	Traffic Stops	Stops for non-traffic purposes
(i) <i>Route specified in sub-paragraph A (a) of paragraph I</i>		
Union of South Africa	Points in Union of South Africa	—
Federation of Rhodesia and Nyasaland	Salisbury or Livingstone	—
Kenya	Nairobi	—
Sudan or United Arab Republic	—	Khartoum or Cairo
Greece	—	Athens
Italy	—	Rome
Switzerland	Zurich	—
Federal Republic of Germany or Netherlands	—	Frankfurt or Amsterdam

<i>Country</i>	<i>Traffic Stops</i>	<i>Stops for non-traffic purposes</i>
United Kingdom of Great Britain and Northern Ireland or	—	London
<i>(ii) Route specified in sub-paragraph A (b) of paragraph I</i>		
Union of South Africa	Points in Union of South Africa	—
Belgian Congo or French Equatorial Africa	—	Leopoldville or Brazzaville
Nigeria	Kano	—
Algeria	—	Algiers
Italy	—	Rome
Switzerland	Zurich	—
Federal Republic of Germany or Netherlands	—	Frankfurt or Amsterdam
United Kingdom of Great Britain and Northern Ireland	—	London

III

The points on the routes specified in sub-paragraph B of paragraph I at which, subject to the concurrence of any third country that may be involved, traffic from or for territory of the Union of South Africa

- (a) may be set down or picked up, that is, are agreed traffic stops; and
 (b) may not be set down or picked up, that is, are stops for non-traffic purposes, by the airline designated by the Swiss Federal Council, are the following :

<i>Country</i>	<i>Traffic Stops</i>	<i>Stops for non-traffic purposes</i>
<i>(i) Route specified in sub-paragraph B (a) of paragraph I</i>		
Switzerland	Points in Switzerland	—
Italy	—	Milan or Rome
Tunisia or Algeria or United Kingdom of Libya	Tunis or Algiers or Tripoli	—
Nigeria	Kano	—
Ghana or Nigeria	Accra or Lagos	—
Belgian Congo or French Equatorial Africa	Leopoldville or Brazzaville	—
Federation of Rhodesia and Nyasaland	—	Livingstone or Salisbury
Union of South Africa or	Johannesburg	—

<i>Country</i>	<i>Traffic Stops</i>	<i>Stops for non-traffic purposes</i>
<i>(ii) Route specified in sub-paragraph B (b) of paragraph I</i>		
Switzerland	Points in Switzerland	—
Italy	—	Milan or Rome
Greece	Athens	—
Lebanon	Beirut	—
United Arab Republic	Cairo	—
Sudan	Khartoum	—
Ethiopia	Addis Ababa	—
Uganda or Kenya	—	Entebbe or Nairobi
Federation of Rhodesia and Nyasaland	—	Livingstone or Salisbury
Union of South Africa	Johannesburg	—

IV

1. Notwithstanding the provisions of paragraph II the airline designated by the Government of the Union of South Africa shall not at Zurich pick up or set down more than fifty-eight passengers in any one flight and there shall be no carry-over of unused passenger capacity from one flight to any other flight.

2. Notwithstanding the provisions of paragraph III the airline designated by the Swiss Federal Council shall not at Johannesburg pick up or set down more than fifty-eight passengers in any one flight and there shall be no carryover of unused passenger capacity from one flight to any other flight.

V

1. The frequency of the air service provided by the airline designated by the Government of the Union of South Africa shall be once per week.

2. The frequency of the air service provided by the airline designated by the Swiss Federal Council shall be once per week.

VI

The airline designated by the Swiss Federal Council shall not publish or cause to be published any advertisement likely to encourage or promote on its service traffic from the United Kingdom of Great Britain and Northern Ireland to territory of the Union of South Africa or from territory of the Union of South Africa to the United Kingdom of Great Britain and Northern Ireland.