

No. 8215

**SWITZERLAND
and
SUDAN**

Agreement on air services between and beyond their respective territories (with schedule of routes and annexed official English translation). Signed at Khartoum, on 18 February 1963

Official texts: French and Arabic.

Registered by the International Civil Aviation Organization on 3 June 1966.

**SUISSE
et
SOUDAN**

Accord relatif aux services aériens entre leurs territoires respectifs et au-delà (avec tableau de routes et traduction anglaise officielle annexés). Signé à Khartoum, le 18 février 1963

Textes officiels français et arabe.

Enregistré par l'Organisation de l'aviation civile internationale le 3 juin 1966.

[Official English translation annexed to the French and Arabic texts of the Agreement of 18 February 1963 between Switzerland and the Sudan on air services between and beyond their respective territories]

[Traduction anglaise officielle annexée aux textes français et arabe de l'Accord du 18 février 1963 entre la Suisse et le Soudan relatif aux services aériens entre leurs territoires respectifs et au-delà]

No. 8215. AGREEMENT¹ BETWEEN THE SWISS CONFEDERATION AND THE REPUBLIC OF THE SUDAN ON AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES. SIGNED AT KHARTOUM, ON 18 FEBRUARY 1963

The Swiss Federal Council and

The Government of the Republic of the Sudan,

Considering that Switzerland and the Sudan, hereafter referred to as the "Contracting Parties", are Parties to the Convention on International Civil Aviation opened for signature on the seventh day of December, 1944,² and

Desiring to conclude an Agreement supplementary to the said Convention for the purpose of regulating the establishment of air services between and beyond their respective territories,

Have agreed as follows :

Article I

For the purpose of the present Agreement, unless the context otherwise requires :

- a. the term "the Convention" means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944 ;
- b. the term "aeronautical authorities" means, in the case of Switzerland the Federal Air Office and any person or body authorized to perform any functions at present exercised by the said Office or similar functions ; and, in the case of the Sudan, Minister of Communications and any person or body authorized to perform any function at present exercised by the said Minister or similar functions ;
- c. the term "designated airline" means an airline which one Contracting Party shall have designated, by written notification to the other Contracting Party, in accordance with Article III of the present Agreement, for the operation of one or more air services on the routes specified in the Schedule ;
- d. the "Schedule" to this Agreement shall be deemed to be part of the Agreement and all references to the Agreement shall include reference to the Schedule, except where otherwise expressly provided.

¹ Applied provisionally from 18 February 1963, the date of signature, and came into force on 21 September 1964, the date of an exchange of diplomatic notes confirming that the Contracting Parties had approved the Agreement in accordance with their respective constitutional procedures, in conformity with the provisions of article XIII.

² See footnote 2, p. 135 of this volume.

Article II

1. Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing air services on the routes specified in the appropriate Section of the Schedule thereto (hereinafter called "the agreed services" and "the specified routes").

2. Subject to the provision of the present Agreement, the airline designated by each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following rights :

- a. to fly without landing across territory of the other Contracting Party ;
- 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 Schedule to the present Agreement for the purpose of putting down and taking on international traffic in passengers, cargo and mail.

3. Nothing in Paragraph 2 of this Article shall be deemed to confer on the airline of one Contracting Party the right of taking up, in the territory of the other Contracting Party, passengers, cargo or mail carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

Article III

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party an airline for the purpose of operating the agreed services on any of the specified routes.

2. On receipt of the designation, the other Contracting Party shall, subject to the provisions of Paragraphs 3 and 4 of this Article, without delay grant to the airline designated, the appropriate operating authorization.

3. The aeronautical authorities of one Contracting Party may require the airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied by them in conformity with the provisions of the Convention as apply to the operation of international commercial air services.

4. Each Contracting Party shall have the right to refuse to accept the designation of the airline and to withhold or revoke the grant to the airline of the rights specified in paragraph 2 of Article II of the present Agreement or to impose such conditions as it may deem necessary on the exercise by the airline of those rights in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of the Contracting Party designating the airline.

5. At any time after the provisions of Paragraphs 1 and 2 of this Article have been complied with, the airline so designated and authorized may begin to operate the agreed services provided that a service shall not be operated unless a tariff established in accordance with the provisions of Article VI of the present Agreement is in force in respect of that service.

6. Each Contracting Party shall have the right to suspend the exercise by the airline of the rights specified in Paragraph 2 of Article II of the present Agreement or to impose such conditions as it may deem necessary on the exercise by the airline of those rights in any case where the airline fails to comply with the laws or regulations of the Contracting Party granting those rights or otherwise fails to operate in accordance with the conditions prescribed in the present Agreement ; provided that unless immediate suspension or imposition of conditions is essential to prevent further infringements of laws or regulations, this right shall be exercised after consultation with the other Contracting Party.

7. Action shall not be taken in pursuance of Paragraphs 4 and 6 of this Article before notice in writing of such proposed action, stating the grounds therefore, is given to the other Contracting Party and consultation between the aeronautical authorities of both Contracting Parties has not led to agreement within a period of thirty days after the date of the said notice.

Article IV

Fuel, lubricating oils, spare parts, regular aircraft equipment and aircraft stores introduced into the territory of one Contracting Party, or taken on board aircraft in that territory, by or on behalf of the airline of the other Contracting Party and intended solely for use by or in the aircraft on the specified routes shall be accorded the following treatment by the first Contracting Party in respect of customs duties, inspection fees and other similar national or local duties and charges :

- a. in the case of fuel and lubricating oils remaining on board aircraft at the last airport of call before departure from the said territory : exemption ; and
- b. in the case of fuel and lubricating oils not included under a., and spare parts, regular aircraft equipment and aircraft stores : treatment not less favourable than that accorded to similar supplies introduced into the said territory, or taken on board aircraft in that territory, and intended for use by or in the aircraft of the national airline of the first Contracting Party, or of the most favoured foreign airline, engaged in international air services within that territory.

This treatment shall be in addition to and without prejudice to that which each Contracting Party is obliged to accord under Article 24 of the Convention.

Article V

1. There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to operate the agreed services on the specified routes between their respective territories.

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

3. The agreed services provided by the designated airlines of the Contracting Parties shall bear close relationship to the requirements of the public for transportation on the specified routes and shall have as their primary objective the provision, of capacity adequate to meet the current and reasonably anticipated requirements for the carriage of

passengers, cargo and mail between the territory of the Contracting Party designating the airline and the countries of destination of the traffic. Provision for the carriage of passengers, cargo and mail both taken up and put down at points on the specified routes in the territories of States other than that designating the airline shall be made in accordance with the general principle that capacity shall be related to :

- a. traffic requirements between the territory of the Contracting Party designating the airline and the countries of destination ;
- b. traffic requirements of the area through which the airline passes, after taking account of other transport services established by airlines of the States comprising the area ; and
- c. the requirements of through airline operation.

Article VI

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

2. The tariffs referred to in paragraph 1 of this Article, shall be agreed in respect of each of the specified routes between the designated airlines concerned in consultation with other airlines operating over the whole or part of that route, and such agreement where possible, will be reached through the rate-fixing machinery of the International Air Transport Association.

3. The tariffs so agreed shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

4. If the designated airlines cannot agree on any of these tariffs, or if for some other reason a tariff cannot be agreed in accordance with the provisions of paragraph 2 of this Article, the aeronautical authorities of the Contracting Parties shall try to determine the tariff by agreement between themselves.

5. If the aeronautical authorities cannot agree on the approval of any tariff submitted to them under paragraph 2 of this Article or on the determination of any tariff under paragraph 4, the dispute shall be settled in accordance with the provisions of article IX of the present Agreement.

6. When tariffs have been established in accordance with the provisions of this Article, these tariffs shall remain in force until new tariffs have been established in accordance with the provisions of this Article.

Article VII

There shall be consultation as necessary between the aeronautical authorities of the Contracting Parties to ensure close collaboration in all matters affecting the fulfilment of the present Agreement.

Article VIII

The aeronautical authorities of either Contracting Party shall supply to the aeronautical authorities of the other Contracting Party at their request such periodic or other information as may be reasonably required for the purpose of reviewing the capacity provided on the services authorized by them.

Article IX

1. If any dispute arises between the Contracting Parties relating to the interpretation or application of the present 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 within ninety days of the matter in dispute being first raised by either Contracting Party with the other,

a. They may agree to refer the dispute for decision to an arbitral tribunal or to some other person or body.

The arbitral tribunal referred to above shall be composed according to the following procedures :

1) Each Contracting Party shall nominate one arbitrator ;

2) The third arbitrator who shall serve as President of the Tribunal shall be nominated either :

i. by agreement between the two Contracting Parties ; or

ii. if within sixty days they do not so agree, by appointment of the President of the International Court of Justice at the request of either Contracting Party. Before making the appointment, the President of the International Court of Justice shall consult both Contracting Parties.

b. If either Contracting Party does not agree to refer the dispute to a person or body or to an arbitral tribunal as indicated in paragraph a above, the other Contracting Party may submit the dispute for decision to an arbitral tribunal appointed, for that purpose, by the President of the International Court of Justice.

3. The Contracting Parties undertake to comply with any decision given under paragraph 2 of this Article.

Article X

1. If either of the Contracting Parties considers it desirable to modify any provision of the present Agreement it may request consultation between the aeronautical authorities of the two Contracting Parties, and in that event such consultation shall begin within sixty days from the date of the request. Such modification, if agreed between the Contracting Parties, shall come into effect when, after the constitutional requirements of each Contracting Party have been fulfilled, it has been confirmed by exchange of notes.

2. In the event of the conclusion of any general multilateral convention concerning air transport by which both Contracting Parties become bound, the present Agreement shall be amended so as to conform with the provisions of such convention.

3. The Contracting Parties undertake to comply with any provisional measures agreed upon by both Contracting Parties during the consultation prescribed in paragraph 1 of this Article.

4. If and so long as either Contracting Party or the designated airline of either Contracting Party fails to comply with a provisional measure indicated in paragraph 3 of this Article, the other Contracting Party may limit, withhold or revoke any rights which are granted by virtue of the present Agreement to the Contracting Party in default or to the designated airline in default.

Article XI

Either Contracting Party may at any time give notice to the other if it desires to terminate the present Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organization. If such notice is given, the present Agreement shall terminate twelve months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by mutual agreement before the expiry of this period. In the absence of acknowledgement of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen days after the receipt of the notice by the International Civil Aviation Organization.

Article XII

The present Agreement and any amendment made under Article X shall be registered with the International Civil Aviation Organization.

Article XIII

The provisions of the present Agreement will be provisionally adhered to as from the date of its signature.

The present Agreement will enter into force as soon as it has been ratified or approved according to the constitutional requirements of the Contracting Parties and this having been confirmed through diplomatic channels.

IN WITNESS WHEREOF the representatives of the Contracting Parties, duly authorized for this purpose, have signed the present Agreement.

DONE in Khartoum this eighteenth day of February nineteen hundred and sixty-three in duplicate in the French and Arabic languages, which shall be equally authoritative. The official English translation of the Agreement attached hereto shall prevail in the event of discrepancy in the interpretation of the two texts.

For the Swiss Federal Council :

Etienne SUTER

For the Government
of the Republic of the Sudan :

Suliman HUSSEIN

SCHEDULE

A

(1) Routes to be served by the designated airline of the Sudan:

From points in the Sudan to one point in Switzerland either via intermediate points or directly and if so desired to points beyond, in both directions.

(2) Routes to be served by the designated airline of Switzerland:

From points in Switzerland to Khartoum either via intermediate points or directly and if so desired to points beyond, in both directions.

B

Any or all points of the routes, specified in the Schedule, may at the option of the designated airline be omitted on any or all flights.
