No. 8687

UNITED STATES OF AMERICA
and
AUSTRIA

Air Transport Agreement (with schedule). Signed at Vienna, on 23 June 1966

Official texts: English and German.

Registered by the United States of America on 19 July 1967.

ÉTATS-UNIS D'AMÉRIQUE
et
AUTRICHE

Accord relatif aux transports aériens (avec tableau de routes). Signé à Vienne, le 23 juin 1966

Textes officiels anglais et allemand.

Enregistré par les États-Unis d'Amérique le 19 juillet 1967.

No. 8687. AIR TRANSPORT AGREEMENT[1] BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE AUSTRIAN FEDERAL GOVERNMENT. SIGNED AT VIENNA, ON 23 JUNE 1966

The Government of the United States of America and the Austrian Federal Government,

Desiring to conclude an agreement for the purpose of promoting air communications between their respective territories,

Have accordingly appointed authorized representatives for this purpose, who have agreed as follows:

Article 1

Each Contracting Party grants to the other Contracting Party rights necessary for the conduct of air services by the designated airlines, as follows: the rights of transit, of stops for non-traffic purposes, and of taking on and discharging international traffic in passengers, cargo, and mail, separately or in combination, at the points in its territory named on each of the routes specified in the appropriate paragraph of the Schedule of this Agreement.

Article 2

Air service on a route specified in the Schedule of this Agreement may be inaugurated by an airline or airlines of one Contracting Party at any time after that Contracting Party has designated such airline or airlines for that route and the other Contracting Party has given the appropriate necessary permission. Subject to the provisions of Article 3, such other Contracting Party shall give this permission with a minimum of procedural delay, provided that the designated airline or airlines may be required to qualify before the competent aeronautical authorities of that Contracting Party, under the laws and regulations normally applied by these authorities, before being permitted to engage in the operations contemplated by this Agreement.

[1] Came into force on 23 July 1966, thirty days after the date of signature, in accordance with article 20.

Article 3

(A) Each Contracting Party reserves the right to withhold, revoke or impose conditions on the permission provided for in Article 2 of this Agreement with respect to an airline designated by the other Contracting Party in the following circumstances:

(1) in the event of the failure by such airline to qualify before the aeronautical authorities of that Contracting Party under the laws and regulations normally applied by these authorities;

(2) in the event of failure by such airline to comply with the laws and regulations referred to in Articles 4 and 5 hereof; or

(3) 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.

(B) Unless immediate action to withhold or revoke the permission provided for in Article 2 of this Agreement is essential to prevent further infringement of the laws and regulations referred to in Articles 4 and 5, the right to withhold or revoke such permission shall be exercised only after consultation with the other Contracting Party.

Article 4

The laws and regulations of one Contracting Party relating to the admission to or 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 be applied to the aircraft of the airline or airlines designated by the other Contracting Party and shall be complied with by such aircraft upon entrance into or departure from and while within the territory of the first Contracting Party.

Article 5

The laws and regulations of one Contracting Party relating to the admission to or departure from its territory of passengers, crew or cargo of aircraft, including regulations relating to entry, clearance, immigration, passports, customs, and quarantine, shall be complied with by or on behalf of such passengers, crew or cargo of the airline or airlines of the other Contracting Party upon entrance into or departure from and while within the territory of the first Contracting Party.

Article 6

Certificates of airworthiness, certificates of competency, and licenses, issued or rendered valid by one Contracting Party and still in force, shall be recognized as valid by the other Contracting Party for the purpose of operating the routes and services provided for in this Agreement, provided that the requirements under which such certificates or licenses were issued or rendered valid are equal to or above the minimum standards which may be established pursuant to the Convention on International Civil Aviation.[1] Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licenses granted to its own nationals by the other Contracting Party.

Article 7

Each Contracting Party may impose or permit to be imposed just and reasonable charges for the use of public airports and other facilities under its control, provided that such charges shall not be higher than the charges imposed for use by its national aircraft engaged in similar international services.

Article 8

(A) Each Contracting Party shall exempt the designated airlines of the other Contracting Party to the fullest extent possible under its national law from import restrictions, customs duties, excise taxes, inspection fees, and other national duties and charges on fuel, lubricating oils, consumable technical supplies, spare parts including engines, regular equipment, ground equipment, stores, and other items intended for use solely in connection with the operation or servicing of aircraft of the airlines of such other Contracting Party in international air service.

(B) The immunities granted by this Article shall apply to the items referred to in paragraph (A):

(1) introduced into the territory of one Contracting Party by the other Contracting Party or its nationals;

[1] United Nations, *Treaty Series*, Vol. 15, p. 295; for the texts of the Protocols amending this Convention, see Vol. 320, pp. 209 and 217; Vol. 418, p. 161, and Vol. 514, p. 209.

(2) retained on aircraft of the airline of one Contracting Party upon arriving in or leaving the territory of the other Contracting Party; or

(3) taken on board aircraft of the airlines of one Contracting Party in the territory of the other and intended for use in international air service;

whether or not such items are used or consumed wholly within the territory of the Contracting Party granting the immunity.

Article 9

There shall be a fair and equal opportunity for the airlines of each Contracting Party to operate on any route covered by this Agreement.

Article 10

In the operation by the airlines of either Contracting Party of the air services described in this Agreement, the interest of the airlines of the other Contracting Party shall be taken into consideration so as not to affect unduly the services which the latter provide on all or part of the same route.

Article 11

(A) The air services made available to the public by the airlines operating under this Agreement shall bear a close relationship to the requirements of the public for such services.

(B) Services provided by a designated airline under this Agreement shall retain as their primary objective the provision of capacity adequate to the traffic demands between the country of which such airline is a national and the countries of ultimate destination of the traffic. The right to embark or disembark on such services international traffic destined for and coming from third countries at a point or points on the routes specified in this Agreement shall be exercised in accordance with the general principles of orderly development to which both Contracting Parties subscribe and shall be subject to the general principle that capacity should be related:

(1) to traffic requirements between the country of origin and the countries of ultimate destination of the traffic;

(2) to the requirements of through airline operations; and

(3) to the traffic requirements of the area through which the airline passes after taking account of local and regional services.

Article 12

(A) Without prejudice to the right of each Contracting Party to impose such uniform conditions on the use of airports and airport facilities as are consistent with Article 15 of the Convention on International Civil Aviation, neither Contracting Party may unilaterally impose any restriction on the airline or airlines of the other Contracting Party with respect to capacity, frequency, scheduling or type of aircraft employed in connection with services over any of the routes specified in the schedule of this Agreement.

(B) In the event that one of the Contracting Parties believes that the operations conducted by an airline of the other Contracting Party have been inconsistent with the standards and principles set forth in Articles 9, 10, or 11, it may request consultation pursuant to Article 14 of the Agreement for the purpose of reviewing the operations in question to determine whether they are in conformity with said standards and principles.

Article 13

(A) The rates to be charged by the designated airlines of either Contracting Party for carriage to or from the territory of the other Contracting Party shall be reasonable, due regard being paid to all relevant factors, such as cost of operation, reasonable profit, and the rates charged by any other airlines, as well as the characteristics of each service.

(B) The rates referred to in this Article shall be subject to the approval of the aeronautical authorities of the Contracting Parties, who shall act in accordance with their obligations under this Agreement, within the limits of their legal powers.

(C) Any rates proposed by an airline of one Contracting Party shall, if required, be filed with the aeronautical authorities of the other Contracting Party at least thirty days before the proposed date of introduction. This period of thirty days may be reduced in particular cases with the approval of the said aeronautical authorities.

(D) (1) In the event that power is conferred by law upon the aeronautical authorities of the United States to fix fair and economic rates for the transport of persons and property by air on international services and to suspend proposed

rates in a manner comparable to that in which the Civil Aeronautics Board at present is empowered to act with respect to such rates for the transport of persons and property by air within the United States, each of the Contracting Parties shall thereafter exercise its authority in such manner as to prevent any rate or rates proposed by one of its airlines for services from the territory of one Contracting Party to a point or points in the territory of the other Contracting Party from becoming effective or remaining in effect if, in the judgment of the aeronautical authorities of the Contracting Party whose airline or airlines is or are proposing such rate, that rate is unfair or uneconomic. If one Contracting Party on receipt of the notification referred to in paragraph (C) above is dissatisfied with the rate proposed by the airline or airlines of the other Contracting Party, it shall so notify the other Contracting Party prior to the expiry of the first fifteen of the thirty days referred to, and the Contracting Parties shall endeavor to reach agreement on the appropriate rate.

(2) In the event that such agreement is reached, each Contracting Party will use its best efforts to put such rate into effect as regards its airline or airlines.

(3) If agreement has not been reached at the end of the thirty day period referred to in paragraph (C) above, the proposed rate may, unless the aeronautical authorities of the country of the airline which proposed the change in rate see fit to suspend its application, go into effect or remain in effect provisionally pending the settlement of any dispute in accordance with the procedure outlined in paragraph (F) below.

(E) (1) Prior to the time when such power may be conferred upon the aeronautical authorities of the United States, if one of the Contracting Parties is dissatisfied with any rate proposed by the airline or airlines of either Contracting Party for services from the territory of one Contracting Party to a point or points in the territory of the other Contracting Party, it shall so notify the other Contracting Party prior to the expiry of the first fifteen of the thirty day period referred to in paragraph (C) above, and the Contracting Parties shall endeavor to reach agreement on the appropriate rate.

(2) In the event that such agreement is reached, each Contracting Party will use its best efforts to put such rate into effect as regards its airline or airlines.

(3) If no such agreement can be reached prior to the expiry of the thirty day period, the Contracting Party raising the objection to the rate may, in the case of a rate different from that then in effect, take such steps as it considers necessary

to prevent the inauguration of the air service in question at the proposed new rate. However, the Contracting Party raising the objection to the rate shall not require the charging of a rate higher than the lowest rate charged by its own airline or airlines for comparable services between the same points. Until such time as a new rate has been established either by agreement of the Contracting Parties or in accordance with the procedures of Article 15, the rates previously approved shall remain in effect.

(F) Either Contracting Party may request arbitration in accordance with Article 15 of this Agreement in any case where the aeronautical authorities of the two Contracting Parties cannot agree upon the appropriateness of a proposed or an existing rate pursuant to the procedures set forth in either paragraphs (D) or (E) of this Article or following consultations in accordance with Article 14 of this Agreement.

(G) It is recognized by both Contracting Parties that, during any period for which either Contracting Party has approved the traffic conference procedures of the International Air Transport Association or of any other associations of international air carriers, any rate agreements concluded through these procedures and involving airlines of that Contracting Party will be subject to the approval of the aeronautical authorities of that Contracting Party. During the period that any such rate agreements have been approved by the aeronautical authorities of both Contracting Parties, the provisions of paragraphs (D), (E), and (F) of this Article shall not apply.

(H) The aeronautical authorities of each Contracting Party shall use their best efforts to insure that the rates charged and collected conform to the rates filed with either Contracting Party, and that no airline rebates any portion of such rates, by any means, directly or indirectly, including the payment of excessive sales commission to agents or the use of unrealistic currency conversion rates.

(I) Unless otherwise agreed between the Contracting Parties, each Contracting Party undertakes to use its best efforts to insure that any rate specified in terms of the national currency of one of the Contracting Parties will be established in an amount which reflects the effective exchange rates (including fees or other charges) at which the airlines of both Contracting Parties can convert and remit the revenues from their transport operations into the national currency of the other Contracting Party.

Article 14

(A) Either Contracting Party may at any time request consultations on questions concerning the interpretation, application or amendment of this Agreement. Such consultations shall begin within a period of sixty (60) days from the date the other Contracting Party receives the request.

(B) Amendments of this Agreement, other than those pertaining to the Schedule, will come into force in the same manner as this Agreement comes into force.

(C) Amendments of the Schedule will come into force after approval in accordance with the domestic laws and procedures of each Contracting Party on the date of an exchange of diplomatic notes.

Article 15

(A) Any dispute with respect to matters covered by this Agreement or any amendment thereto not satisfactorily adjusted through consultation shall, upon request of either Contracting Party, be submitted to arbitration in accordance with the procedure set forth herein.

(B) Arbitration shall be by a tribunal of three arbitrators constituted as follows:

(1) One arbitrator shall be named by each Contracting Party within two months of the date of delivery by either Contracting Party to the other of a request for arbitration. Within one month after such period of two months, the two arbitrators so designated shall by agreement designate a third arbitrator, provided that such third arbitrator shall not be a national of either Contracting Party.

(2) If either Contracting Party fails to designate an arbitrator, or if the third arbitrator is not agreed upon in accordance with paragraph (1), either Contracting Party may request the President of the Council of the International Civil Aviation Organization to designate the necessary arbitrator or arbitrators.

(C) The Contracting Parties shall use their best efforts consistent with national law to put into effect any decision or award of the arbitral tribunal.

(D) The expenses of the arbitral tribunal, including the fees and expenses of the arbitrators, shall be shared equally by the Contracting Parties.

Article 16

This Agreement and all amendments thereto shall be registered with the International Civil Aviation Organization.

Article 17

Either Contracting Party may at any time notify the other Contracting Party of its intention to terminate this Agreement. Such notice shall be sent simultaneously to the International Civil Aviation Organization. The Agreement shall terminate one year after the date of receipt of the notice of intention to terminate, unless by agreement between the Contracting Parties such notice is withdrawn before the expiration of that time.

Article 18

This Agreement shall supersede the Interim Air Transport Agreement between the Government of the United States of America and the Austrian Federal Government signed at Vienna on October 8, 1947.[1] In any case in which an air service has been authorized up to the date of the coming into force of this Agreement and is also provided for in this Agreement, an airline authorized by the aeronautical authorities of both Contracting Parties to operate such service shall be deemed to have been authorized to operate the service under this Agreement and in accordance therewith.

Article 19

For purposes of this Agreement:

(A) "Agreement" shall mean this Agreement and the Schedule attached thereto.

(B) "Aeronautical authorities" shall mean, in the case of the United States of America, the Civil Aeronautics Board or any person or agency authorized to perform the functions exercised at the present time by the Civil Aeronautics Board and, in the case of Austria, the Federal Ministry of Communications and Nationalized Enterprises or any other authority lawfully empowered to perform the functions exercised at present by the said Ministry.

(C) "Designated airline" shall mean an airline that one Contracting Party has notified the other Contracting Party, in writing, to be the airline which will operate a specific route or routes listed in the Schedule of this Agreement.

[1] United Nations, *Treaty Series*, Vol. 25, p. 3.

(D) "Territory" in relation to a State shall mean the land areas under the sovereignty, suzerainty, protection, jurisdiction or trusteeship of that State, and the territorial waters adjacent thereto.

(E) "Air service" shall mean any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo.

(F) "International air service" shall mean an air service which passes through the air space over the territory of more than one State.

(G) "Stop for non-traffic purposes" shall mean a landing for any purpose other than taking on or discharging passengers, cargo or mail.

Article 20

This Agreement will come into force thirty days from the day it is signed.

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

DONE in duplicate at Vienna this 23d day of June, 1966, in the English and German languages, both texts being equally authentic.

For the Government of the United States of America:
Robert M. BRANDIN

For the Austrian Federal Government:
Lujo TONCIC-SORINJ

SCHEDULE

(A) An airline or airlines designated by the Austrian Federal Government shall be entitled to operate air services on each of the routes specified, in both directions, and to make scheduled landings in the United States of America at the points specified in this paragraph:

(1) From Austria via intermediate points in Europe to New York;

(2) From Austria via intermediate points in Europe and via Montreal to Washington, D.C.

(B) An airline or airlines designated by the Government of the United States of America shall be entitled to operate air services on the route specified, in both directions, and to make scheduled landings in Austria at the points specified in this paragraph:

(1) From the United States of America via intermediate points to Vienna and beyond to points in Turkey and Lebanon and beyond.

(C) Points on any of the specified routes may at the option of the designated airline be omitted on any or all flights.