

No. 8702

**AUSTRALIA
and
FRANCE**

**Agreement relating to air transport (with annex). Signed
at Canberra, on 13 April 1965**

Official texts: English and French.

Registered by the International Civil Aviation Organization on 31 July 1967.

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et
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**Accord relatif au transport aérien (avec annexe). Signé à
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No. 8702. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE COMMONWEALTH OF AUSTRALIA AND THE GOVERNMENT OF THE FRENCH REPUBLIC RELATING TO AIR TRANSPORT. SIGNED AT CANBERRA, ON 13 APRIL 1965

The Government of the Commonwealth of Australia and the Government of the French Republic (hereinafter referred to as the Contracting Parties),

Desiring to conclude an agreement relating to air transport,

Agree as follows:

Article 1

(1) For the purposes of this Agreement, unless the context otherwise requires:

- (a) the term "aeronautical authorities" means, in the case of the Commonwealth of Australia, the Director-General of Civil Aviation, and in the case of the French Republic, the Secretary-General of Civil Aviation, or in both cases any person or body authorised to perform the functions exercised by them or similar functions;
- (b) the term "territory" in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or trusteeship of that State;
- (c) the term "air service" means any scheduled air service performed by aircraft for the public transport of passengers, cargo or mail;
- (d) the term "international air service" means an air service which passes through the air space over more than one State;
- (e) the term "airline" means any air transport enterprise offering or operating an international air service;
- (f) the term "stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging passengers, cargo or mail.

(2) The Annex to this Agreement forms an integral part of the Agreement and all references to the "Agreement" shall be deemed to include reference to the Annex except where otherwise provided.

¹ Came into force on 13 April 1965, upon signature, in accordance with article 16.

Article 2

To the extent to which they are applicable to the air services established under this Agreement, the provisions of the Convention on International Civil Aviation signed at Chicago on December 7th, 1944,¹ (hereinafter called "the Convention") shall remain in force as between the Contracting Parties for the duration of this Agreement, as if they were incorporated herein. However, in the event that an amendment to the Convention ratified by the two Contracting Parties enters into force, the above provisions will apply to the Convention so amended.

Article 3

Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement to enable its designated airline or airlines to establish and operate international air services on the routes specified in the Annex (hereinafter called "agreed services" and "specified routes" respectively).

Article 4

(1) The agreed services on any specified route may be inaugurated immediately or at a later date at the option of the Contracting Party to which the rights are granted under Article 3 of this Agreement, provided however:

- (a) that the Contracting Party to which the rights have been granted has designated an airline or airlines for that route;
- (b) that the Contracting Party granting the rights has given the appropriate operating permission to the airline or airlines concerned, this permission to be given without delay, subject to the provisions of paragraph (2) of this Article and of paragraph (1) of Article 8.

(2) An airline designated by one Contracting Party may be required to satisfy the aeronautical authorities of the other Contracting Party that it is qualified to fulfil the conditions prescribed by the laws and regulations normally applied by those authorities to the operation of international air services.

Article 5

Subject to the provisions of this Agreement, an airline designated by one Contracting Party shall enjoy, while operating an agreed service on a specified route, the following rights:

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.

- (a) the right to fly without landing across the territory of the other Contracting Party;
- (b) the right to make stops in that territory for non-traffic purposes;
- (c) the right to make stops in that territory, at the points specified for that route in the Annex, for the purposes of putting down and of taking on international traffic in passengers, cargo or mail.

Article 6

(1) Fuel, lubricating oils, spare parts, regular aircraft equipment and aircraft stores on board aircraft of the designated airline of one Contracting Party on arrival in the territory of the other Contracting Party, while operating the agreed services, shall be exempted from all national or local duties and charges including customs duties and inspection fees imposed in that territory, provided that they are retained on board on departure from that territory or are used in or consumed by the aircraft on flights within that territory.

(2) In respect of all national or local duties and charges including customs duties and inspection fees imposed on fuel, lubricating oils, spare parts, regular aircraft equipment and aircraft stores brought into the territory of one Contracting Party by or on behalf of the designated airline of the other Contracting Party, or taken on board aircraft of that designated airline in that territory and intended solely for use by or in aircraft of that airline in the operation of the agreed services, the following treatment shall be accorded:

- (a) by the Government of the French Republic to the designated airline of Australia, the treatment granted either to its national airline while operating international air services or to the airline of the most favoured nation, whichever is the more favourable;
- (b) by the Government of the Commonwealth of Australia to the designated airline of France, treatment not less favourable than that to which the designated airline of Australia is entitled in accordance with sub-paragraph (a) above.

Article 7

(1) The laws and regulations of each 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 aircraft of the other Contracting Party, and shall be complied with by such aircraft upon entering or departing from or while within the territory of that Contracting Party.

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

Article 8

(1) Each Contracting Party reserves the right to withhold or revoke the rights granted under Article 3 in respect of an airline designated by the other Contracting Party or to impose such conditions as it deems necessary on the exercise of those rights, in any case where it is not satisfied that substantial ownership and effective control of the airline are vested in the Contracting Party designating the airline or in nationals of that Contracting Party.

(2) Each Contracting Party reserves the right to suspend the exercise by a designated airline of the other Contracting Party of the rights granted under Article 3 or to impose such conditions as it deems necessary on the exercise of those rights, in any case where the airline fails to operate in accordance with the conditions specified in this Agreement.

(3) The rights referred to in paragraphs (1) and (2) of this Article shall be exercised by a Contracting Party only after consultation with the other Contracting Party, unless the immediate suspension of the rights or the imposition of conditions is necessary to prevent further infringements of the laws and regulations of the first mentioned Contracting Party.

Article 9

(1) There shall be a 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 designated airline or airlines of each Contracting Party shall take into consideration the interests of the designated airline or airlines 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 a close relationship to the requirements of the public for transportation on the specified routes. The agreed services provided by a designated airline shall have as their primary objective the provision of capacity adequate for the requirements of traffic originating in or destined for the territory of the Contracting Party which has designated that airline. Provision for the carriage

on the agreed services of traffic both originating in and destined for the territories of States other than that designating the airline shall be made in accordance with the general principles that capacity shall be related:

- (a) to the requirements of traffic originating in or destined for the territory of the Contracting Party which has designated the airline;
- (b) to the traffic requirements of the area through which the airline passes, after taking account of local and regional services;
- (c) to the requirements of through airline operations.

Article 10

(1) The tariffs on any agreed services shall be established at reasonable levels, due regard being paid to all relevant factors including cost of operation, reasonable profit, characteristics of the 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 provisions of this Article.

(2) Agreement on the tariffs shall, whenever possible, be reached by the designated airlines concerned through the rate-fixing machinery of the International Air Transport Association. When this is not possible, tariffs in respect of each of the specified routes shall be agreed upon between the designated airlines concerned. In any case, the tariffs shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

(3) If the designated airlines concerned cannot agree on the tariffs, or if the aeronautical authorities of either Contracting Party do not approve the tariffs submitted to them in accordance with the provisions of paragraph (2) of this Article, the aeronautical authorities of both Contracting Parties shall endeavour to reach agreement on those tariffs.

(4) If agreement under paragraph (3) of this Article cannot be reached by the aeronautical authorities, the dispute shall be settled in accordance with the provisions of Article 14 of this Agreement.

(5) A tariff shall not come into effect unless it is approved by the aeronautical authorities of both Contracting Parties or is determined by a tribunal of arbitrators under Article 14 of this Agreement. Pending determination of the tariffs in accordance with the provisions of this Article, the tariffs already in force shall continue to apply.

Article 11

The aeronautical authorities of each Contracting Party shall supply to the aeronautical authorities of the other Contracting Party, upon request, such periodic

or other statements of statistics as may be reasonably required for the purpose of reviewing the capacity provided on the agreed services by the designated airlines.

Article 12

This Agreement shall be registered with the International Civil Aviation Organization.

Article 13

(1) In order to ensure close collaboration in all matters affecting the performance of this Agreement the aeronautical authorities of the Contracting Parties shall consult on request of either of the authorities.

(2) If either of the Contracting Parties desires to modify this Agreement, it may request that consultation on the matter be held between the aeronautical authorities of both Contracting Parties. Such consultation shall begin within a period of sixty days from the date of the request. When these authorities agree on modifications to this Agreement, the modifications shall come into effect when they have been confirmed by an exchange of diplomatic notes.

(3) If a multilateral convention concerning air transport comes into force in respect of both Contracting Parties, this Agreement shall be amended so as to conform with the provisions of that convention.

Article 14

(1) If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement, the Contracting Parties shall in the first place endeavour to settle it by negotiation.

(2) If the Contracting Parties fail to reach a settlement by negotiation, the dispute may at the request of either Contracting Party be submitted for decision to a tribunal of three arbitrators, one to be nominated by each Contracting Party and the third to be appointed by the two so nominated. Each of the Contracting Parties shall nominate an arbitrator within a period of sixty days from the date of receipt by either Contracting Party from the other of a diplomatic note requesting arbitration of the dispute and the third arbitrator shall be appointed within a further period of sixty days. If either of the Contracting Parties fails to nominate an arbitrator within the period specified, or if the third arbitrator is not appointed within the period specified, the President of the Council of the International Civil Aviation Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires.

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

Article 15

Either of the Contracting Parties may at any time give to the other notice of its intention to terminate this Agreement. A copy of the notice shall be sent simultaneously to the International Civil Aviation Organization. This Agreement shall terminate one year after the date of receipt by the other Contracting Party of the said notice unless by agreement between the Contracting Parties the notice is withdrawn before the expiration of that period. If the Contracting Party to which the notice was given fails to acknowledge receipt of the notice, the notice shall be deemed to have been received fourteen days after the International Civil Aviation Organization has received its copy.

Article 16

This Agreement shall enter into force on the date of signature.

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

DONE at Canberra this thirteenth day of April in the year One thousand nine hundred and sixty-five in duplicate in the English and French languages both of which shall be equally authentic.

For the Government
of the Commonwealth of Australia:
Denham HENTY

For the Government
of the French Republic:
F. BRIÈRE

ANNEX

SCHEDULE OF ROUTES

A. *French Routes*

(1) From France via the intermediate points of Athens, Cairo or Teheran or Bagdad, Karachi or Colombo, Bangkok or Rangoon, Singapore or Kuala Lumpur or Djakarta, to Darwin, Sydney and beyond to New Caledonia, thence to Tahiti via intermediate points and beyond to France via intermediate points.

(2) Noumea-Sydney and return.

B. *Australian Routes*

(1) From Australia via Nadi (obligatory) to Papeete and beyond:
— either via Acapulco and Mexico City, Nassau, Bermuda
— or via San Francisco, New York

to London and beyond via the intermediate points of Rome or Athens, Cairo or Teheran, Karachi or New Delhi, Bangkok, Singapore or Kuala Lumpur or Djakarta, to Australia.

(2) Sydney-Noumea and return.

C. Any point on the routes described above, with the exception of Nadi on the Australian route, may be omitted on any or a part of the flights, at the option of the designated airline concerned, on condition that the service has its departure point or its terminal in the territory of the Contracting Party which has designated the airline.