

No. 9479

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**JAPAN  
and  
REPUBLIC OF KOREA**

**Agreement for air services (with schedule, exchange of notes and agreed minutes). Signed at Tokyo on 16 May 1967**

*Authentic texts of the Agreement and the agreed minutes : Japanese, Korean and English.*

*Authentic text of the notes : English.*

*Registered by the International Civil Aviation Organization on 24 March 1969.*

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**JAPON  
et  
RÉPUBLIQUE DE CORÉE**

**Accord relatif aux services aériens (avec tableau, échange de notes et procès-verbal approuvé). Signé à Tokyo le 16 mai 1967**

*Textes authentiques de l'Accord et du procès-verbal approuvé : japonais, coréen et anglais.*

*Texte authentique des notes : anglais.*

*Enregistré par l'Organisation de l'aviation civile internationale le 24 mars 1969.*

AGREEMENT <sup>1</sup> BETWEEN THE GOVERNMENT OF JAPAN  
AND THE GOVERNMENT OF THE REPUBLIC OF  
KOREA FOR AIR SERVICES

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The Government of Japan and the Government of the Republic of Korea,

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on December 7, 1944, <sup>2</sup> and

Desiring to conclude an agreement for the purpose of establishing and operating air services between and beyond their respective territories,

Have agreed as follows :

*Article 1*

1. 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 December 7, 1944, <sup>2</sup> and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or Convention under Articles 90 and 94 thereof ;

(b) the term “aeronautical authorities” means, in the case of Japan, the Minister of Transport and any person or body authorized to perform any functions on civil aviation at present exercised by the said Minister or similar functions ; and, in the case of the Republic of Korea, the Minister of Transportation and any person or body authorized to perform any functions on civil aviation at present exercised by the said Minister or similar functions ;

(c) the term “designated airline” means an airline which one Contracting Party has designated by written notification to the other Contracting Party for the operation of air services on the routes specified in such notification, and to which the appropriate operating permission has been given by that other Contracting Party, in accordance with the provisions of Article 3 of the present Agreement ;

(d) the terms “air service”, “international air service”, “airline” and “stop for non-traffic purposes” have the meanings respectively assigned to them in Article 96 of the Convention ;

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<sup>1</sup> Came into force on 30 August 1967, the date of the exchange of diplomatic notes indicating approval by each Contracting Party under its constitutional procedures, in accordance with article 18.

<sup>2</sup> 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.

(e) the term "Schedule" means the Schedule to the present Agreement or as amended in accordance with the provisions of Article 14 of the present Agreement.

2. The Schedule forms an integral part of the present Agreement, and all reference to the "Agreement" shall include reference to the Schedule except where otherwise provided.

#### *Article 2*

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

#### *Article 3*

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 the provisions of Article 2 of the present Agreement, subject to the provisions of Article 10 of the present Agreement, and not before :

- (a) the Contracting Party to which the rights have been granted has designated an airline or airlines for that route, and
- (b) the Contracting Party granting the rights has given the appropriate operating permission in accordance with its laws and regulations to the airline or airlines concerned ; which it shall, subject to the provisions of paragraph 2 of this Article and of paragraph 1 of Article 6, be bound to grant without delay.

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

#### *Article 4*

1. Subject to the provisions of the present Agreement, the designated airlines of each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following privileges :

- (a) to fly without landing across the 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 for the purposes of discharging and of taking on international traffic in passengers, cargo and mail.

2. Nothing in paragraph 1 of this Article shall be deemed to confer on the designated airlines of one Contracting Party the privilege 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 5*

1. The charges which either of the Contracting Parties may impose, or permit to be imposed, on the designated airlines of the other Contracting Party for the use of airports and other facilities under its control shall be just and reasonable and not higher than would be paid for the use of such airports and facilities by the airlines of the most favoured nation or by any national airline of the first Contracting Party engaged in international air services.

2. 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 designated airlines of the other Contracting Party and intended solely for use by or in the aircraft of those airlines shall, subject to compliance with normal customs regulations, 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, lubricating oils, spare parts, regular aircraft equipment and aircraft stores on board aircraft upon arrival in the said territory and retained on board on leaving that territory, exemption ; and
- (b) in the case of fuel, lubricating oils, spare parts, regular aircraft equipment and aircraft stores not included under (a) above, 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 airlines of the most favoured nation or of any national airline of the first Contracting Party engaged in international air services. This treatment shall be in addition to and without prejudice to that which each Contracting Party is under obligation to accord under Article 24 of the Convention. Neither Contracting Party shall, however, be obliged to grant to the designated airlines of the other Contracting

Party exemption or remission of customs duties, inspection fees or similar national or local duties or charges, unless such other Contracting Party grants exemption or remission of the duties or charges in question to the designated airlines of the first Contracting Party.

#### *Article 6*

1. Each Contracting Party reserves the right to withhold or revoke the privileges specified in paragraph 1 of Article 4 of the present Agreement in respect of an airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise by the airline of those privileges, 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 such Contracting Party.

2. Each Contracting Party reserves the right to suspend the exercise by a designated airline of the other Contracting Party of the privileges referred to in paragraph 1 above, or to impose such conditions as it may deem necessary on the exercise by the airline of those privileges, in any case where such airline fails to comply with the laws and regulations of the Contracting Party granting those privileges 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 such laws and regulations, or for reasons of safety of air navigation, this right shall be exercised only after consultation with the other Contracting Party.

#### *Article 7*

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.

#### *Article 8*

In the operation by the designated airlines of either Contracting Party of the agreed services, the interests of the designated airlines of the other Contracting Party shall be taken into consideration so as not to affect unduly the services which the latter provides on all or part of the same routes.

#### *Article 9*

The agreed services provided by a designated airline of either Contracting Party shall have as their primary objective the provision of capacity adequate to the current and foreseeable traffic demands to and from the

territory of the Contracting Party designating the airline, and the carriage of traffic embarked or disembarked in the territory of the other Contracting Party to and from points on the specified routes in the territories of States other than that designating the airline shall be of supplementary character. The right of such airline to carry traffic between points of the specified route located in the territory of the other Contracting Party and points in third countries shall be exercised in the interests of an orderly development of international air transport in such a way that the capacity is related to :

- (a) the traffic demand to and from the territory of the Contracting Party designating the airline ;
- (b) the traffic demand existing in the areas through which the air services pass, taking account of local and regional air services ;
- (c) the requirements of an economical operation of through traffic routes.

#### *Article 10*

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.

2. These tariffs shall be fixed in accordance with the following provisions :

(a) The tariffs referred to in paragraph 1 of this Article, together with the rates of agency commission used in conjunction with them, shall, if possible, be agreed in respect of each of the specified routes and sectors thereof between the designated airlines concerned and such agreement shall, where possible, be reached through the rate-fixing machinery of the International Air Transport Association. The tariffs so agreed shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

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

(c) If the aeronautical authorities of either Contracting Party do not approve any tariff submitted to them under the provisions of paragraph 2 (a) of this Article or the aeronautical authorities of both Contracting Parties cannot determine any tariff under the provisions of paragraph 2 (b) of this Article, the dispute shall be settled in accordance with the provisions of Article 13 of the present Agreement.

(d) No new tariff shall come into force if the aeronautical authorities of either Contracting Party are dissatisfied with it except under the provisions of paragraph 4 of Article 13 of the present Agreement. Pending determination of the tariffs in accordance with the provisions of this Article, the tariffs already in force shall prevail.

#### *Article 11*

The aeronautical authorities of either Contracting Party shall supply to the aeronautical authorities of the other Contracting Party, at their request, such information and statistics relating to traffic carried on the agreed services by the designated airlines of the first Contracting Party to and from the territory of the other Contracting Party as may normally be prepared and submitted by the designated airlines to their national aeronautical authorities for publication. Any additional statistical traffic data which the aeronautical authorities of one Contracting Party may desire from the aeronautical authorities of the other Contracting Party, shall, upon request, be a subject of mutual discussion between the aeronautical authorities of the two Contracting Parties.

#### *Article 12*

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

#### *Article 13*

1. Any dispute between the Contracting Parties concerning the interpretation or implementation of the present Agreement shall be settled, first of all, through diplomatic channels.

2. Any dispute which fails to be settled under the provisions of paragraph 1 shall be referred for decision to an arbitration board composed of three arbitrators, one each to be appointed by the Government of each Contracting Party within a period of thirty days from the date of receipt by the Government of either Contracting Party from the Government of the other of a note requesting arbitration of the dispute, and the third arbitrator to be agreed upon by the two arbitrators so chosen within a further period of thirty days or the third arbitrator to be appointed by the government of a third country agreed upon within such further period by the two arbitrators, provided that the third arbitrator shall not be a national of either Contracting Party.

3. If, within the periods respectively referred to, the Government of either Contracting Party fails to appoint an arbitrator, or the third arbitrator

or a third country is not agreed upon, the arbitration board shall be composed of the two arbitrators to be designated by each of the governments of the two countries respectively chosen by the Governments of the Contracting Parties within a period of thirty days and the third arbitrator to be nominated by the government of a third country to be determined upon consultation between the governments so chosen.

4. The Governments of the Contracting Parties shall abide by any award made by the arbitration board under the provisions of the present Article.

#### *Article 14*

Either Contracting Party may at any time request consultation with the other Contracting Party for the purpose of amending the present Agreement, such consultation to begin within a period of sixty days from the date of receipt of such request. If the amendment relates only to the Schedule, the consultation shall be between the aeronautical authorities of both Contracting Parties. When these authorities agree on a new or revised Schedule, the agreed amendment on the matter will come into effect after they have been confirmed by an exchange of diplomatic notes.

#### *Article 15*

If a general multilateral convention concerning air transport comes into force in respect of both Contracting Parties, the present Agreement shall be amended so as to conform with the provisions of such convention.

#### *Article 16*

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

#### *Article 17*

The present Agreement and any amendment thereto shall be registered with the International Civil Aviation Organization.



*Article 18*

The present Agreement shall be approved by each Contracting Party in accordance with its constitutional procedures and shall enter into force on the date of exchange of diplomatic notes indicating such approval.

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

DONE in duplicate at Tokyo, this sixteenth day of May, 1967 in the Japanese, Korean and English languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For the Government  
of Japan :

Takeo MIKI

For the Government  
of the Republic of Korea :

DONG JO KIM

## SCHEDULE

1. Routes to be operated in both directions by the designated airline or airlines of Japan :

- (a) Points in Japan – Seoul and points beyond
- (b) Points in Japan – Pusan and points beyond

## NOTE :

The designated airlines of Japan cannot operate to more than three different points beyond on Routes (a) and (b).

2. Routes to be operated in both directions by the designated airline or airlines of the Republic of Korea :

- (a) Points in the Republic of Korea – Tokyo (via North Pacific) – Seattle
- (b) Points in the Republic of Korea – Osaka – Taipei – Hong Kong
- (c) Points in the Republic of Korea – Fukuoka.

3. The agreed services provided by the designated airline or airlines of either Contracting Party shall begin at a point in the territory of that Contracting Party, but other points on any of the routes may at the option of the designated airline be omitted on any or all flights.

## EXCHANGE OF NOTES — ÉCHANGE DE NOTES

## I

May 16, 1967

Excellency,

I have the honour to confirm, on behalf of the Government of the Republic of Korea, the following understanding reached between the representative of the Government of the Republic of Korea and the representative of the Government of Japan during the course of the negotiations on the Agreement for Air Services between the two Governments :

1. The designated airlines of the Republic of Korea and the designated airlines of Japan may operate air services through any point or points in their respective countries by the same flight. However, for the designated airlines of the Republic of Korea, the total number of gateway points in the Republic of Korea shall not exceed four (4) including Seoul and Pusan, and for the designated airlines of Japan, the total number of gateway points in Japan shall not exceed four (4) including Tokyo, Osaka and Fukuoka.

2. Unless otherwise agreed upon between the two Governments, the aircraft to be operated on Tokyo - Seattle sector of Route (a) of the Republic of Korea specified in the Schedule to the Agreement shall be registered in the Republic of Korea, owned by the designated airline of the Republic of Korea and operated in that airline's colours.

3. With regard to paragraph 1 of the Schedule, a prior understanding is required between the two Governments in the event any designated airline of Japan extends its flight to countries or areas having no diplomatic relations with the Government of the Republic of Korea. However, the designated airlines of Japan may operate, without such prior understanding, to and from such countries or areas when the Government of the Republic of Korea has already admitted the flight of its airline or any third country's airline between the Republic of Korea and such countries or areas.

I have further the honour to request Your Excellency to be good enough to confirm, on behalf of your Government, that this is also the understanding of the Government of Japan.

Accept, Excellency, the assurances of my highest consideration.

DONG JO KIM  
Ambassador Extraordinary and Plenipotentiary  
of the Republic of Korea

His Excellency Takeo Miki  
Minister for Foreign Affairs  
Tokyo

## II

Tokyo, May 16, 1967

Monsieur l'Ambassadeur,

I have the honour to acknowledge the receipt of Your Excellency's letter dated May 16, 1967, which reads as follows :

[See note I]

I have the honour to confirm on behalf of my Government that this is also the understanding of the Government of Japan.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Takeo MIKI  
Minister for Foreign Affairs

His Excellency Dong Jo Kim  
Ambassador Extraordinary and Plenipotentiary  
of the Republic of Korea in Japan

AGREED MINUTES WITH RESPECT TO THE AGREEMENT BETWEEN THE GOVERNMENT OF JAPAN AND THE GOVERNMENT OF THE REPUBLIC OF KOREA FOR AIR SERVICES

During the course of the negotiations on the Agreement between the Government of Japan and the Government of the Republic of Korea for Air Services signed at Tokyo on May 16, 1967, the representative of the Government of Japan and the representative of the Government of the Republic of Korea have agreed that each Government shall take the following measures in accordance with its laws and regulations :

1. The Government of each country shall permit the designated airlines of the other country to establish and maintain branches and shall permit them to engage in activities necessary for the operation of the agreed services.

2. When officers and staff of a designated airline of either country file an application, accompanied by a guarantee letter of that designated airline, for a visa for a short stay in the territory of the other country in connection with the operation of the agreed services, the Government of the latter country shall issue such visa on a reciprocal basis within ten (10) days, in principle, from the date of filing the application.

3. The Government of each country shall permit the heads and senior staff of branches of the designated airlines of the other country of which they are nationals or their dependents, when they desire to stay more than one hundred and eighty (180) days in connection with the operation of the agreed services, to reside in its territory for the period of two years. Each Government shall accord, in so far as the operation of the agreed services requires, as favourable consideration as possible to the application of re-entry permit.

4. The Government of each country shall accord, with respect to imposition of internal taxes upon the branches of the designated airlines of the other country and their officers and staff and their dependents, treatment no less favourable than that accorded to branches of the designated airlines of any third country and their officers and staff and their dependents.

5. The Government of each country shall permit the designated airlines of the other country to transfer, in United States dollars, the excess of receipts over expenditure earned by these airlines in its territory in connection with the operation of the agreed services, and to establish, for the operation of the agreed services, deposit accounts in foreign currency and in convertible domestic currency.

Furthermore, the representatives of both Governments have reached the following understanding concerning paragraph 3 of Article 13 of the Agreement :

The countries to be chosen respectively by the two Governments and the third country to be determined upon consultation between the

governments of the countries so chosen shall be selected from among the countries having diplomatic relations with both Japan and the Republic of Korea.

DONE in duplicate at Tokyo, this sixteenth day of May, 1967 in the Japanese, Korean and English languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For the Government  
of Japan :

Takeo MIKI

For the Government  
of the Republic of Korea :

DONG JO KIM