

No. 9735

**AUSTRALIA
and
INDONESIA**

**Agreement for air services between and beyond their
respective territory (with annex). Signed at Sydney
on 7 March 1969**

Authentic text: English.

Registered by Australia on 30 July 1969.

**AUSTRALIE
et
INDONÉSIE**

**Accord relatif aux services aériens entre les territoires des
deux pays et au-delà (avec annexe). Signé à Sydney
le 7 mars 1969**

Texte authentique: anglais.

Enregistré par l'Australie le 30 juillet 1969.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE
COMMONWEALTH OF AUSTRALIA AND THE GOVERN-
MENT OF THE REPUBLIC OF INDONESIA FOR AIR
SERVICES BETWEEN AND BEYOND THEIR RESPEC-
TIVE TERRITORY

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

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944,² and

Desiring to conclude an Agreement, supplementary to the said Convention, for the purpose of establishing air services between and beyond the territory of Australia and Indonesia,

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 the seventh day of December 1944 and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or Convention under Articles 90 or 94 thereof;

(b) the term "aeronautical authorities" means, in the case of the Commonwealth of Australia, the Director General of Civil Aviation and any person or body authorised to perform the functions exercised by the Director General of Civil Aviation or similar functions and, in the case of the Republic of Indonesia, the Minister of Communications and any person or body authorised to perform any function at present exercised by the Minister of Communications or similar functions;

(c) the term "designated airline" means the airline which one Contracting Party shall have designated, by written notification to the other Contracting Party, in accordance with Article 3 of the present Agreement, for the operation of air services on the routes specified in such notification;

¹ Came into force on 7 March 1969 by signature, in accordance with article 12.

² 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.

(d) the term "territory" in relation to a State has the meaning assigned to it in Article 2 of the Convention except that for the word "mandate" therein there is substituted the word "trusteeship";

(e) 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.

(2) To the extent to which they are applicable to the air services established under this present Agreement, the provisions of the Convention shall remain in force in their present form as between the Contracting Parties for the duration of this present Agreement as if they were incorporated herein, unless both Contracting Parties ratify any amendment to the Convention which shall have come into force, in which case the Convention as amended shall remain in force as aforesaid.

(3) The Annex to the present Agreement forms as integral part of the Agreement, and all reference to the "Agreement" shall be deemed to include reference to the Annex except where otherwise provided.

Article 2

(1) Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement to enable its designated airline to establish and operate international air services on the routes specified in the appropriate Section of the Annex thereto (hereinafter called "the agreed services" and "the specified routes").

(2) The airline designated by each Contracting Party shall enjoy the following rights:

- (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) while operating an agreed service on a specified route, and subject to the provisions of the present Agreement, to make stops in the said territory at the points specified for that route in the Annex to the present Agreement for the purpose of putting down and of 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 destined for another point in the territory of that other Contracting Party.

(4) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, the operation of agreed services in areas of hostilities or military

occupation, or in areas affected thereby, shall, in accordance with Article 9 of the Convention, be subject to the approval of the competent military authorities.

Article 3

(1) Each Contracting Party shall designate in writing to the other Contracting Party, in respect of any specified route, an airline to operate an agreed service on that route.

(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 authorisation.

(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 applied by them in conformity with the provisions of the Convention 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, 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 that Contracting Party.

(5) At any time after the provisions of paragraphs (1) and (2) of this Article have been complied with, the airline so designated and authorised may begin to operate the agreed services, provided that a service shall not be operated unless a tariff is in force in respect thereof established in accordance with the provisions of Article 6 of the present Agreement.

(6) Each Contracting Party shall have the right to revoke, or suspend the exercise by the airline of, the rights specified in paragraph (2) of Article 2 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by that airline of those rights, if at any time 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 or if at any time 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 revocation, suspension or imposition of conditions is essential to prevent

further infringements of laws or regulations, this right shall be exercised only after consultation with the other Contracting Party.

Article 4

(1) Aircraft operated by a designated airline of either Contracting Party and entering, departing again from, or flying across the territory of the other Contracting Party, as well as fuel, lubricants, spare parts, regular equipment and aircraft stores on board such aircraft, shall be exempt from customs duties and other charges levied on the occasion of importation, exportation or transit of goods. This shall also apply to the abovementioned goods on board the aircraft consumed during the flight across the territory of the latter Contracting Party.

(2) Fuel, lubricants, aircraft stores, spare parts and regular equipment, temporarily imported into the territory of either Contracting Party, there to be immediately or after storage installed in or otherwise taken on board the aircraft of a designated airline of the other Contracting Party, or to be otherwise exported again from the territory of the former Contracting Party, shall be exempt from the customs duties and other charges mentioned in paragraph (1) of this Article.

(3) Fuel and lubricants taken on board the aircraft of a designated airline of either Contracting Party in the territory of the other Contracting Party and used in international air services, shall be exempt from the customs duties and other charges mentioned in paragraph (1) of this Article, as well as from any other special consumption charges, provided that formal customs regulations are complied with.

(4) Each Contracting Party may keep the goods mentioned in paragraphs (1) to (3) of this Article under customs supervision or control.

(5) In so far as no duties or other charges are imposed on goods mentioned in paragraphs (1) to (3) of this Article, such goods shall not be subject to any economic prohibitions or restrictions on importation, exportation and transit that may otherwise be applicable unless such prohibition or restriction applies to all airlines including the national airlines in respect to certain items mentioned in paragraphs (1) to (3) of this Article.

(6) The treatment specified in this Article 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.

Article 5

(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 of each Contracting Party shall take into consideration the interest of the designated 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 route.

(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 whose aeronautical authorities have 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 whose aeronautical authorities have designated the airline shall be made in accordance with the general principles that capacity shall be related to:

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

(4) The capacity which may be provided in accordance with this Article by the designated airline of each of the Contracting Parties on the agreed services shall be such as is agreed between the aeronautical authorities of the Contracting Parties before the commencement by the designated airline concerned of an agreed service and from time to time thereafter.

Article 6

(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) 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 the Contracting Parties shall endeavour to reach agreement on those tariffs.

(4) If agreement under paragraph (3) of this Article cannot be reached, the dispute shall be settled in accordance with the provisions of Article 9 of this Agreement.

(5) No new or amended tariff shall 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 9 of this Agreement. Pending determination of the tariffs in accordance with the provisions of this Article, the tariffs already in force shall apply.

Article 7

The aeronautical authorities of each Contracting Party shall supply to the aeronautical authorities of the other Contracting Party at their 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 airline of the first Contracting Party.

Article 8

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

(2) If either of the Contracting Parties considers it desirable to modify any provision of the present Agreement, it may request consultation with the other Contracting Party. Such consultation, which may be between aeronautical authorities and which may be through discussion or by correspondence, shall begin within a period of sixty days from the date of the receipt of such

a request. Any modifications so negotiated shall come into force when they have been incorporated in an exchange of notes through the diplomatic channel.

Modifications to the Annex to this Agreement may be negotiated between the aeronautical authorities of the Contracting Parties and shall come into force when they have been incorporated in an exchange of notes through the diplomatic channel.

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

Article 9

(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, 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 notice in writing through the diplomatic channel requesting arbitration of the dispute, and the third arbitrator shall be appointed within a period of sixty days from the appointment of the arbitrator last appointed. 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 Organisation 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 of the tribunal given under paragraph (2) of this Article.

(4) If and so long as either Contracting Party or a designated airline of either Contracting Party fails to comply with a decision given under paragraph (2) of this Article, the other Contracting Party may limit, withhold or revoke any rights or privileges which it has granted by virtue of the present Agreement to the Contracting Party in default or to its designated airline in default.

Article 10

Either Contracting Party may at any time give notice to the other that it desires to terminate the present Agreement. Such notice shall be given

in writing through the diplomatic channel and shall be simultaneously communicated to the International Civil Aviation Organization by the party giving notice. 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 agreement before the expiry of that period. In the absence of acknowledgement of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen days after receipt of the notice by the International Civil Aviation Organization.

Article 11

The present Agreement and any Exchange of Notes amending the Agreement in accordance with Article 8 shall be registered with the International Civil Aviation Organization.

Article 12

The present Agreement shall enter into force on the date of signature.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed the present Agreement:

DONE this seventh day of March, One thousand nine hundred and sixty-nine, in two originals in the English language, at Sydney.

For the Government
of the Commonwealth of Australia:

R. W. C. SCHWARTZ

For the Government
of the Republic of Indonesia:

SEDA

ANNEX

SECTION I

Routes to be operated by the designated airline of Australia

1. Points in Australia — Djakarta — Singapore — Kuala Lumpur — Saigon — Bangkok — Colombo — New Delhi or Calcutta — Karachi — Bahrein — Teheran — Cairo — Istanbul — Athens — Rome — Frankfurt — Amsterdam — Paris — London
2. Points in Australia — Den Pasar — Singapore and beyond to London via the same intermediate points as named in Route 1
3. Darwin — points in Portuguese Timor — Koepang

4. Lae — Madang — Wewak — Sukarnapura

5. Port Moresby — Merauke

Points may, at the option of the designated airline, be omitted on any or all flights on the above routes, provided that the service begins from or ends in the territory of the Contracting Party.

SECTION II

Routes to be operated by the designated airline of Indonesia

1. Points in Indonesia — Darwin — Sydney — Melbourne

2. Koepang — points in Portuguese Timor — Darwin

3. Sukarnapura — Lae

4. Merauke — Port Moresby

Points may, at the option of the designated airline, be omitted on any or all flights on the above routes, provided that the service begins from or ends in the territory of the Contracting Party.

1. The Government of the Republic of Indonesia hereby declares that it is prepared to accept the obligations of the Contracting Party to the Convention on International Civil Aviation, 1944, in relation to the operation of the airline of Indonesia on the routes specified in the Annex to the Convention, subject to the conditions set out in the Annex.

2. The Government of the Republic of Indonesia hereby declares that it is prepared to accept the obligations of the Contracting Party to the Convention on International Civil Aviation, 1944, in relation to the operation of the airline of Indonesia on the routes specified in the Annex to the Convention, subject to the conditions set out in the Annex.

3. The Government of the Republic of Indonesia hereby declares that it is prepared to accept the obligations of the Contracting Party to the Convention on International Civil Aviation, 1944, in relation to the operation of the airline of Indonesia on the routes specified in the Annex to the Convention, subject to the conditions set out in the Annex.

4. The Government of the Republic of Indonesia hereby declares that it is prepared to accept the obligations of the Contracting Party to the Convention on International Civil Aviation, 1944, in relation to the operation of the airline of Indonesia on the routes specified in the Annex to the Convention, subject to the conditions set out in the Annex.

5. The Government of the Republic of Indonesia hereby declares that it is prepared to accept the obligations of the Contracting Party to the Convention on International Civil Aviation, 1944, in relation to the operation of the airline of Indonesia on the routes specified in the Annex to the Convention, subject to the conditions set out in the Annex.

6. The Government of the Republic of Indonesia hereby declares that it is prepared to accept the obligations of the Contracting Party to the Convention on International Civil Aviation, 1944, in relation to the operation of the airline of Indonesia on the routes specified in the Annex to the Convention, subject to the conditions set out in the Annex.

7. The Government of the Republic of Indonesia hereby declares that it is prepared to accept the obligations of the Contracting Party to the Convention on International Civil Aviation, 1944, in relation to the operation of the airline of Indonesia on the routes specified in the Annex to the Convention, subject to the conditions set out in the Annex.

8. The Government of the Republic of Indonesia hereby declares that it is prepared to accept the obligations of the Contracting Party to the Convention on International Civil Aviation, 1944, in relation to the operation of the airline of Indonesia on the routes specified in the Annex to the Convention, subject to the conditions set out in the Annex.

9. The Government of the Republic of Indonesia hereby declares that it is prepared to accept the obligations of the Contracting Party to the Convention on International Civil Aviation, 1944, in relation to the operation of the airline of Indonesia on the routes specified in the Annex to the Convention, subject to the conditions set out in the Annex.

10. The Government of the Republic of Indonesia hereby declares that it is prepared to accept the obligations of the Contracting Party to the Convention on International Civil Aviation, 1944, in relation to the operation of the airline of Indonesia on the routes specified in the Annex to the Convention, subject to the conditions set out in the Annex.

11. The Government of the Republic of Indonesia hereby declares that it is prepared to accept the obligations of the Contracting Party to the Convention on International Civil Aviation, 1944, in relation to the operation of the airline of Indonesia on the routes specified in the Annex to the Convention, subject to the conditions set out in the Annex.

12. The Government of the Republic of Indonesia hereby declares that it is prepared to accept the obligations of the Contracting Party to the Convention on International Civil Aviation, 1944, in relation to the operation of the airline of Indonesia on the routes specified in the Annex to the Convention, subject to the conditions set out in the Annex.

13. The Government of the Republic of Indonesia hereby declares that it is prepared to accept the obligations of the Contracting Party to the Convention on International Civil Aviation, 1944, in relation to the operation of the airline of Indonesia on the routes specified in the Annex to the Convention, subject to the conditions set out in the Annex.

14. The Government of the Republic of Indonesia hereby declares that it is prepared to accept the obligations of the Contracting Party to the Convention on International Civil Aviation, 1944, in relation to the operation of the airline of Indonesia on the routes specified in the Annex to the Convention, subject to the conditions set out in the Annex.

15. The Government of the Republic of Indonesia hereby declares that it is prepared to accept the obligations of the Contracting Party to the Convention on International Civil Aviation, 1944, in relation to the operation of the airline of Indonesia on the routes specified in the Annex to the Convention, subject to the conditions set out in the Annex.