

No. 9978

**BURMA
and
THAILAND**

**Air Transport Agreement (with annex). Signed at
Bangkok on 15 August 1969**

Authentic text: English.

Registered by Burma on 30 October 1969.

**BIRMANIE
et
THAÏLANDE**

**Accord relatif aux transports aériens (avec annexe). Signé
à Bangkok le 15 août 1969**

Texte authentique : anglais.

Enregistré par la Birmanie le 30 octobre 1969.

AIR TRANSPORT AGREEMENT ¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF THAILAND AND THE GOVERNMENT OF THE UNION OF BURMA

The Government of the Kingdom of Thailand and the Government of the Union of Burma,

Being parties to the Convention on International Civil Aviation, ² and

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

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

Article 1

For the purpose of the present Agreement and its Annex except where the text provides otherwise:

a. The term "aeronautical authorities" means, in the case of the Kingdom of Thailand, the Minister of Communications and any person or body authorized to perform the functions exercised at the present time by the said Minister or similar functions; and in the case of the Union of Burma, the Minister of Transport and Communications and any person or body authorized to perform the functions exercised at present time by the said Minister or similar functions;

b. The term "designated airline" means an airline which the aeronautical authorities of one of the Contracting Parties have notified in writing to the aeronautical authorities of the other Contracting Party as the airline which it has designated in conformity with Article 3 of the present Agreement for the routes specified in such designation;

c. 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; and

¹ Came into force on 29 August 1969, the date of the exchange of the diplomatic notes confirming approval by each Contracting Party in conformity with its legal procedure, in accordance with article 18.

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 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.

Article 2

Each Contracting Party grants to the other Contracting Party the rights as specified in the Annex hereto for the purpose of the establishment of the air services therein described (herein referred to as the "agreed services"). The agreed services may be inaugurated immediately or at a later date at the option of the Contracting Party to whom the rights are granted.

Article 3

Each of the agreed services may be placed in operation as soon as the Contracting Party to whom the rights specified in the Annex have been granted, has designated an airline to operate the specified routes. The Contracting Party granting the rights shall, subject to Article 7 hereof, be bound to give the appropriate operating permission to the airline concerned; provided that the airline so designated may be required to satisfy the competent aeronautical authorities of the Contracting Party granting the rights that it is qualified to fulfil the conditions prescribed under the laws and regulations normally applied by these authorities to the operations of commercial airlines.

Article 4

In order to prevent discriminatory practices and to assure equality of treatment, both Contracting Parties agree that:

a. Each of the Contracting Parties may impose or permit to be imposed on the designated airline of the other Contracting Party just and reasonable charges for the use of airports and other facilities under its control. Each of the Contracting Parties agrees, however, that these charges shall not be higher than would be paid for the use of such airports and other facilities by its national aircraft engaged in similar international services.

b. Fuel, lubricating oils and spare parts introduced into or taken on board aircraft in the territory of one Contracting Party by or on behalf of the airline designated by the other Contracting Party and intended solely for use by the aircraft of such designated airline shall be accorded, with respect to customs duties, inspection fees or other charges imposed by the former Contracting Party, treatment not less favourable than that granted to national airlines engaged in similar international services.

c. Aircraft of the designated airline of one Contracting Party operating on the agreed services and fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board such aircraft shall, upon arriving in or leaving the territory of the other Contracting Party, be exempt from customs duties, inspection fees or similar duties or charges, even though such supplied be used or consumed on flights in that territory.

Article 5

Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Contracting Party shall be recognized as valid by the other Contracting Party for the purpose of operating the routes and services described in the Annex. Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licences granted to its own nationals by another state.

Article 6

a. 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 designated by the other Contracting Party and shall be complied with by such aircraft upon entrance into or departure from or while within the territory of the first Contracting Party.

b. The laws and regulations of one 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 of the airline designated by the other Contracting Party upon entrance into or departure from or while within the territory of the first Contracting Party.

Article 7

a. Notwithstanding the provisions of Article 16 hereof, each Contracting Party reserves the right to withhold or revoke the exercise of the rights specified in the Annex to this Agreement by the airline designated by the other Contracting Party in the event that it is not satisfied that substantial ownership and effective control of such airline are vested in the other Contracting Party or in nationals of the other Contracting Party.

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

Article 8

a. The designated airline of each Contracting Party shall have fair and equal opportunity to carry on the agreed services traffic embarked in the territory of one Contracting Party and disembarked in the territory of the other Contracting Party or vice versa and shall regard as being of supplementary character traffic embarked or disembarked in the territory of the other Contracting Party to and from points en route. The designated airline of each Contracting Party in providing capacity for the carriage of traffic embarked in the territory of the other Contracting Party and disembarked at points on the specified routes or vice versa shall take into consideration the primary interest of the designated airline of the other Contracting Party in such traffic so as not to affect unduly that interest of the latter airline.

b. The agreed services provided by the designated airline of each Contracting Party shall be closely related to the requirements of the public for transportation on the specified routes, and each shall have as its primary objective the provision of capacity adequate to meet the demands to carry passengers, cargo and mail embarked or disembarked in the territory of the Contracting Party which has designated the airline.

c. Provision for the carriage of passengers, cargo and mail embarked in the territory of the other Contracting Party and disembarked at points in third countries on the specified routes or vice versa shall be made in accordance with the general principle that capacity shall be related to:

- (1) The requirements of traffic embarked or disembarked in the territory of the Contracting Party which has designated the airline;
- (2) the requirements of traffic of the area through which the airline passes, after taking account of other air services established by airlines of the States situated in the area; and

(3) the requirements of economical through airline operation.

d. As long in advance as practicable, but not less than thirty days, before the introduction of an agreed service or any modification thereof, or within thirty days after receipt of a request from the aeronautical authorities the designated airline of one Contracting Party shall provide to the aeronautical authorities of the other Contracting Party information regarding the nature of service, the schedules, types of aircraft including the capacity provided on each of the specified routes and any further information as may be required to satisfy the aeronautical authorities of the other Contracting Party that the requirements of this Agreement are being duly observed.

Article 9

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

The designated airlines of the two Contracting Parties shall enjoy the same facilities existing under the currency regulations of each Contracting Party in selling air transportation. Each Contracting Party shall grant to the designated airline of the other Contracting Party the right of transfer of excess of receipts over expenditure earned by that airline in the territory of the first Contracting Party in connection with the carriage of passengers, baggage, mail and cargo in accordance with the foreign exchange regulations at the official bank rate of exchange.

The designated airline of each Contracting Party shall have the rights to establish and operate branch offices with staff of its own as well as to appoint the designated airline of the other Contracting Party as general sales agent and ground handling agent in the territory of the other Contracting Party.

All the facilities and the rights mentioned in this Article shall be granted to or enjoyed by the designated airline of either Contracting Party on reciprocal basis.

Article 10

a. 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 standard of speed and accommodation) and the tariffs of other airlines for any part of the specified routes. These tariffs shall be fixed in accordance with the following provisions of this Article.

b. The tariffs referred to in paragraph *a.* of this Article, together with the rates of agency commission used in conjunction with them shall,

if possible, be agreed between the designated airlines concerned, and such agreement shall, where possible, be guided by such decisions as are applicable under the traffic conference procedure of the International Air Transport Association (IATA). The tariffs so agreed shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

c. 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 *b.* of this Article, the aeronautical authorities of the Contracting Parties shall try to determine the tariffs by agreement between themselves.

d. If the aeronautical authorities cannot agree on the approval of any tariff submitted to them under paragraph *b.* of this Article or on the determination of any tariff under paragraph *c.* thereof the dispute shall be settled in accordance with the provisions of Article 13.

e. No tariff shall come into effect if the aeronautical authorities of either Contracting Party are dissatisfied with it except under the terms of Article 13. Until the fixation of new or amended tariffs, in accordance with this Article, the tariffs already in force shall apply.

Article 11

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 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. Such statements shall include all information required to determine the amount of traffic carried by those airlines on the agreed services.

Article 12

It is the intention of the two Contracting Parties that there should be regular and frequent consultation between their respective aeronautical authorities and that there should thereby be close collaboration in the observance of the principles and the implementation of the provisions outlined in the present agreement and Annex.

Article 13

a. 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.

b. If the Contracting Parties fail to reach a settlement by negotiation the dispute shall be submitted for decision to a tribunal of three arbitrators, one to be named by each Contracting Party and the third to be agreed upon by the two arbitrators so chosen, provided that such third arbitrator shall not be a national of either Contracting Party. Each of the Contracting Parties shall designate an arbitrator within two months of the date of delivery by either Contracting Party to the other Contracting Party of a diplomatic note requesting arbitration of the dispute and the third arbitrator shall be agreed upon within one month after such period of two months. If either Contracting Party fails to designate its arbitrator or if the third arbitrator is not agreed upon the vacancies thereby created shall be filled by persons designated by the President of the Council of the International Civil Aviation Organization on application by either Contracting Party.

c. The Contracting Parties undertake to comply with any decision given under paragraph *b* of this Article, and each to pay a moiety of the expenses of the Arbitral Tribunal unless the Tribunal should decide otherwise.

d. If and so long as either Contracting Party or the designated airline of either Contracting Party fails to comply with a decision given under paragraph *b* 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 the designated airline in default as the case may be.

Article 14

If either of the Contracting Parties considers it desirable to modify any provision of the present Agreement or its Annex it shall request consultation with the other Contracting Party. Such consultation, which may be conducted between the aeronautical authorities, shall begin within a period of sixty days as from the date of the request. Any modifications so agreed shall come into force when confirmed by an Exchange of Diplomatic Notes.

Article 15

In the event of the conclusion of any general multilateral convention concerning air transport by which the two Contracting Parties become bound, 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. Such a notice shall be sent simultaneously to the International Civil Aviation Organization. In the

event such communication is made, this Agreement shall terminate one year after the date of receipt of the notice to terminate, unless by Agreement between the Contracting Parties the communication under reference is withdrawn before the expiration of that time. If the other Contracting Party fails to acknowledge receipt, notice shall be deemed as having been received fourteen days after its receipt by the International Civil Aviation Organization.

Article 17

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

Article 18

This Agreement, including the provisions of the Annex thereto, shall be approved by each Contracting Party in conformity with its legal procedure and shall enter into force on the day of Exchange of Diplomatic Notes confirming such approval.

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

DONE in duplicate at Bangkok this 15th day of August, 1969, in the English Language.

For the Government
of the Kingdom of Thailand:

Pramote CHONGCHAREON
Under-Secretary of State
for Foreign Affairs

For the Government
of the Union of Burma:

U THA KYAW
Secretary, Ministry of Transport
and Communications
Government of the Union of Burma

ANNEX TO THE AIR TRANSPORT AGREEMENT BETWEEN THE
GOVERNMENT OF THE KINGDOM OF THAILAND AND THE
GOVERNMENT OF THE UNION OF BURMA

1. The airline of the Kingdom of Thailand authorized under the present Agreement is accorded rights of transit and non-traffic stop in the territory of the Union of Burma as well as the right to pick up and discharge international traffic in passengers, cargo and mail at Rangoon on the following route in both directions, provided that agreed services on this route begin at a point in the territory of the Kingdom of Thailand:

Bangkok — Rangoon — Dacca — Calcutta — New Delhi — Karachi — Teheran — Beirut or Cairo.

The designated airline may on any or all flights omit calling at any of the above points.

2. The airline of the Union of Burma authorized under the present Agreement is accorded rights of transit and non-traffic stop in the territory of the Kingdom of Thailand as well as the right to pick up and discharge international traffic in passengers, cargo and mail at Bangkok on the following route in both directions, provided that agreed services on this route begin at a point in the territory of the Union of Burma :

Rangoon — Bangkok — Phnom Penh — Saigon — Hong Kong — Osaka or Tokyo.

The designated airline may on any or all flights omit calling at any of the above points.
