No. 10448

UNITED STATES OF AMERICA
and
JAMAICA

Air Transport Agreement (with schedule and exchange of notes). Signed at Kingston on 2 October 1969

Authentic text: English.

Registered by the United States of America on 1 May 1970.

ÉTATS-UNIS D'AMÉRIQUE
et
JAMAÏQUE

Accord relatif aux transports aériens (avec tableau des routes et échange de notes). Signé à Kingston le 2 octobre 1969

Texte authentique: anglais.

Enregistré par les États-Unis d'Amérique le 1er mai 1970.

AIR TRANSPORT AGREEMENT [1] BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAMAICA

The Government of the United States of America and the Government of Jamaica,

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

Have agreed as follows:

Article 1

For the purposes of the present Agreement:

A. " Agreement " shall mean this Agreement, the Schedule attached thereto, and any amendments thereto.

B. " Aeronautical authorities " shall mean, in the case of the United States of America, the Civil Aeronautics Board, and in the case of Jamaica, the Minister responsible for Civil Aviation, the Air Transport Licensing Board, or, in both cases, any person or agency authorized to perform the functions exercised at present by those authorities.

C. " Designated airline " shall mean an airline which one Contracting Party has notified to the other Contracting Party to be an airline which will operate a specific route or routes listed in the Schedule to this Agreement. Such designation shall be notified in writing through diplomatic channels.

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

E. "Air Service" shall mean any scheduled air service performed by aircraft for the public transport of passengers, cargo, and mail, separately or in combination.

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

[1] Came into force on 2 October 1969 by signature, in accordance with article 17.

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

Article 2

A. Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the purpose of operating international air services on the routes specified in the appropriate paragraph of the Schedule to this Agreement (hereinafter called the " agreed services " and " specified routes ").

B. Subject to the provisions of this Agreement, the airlines designated by each Contracting Party shall enjoy, while operating the agreed services on the specified routes, the following privileges:

(1) To fly across the territory of the other Contracting Party without landing;

(2) To land in the territory of the other Contracting Party for non-traffic purposes;

(3) To make stops at the points in the territory of the other Contracting Party named on each of the specified routes for the purpose of putting down and taking on international traffic in passengers, cargo, and mail, separately or in combination.

C. Nothing in paragraph B of this Article shall be deemed to confer on the airlines of one Contracting Party the privilege of taking on, 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. However, airlines designated by one Contracting Party to provide service over a route containing more than one point in the territory of the other Contracting Party may provide a stopover at any of such points to traffic moving on a ticket or waybill providing for transportation on the same airline on a through journey to or from a point outside the territory of such other Contracting Party.

Article 3

Air services on a specified route 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 granted the appropriate operating permission. Such other Contracting Party shall, subject to Article 4, grant 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 those authorities, before being permitted to engage in the operations contemplated in this Agreement

Article 4

A. Each Contracting Party reserves the right to withhold or revoke the operating permission referred to in Article 3 of this Agreement with respect to an airline designated by the other Contracting Party, or to impose conditions on sush permission, in the event that:

(1) Such airline fails to qualify under the laws and regulations normally applied by the aeronautical authorities of that Contracting Party;

(2) Such airline fails to comply with the laws and regulations referred to in Article 5 of this Agreement; or

(3) That Contracting Party is not satisfied that substantial ownership and effective control are vested in the Contracting Party designating the airline or in nationals of that Contracting Party.

B. Each Contracting Party reserves the right to revoke the operating permission referred to in Article 3 of this Agreement with respect to an airline designated by the other Contracting Party in the event that such airline fails to fulfill or commits any breach of the conditions of that operating permission.

C. Unless immediate action is essential to prevent infringement of the laws and regulations referred to in Article 5 of this Agreement, the right to revoke such permission shall be exercised only after consultation with the other Contracting Party.

Article 5

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 on 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.

B. The laws and regulations of one Contracting Party relating to the admission to or departure from its territory of passengers, crew, mail or cargo

of aircraft, including laws and regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew, mail 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 licences 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 licences 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 flights above its own territory, certificates of competency and licences granted to its own nationals by the other Contracting Party.

Article 7

A. 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 the use of such airports and facilities by its national aircraft engaged in similar international air services.

B. Neither of the Contracting Parties shall give a preference to its own airlines over the airline or airlines of the other Contracting Party in the application of its customs, immigration, quarantine, and similar regulations or in the use of airports, airways, and other facilities under its control.

Article 8

A. Each Contracting Party shall exempt the designated airline or airlines of the other Contracting Party to the fullest extent possible under its national law, on the basis of reciprocity, from import restrictions, customs duties, excise taxes, inspection fees, and other national duties and charges on

[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.

fuel, lubricants, 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 engaged in international air service. The exemptions provided under this paragraph shall apply to items:

(1) Introduced into the territory of one Contracting Party by or on behalf of the designated airlines of the other Contracting Party;

(2) Retained on aircraft of the designated airlines of one Contracting Party upon arriving in or leaving the territory of the other Contracting Party; or

(3) Taken on board aircraft of the designated 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 exemption.

B. The exemptions provided for by this Article shall also be available in situations where the designated airline or airlines of one Contracting Party have entered into arrangements with another airline or airlines for the loan or tranfer in the territory of the other Contracting Party of the items specified in paragraph A, provided such other airline or airlines similarly enjoy such exemptions from such other Contracting Party.

Article 9

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

B. In the operation by the airline or airlines of either Contracting Party of the air services described in this Agreement, the interest of the airline or 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 routes.

C. 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.

D. 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 applied 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 to:

(1) traffic requirements between the country of origin and the countries of ultimate destination of the traffic;
(2) the requirements of through airline operations; and
(3) the traffic requirements of the area through which the airline passes, after taking account of local and regional services.

E. 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 ou International Civil Aviation, neither Contracting Party shall unilaterally restrict 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 specified routes. 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 this Article, it may request consultations pursuant to Article 12 of this Agreement for the purpose of reviewing the operations in question to determine whether they are in conformity with said standards and principles.

Article 10

A. All rates to be charged by an airline of one Contracting Party for carriage to or from the territory of the other Contracting Party shall be established at reasonable levels, due regard being paid to all relevant factors, such as costs of operation, reasonable profit, and the rates charged by any other airlines, as well as the characteristics of each service. Such rates 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 competence.

B. Any rate proposed to be charged by an airline of either Contracting Party for carriage to or from the territory of the other Contracting Party shall, if so required, be filed by such airline with the aeronautical authorities of the other Contracting Party at least thirty (30) days before the proposed date of introduction unless the Contracting Party with whom the filing is

to be made permits filing on shorter notice. 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 commissions to agents.

C. 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 other association of international carriers, any rate agreements concluded through these procedures and involving an airline or airlines of that Contracting Party will be subject to the approval of the aeronautical authorities of that Contracting Party.

D. If the aeronautical authorities of a Contracting Party, on receipt of the notification referred to in paragraph B above, are dissatisfied with the rate proposed, the other Contracting Party shall be so informed at least fifteen (15) days prior to the date that such rate would otherwise become effective, and the Contracting Parties shall endeavour to reach agreement on the appropriate rate.

E. If the aeronautical authorities of a Contracting Party, upon review, of an existing rate charged for carriage to or from the territory of that Party by an airline or airlines of the other Contracting Party, are dissatisfied with that rate, the other Contracting Party shall be so informed and the Contracting Parties shall endeavour to reach agreement on the appropriate rate.

F. In the event that an agreement is reached pursuant to the provisions of paragraph D or E, each Contracting Party will exercise its best efforts to put such rate into effect.

G. If:

(1) under the circumstances set forth in paragraph D, no agreement can be reached prior to the date that such rate would otherwise become effective; or

(2) under the circumstances set forth in paragraph E, no agreement can be reached prior to the expiration of sixty (60) days from the date of notification,

then the aeronautical authorities of the Contracting Party raising the objection to the rate may take such steps as may be considered necessary to prevent the inauguration or the continuation of the service in question at the rate complained of: provided, however, that the aeronautical authorities of

the Contracting Party raising the objection shall not require the charging of a rate higher than the lowest rate charged by its own airline or airlines for comparable service between the same points.

H. When in any case under paragraphs D and E, the Contracting Parties cannot agree within a reasonable time upon the appropriate rate after consultation initiated by either of them, the terms of Article 13 of this Agreement shall apply. In rendering its decision or award, the arbitral tribunal shall be guided by the principles laid down in this Article.

Article 11

The following provisions shall govern the sale of air transportation and the conversion and remittance of revenues:

A. Each designated airline shall have the right to engage in the sale of air transportation in the territory of the other Contracting Party directly and, in its discretion, through its agents. Such airline shall have the right to sell such transportation, and any person shall be free to purchase such transportation, in the currency of that territory or in freely convertible currencies of other countries.

B. Any rate specified in terms of the national currency of one of the Contracting Parties shall be established in an amount which reflects the affective exchange rate (including all exchange fees or other charges) at which the airlines of both Parties can convert and remit the revenues from their transport operations into the national currency of the other Party.

C. Each designated airline shall have the right to convert and remit to its country local revenues in excess of sums locally disbursed. Conversion and remittance shall be permitted promptly and without restrictions at the rate of exchange in effect for the sale of transportation at the time such revenues are presented for conversion and remittance and shall be exempted from taxation to the fullest extent permitted by national law. If a Contracting Party does not have a convertible currency and requires the submission of applications for conversion and remittance, the airlines of the other Contracting Party shall be permitted to file such applications as often as weekly free of burdensome or discriminatory documentary requirements

Article 12

Either Contracting Party may at any time request consultations on the interpretation, application or amendment of this Agreement. Such consultations shall commence as soon as practicable but in any event not later than

sixty (60) days from the date of receipt of the request for consultation, unless otherwise agreed by the Contracting Parties.

Article 13

A. Any dispute with respect to matters covered by this Agreement not satisfactorily adjusted through consultation shall, upon request of either Contracting Party, be submitted to arbitration in accordance with the procedures 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 sixty (60) days of the date of delivery by either Contracting Party to the other of a request for arbitration. Within thirty (30) days after such period of sixty (60) days, the two arbitrators so designated shall by agreement designate a third arbitrator, who shall not be a national of either Contracting Party.

(2) If either Contracting Party fails to name 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. Each Contracting Party shall use its best efforts consistent with its 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 14

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

Article 15

Either Contracting Party may at any time notify the other through diplomatic channels of its intention to terminate this Agreement. Such notice shall be sent simultaneously to the International Civil Aviation Organization. This Agreement shall terminate one year after the date on which the notice of termination is received by the other Contracting Party, unless withdrawn before the end of this period by agreement between the Contracting Parties.

Article 16

This Agreement shall supersede prior agreements relating to air transport services in effect between the United States of America and Jamaica. In any case in which an air service has been authorized before 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 17

This Agreement will come into force on the day it is signed.

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

DONE in duplicate at Kingston, Jamaica this 2nd day of October 1969.

For the Government of the United States of America:

David WILKEN

For the Government of Jamaica:

[*Illegible – Illisible*] [1]

SCHEDULE

A. An airline or airlines designated by the Government of the United States shall be entitled to operate the agreed services on each of the specified routes, in both directions, and to make scheduled landings in Jamaica at the points specified in this paragraph:

1. From the United States (I) via points in Mexico, Central America, Panama, the Bahama Islands, and the Cayman Islands to Montego Bay and Kingston and beyond to points in the Caribbean (II) (including Puerto Rico and the U.S. Virgin Islands), Panama, South America, and Africa.
2. From the United States (III) via points in the Dominican Republic and Haiti to Kingston and Montego Bay and beyond to points in Panama, Central America, and the United States (IV).

[1] N. E. Gallimore.

(i) Flights must serve one of the following as the last point of departure or first point of arrival:

New York, Washington, Baltimore, Miami, New Orleans, Houston, Los Angeles, San Francisco, Chicago, Atlanta, Puerto Rico, U.S. Virgin Islands or Canal Zone.

(ii) For the purposes of this Agreement, the term " Caribbean " shall comprise the following:

Haiti, Dominican Republic, St. Martin, British Virgin Islands, Antigua, St. Kitts, Nevis, Anguilla, Montserrat, Guadeloupe, Dominica, Martinique, St. Lucia, St. Vincent, Grenada, Barbados, Trinidad and Tobago, Aruba, and Curacao.

(iii) Flights must serve one of the following as the last point of departure or first point of arrival:

Miami, Washington, Baltimore, New York, Puerto Rico or U.S. Virgin Islands.

(iv) Flights must serve one of the following as the last point of departure or first point of arrival:

San Francisco, Los Angeles, Houston or New Orleans.

B. An airline or airlines designated by the Government of Jamaica shall be entitled to operate the agreed services on each of the specified routes, in both directions, and to make scheduled landings in the United States at the points specified in this paragraph:

1. (i) From Jamaica via a point in the Bahama Islands (ii) to New York and beyond to Montreal and London.
2. (i) From Jamaica via a point in the Bahama Islands (ii) to Chicago.
3. (iii) From Jamaica to Philadelphia and Detroit.
4. (iii) From Jamaica via a point in the Bahama Islands (ii) to Detroit.
5. From Jamaica to Philadelphia and beyond to Toronto.
6. From Jamaica via points in the Cayman Islands to Miami.

(i) As of May 15, 1973, or as of such earlier date as the Government of Jamaica, by notification to the Government of the United States, may elect, the phrase " via a point in the Bahama Islands " will be deleted from either route 1 or route 2 at the selection of the Government of Jamaica. If the phrase is deleted from route 1, route 2 will be changed to read " From Jamaica via points in the Bahama Islands to Chicago ", and footnote (ii) will then not apply to route 2.

(ii) The point in the Bahama Islands on each of these routes will be selected by the Government of Jamaica and the Government of the United States will be notified. Changes in the point selected on each such route will not be made more frequently than once every three years.

(iii) Jamaica route 4 will not come into effect, and will not be operated, until such time, after the changes referred to in footnote (i) occur, that the Government of Jamaica, by notification, elects not to operate air services on route 3, at which time route 3 will cease to be effective.

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

EXCHANGE OF NOTES

I

KINGSTON, JAMAICA

C94/03V

October 2, 1969

Sir,

I have the honour to refer to the Air Transport Agreement between the Government of the United States of America and the Government of Jamaica which was signed at Kingston on this date and to propose, on behalf of my Government, the following understandings relating to this Agreement:

1. Article 11 is not to be interpreted to impose an obligation on either Contracting Party to make foreign exchange available to persons for the purchase of air transportation.

2. With regard to the U.S. routes specified in paragraph A of the Schedule to the Agreement, air services may be operated to and from points in the United States behind the named points without changes of aircraft or flight number.

3. Recognizing the need for a reasonable period of development for newly established air services in certain markets, it is agreed that:

A. Non-stop air services by a second U.S. designated airline on U.S. route 1 between New York and Jamaica will not begin before December 1, 1970;

B. Before December 1, 1970, turnaround air services by a second U.S. designated airline between Miami and Jamaica will not exceed two roundtrip flights per day, and services through Jamaica by such airline will not exceed one round trip flight per day;

C. U.S. designated airlines will not operate air services on the U.S. specified routes from Chicago before January, 1, 1971.

4. If one Contracting Party believes that a situation has arisen which requires consultations pursuant to Article 12 of the Agreement in less than sixty days, the other Contracting Party will use its best efforts to meet within the time period requested.

5. In keeping with the objective that the routes provided in the Schedule to the Agreement should at all times reflect an equal exchange of economic opportunities for the designated airlines of both Contracting Parties in the light of changing circumstances, the Contracting Parties will, at the request of either, consult in 1974 for the purpose of reviewing the Schedule.

If these understandings are acceptable to your Government, I have the honour to propose that this Note and your reply thereto constitute an agreement between our two governments relating to the Air Transport Agreement.

Please accept, Sir, the renewed assurances of my high consideration.

N. E. GALLIMORE
Acting Minister of External Affairs

Mr. David Wilken
Chargé d'Affaires a.i.
Embassy of the United States of America
Kingston

II

No. 56

Kingston, October 2, 1969

Sir:

I have the honor to acknowledge the receipt of your Note No. C94/03V dated October 2, 1969, which reads as follows:

[*See note I*]

I have the honor to inform you that the Government of the United States of America accepts the understandings set forth in your Note and considers that your Note and this reply constitute an agreement relating to the Air Transport Agreement.

Accept, Sir, the renewed assurances of my highest consideration.

David WILKEN
Chargé d'Affaires ad interim

The Honorable Dr. Neville E. Gallimore
Acting Minister of External Affairs
Kingston
