

No. 10471

**SOUTH AFRICA
and
AUSTRIA**

**Air Transport Agreement (with annex). Signed at Vienna
on 26 March 1969**

Authentic texts : German, English and Afrikaans.

Registered by the International Civil Aviation Organization on 12 May 1970.

**AFRIQUE DU SUD
et
AUTRICHE**

**Accord relatif aux transports aériens (avec annexe). Signé
à Vienne le 26 mars 1969**

Textes authentiques : allemand, anglais et afrikaans.

Enregistré par l'Organisation de l'aviation civile internationale le 12 mai 1970.

AIR TRANSPORT AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE AUSTRIAN FEDERAL GOVERNMENT

The Government of the Republic of South Africa and the Austrian Federal Government,

Desiring to conclude an Agreement for the purpose of promoting air communications between their respective territories,

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

Article 1

DEFINITIONS

1. For the purpose of the present Agreement and the annex thereto the following terms have the following meaning, unless otherwise stated in the text:

- (a) "Aeronautical Authorities" means in the case of the Government of the Republic of South Africa, the Minister of Transport or any other person authorized to perform the functions exercised by the said authority and in the case of the Austrian Federal Government, the Federal Ministry for Transport and Nationalized Enterprises or any other authority legally empowered to perform the functions presently exercised by the said authority.
- (b) "Designated airline" means the airline that one of the Contracting Parties shall have designated in writing to the other Contracting Party in accordance with Article 3 of this Agreement as the airline which is to operate the international air services on the routes specified in the annex to the present Agreement.

¹ Came into force on 25 April 1969, i.e. thirty days from the day of its signature, in accordance with article 17.

- (c) "Territory" in relation to a Party means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection, administration or trusteeship of that Party.
- (d) "Convention" means the Convention on International Civil Aviation opened for signature at Chicago on the 7th December, 1944.¹

2. "Air services", "international air services" and "stop for non-traffic purposes" shall have, in the application of the present Agreement the meaning specified in Article 96 of the Convention.

Article 2

TRAFFIC RIGHTS

Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing scheduled international air services on the routes specified in the Annex to this Agreement.

Such services and routes are hereinafter called "the agreed services" and "the specified routes" respectively.

Article 3

NECESSARY AUTHORIZATIONS

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one airline for the purpose of operating the agreed services on the specified routes.

2. On receipt of such designation, the other Contracting Party shall, subject to the provisions of paragraphs (4) and (5) of this Article, without delay, grant to the designated airline the appropriate operating authorization.

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, vol. 514, p. 209, and vol. 740, No.10612.

3. Each Contracting Party shall have the right, by written notification to the other Contracting Party, to withdraw the designation of an airline and to designate another airline.

4. 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 and reasonably applied to the operation of international air services by such authorities in conformity with the provisions of the Convention.

5. Each Contracting Party shall have the right to refuse to grant the operating authorization referred to in paragraph (2) of this article, or to impose such conditions as it may deem necessary on the exercise by a designated airline of the rights specified in article 2, in any case where the said Contracting Party is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals.

6. When the airline has been so designated and authorized, it may begin at any time to operate the agreed services, provided that a tariff established in accordance with the provisions of Article 12 of the present Agreement is in force in respect of that service.

Article 4

CAPACITY REGULATIONS

1. There shall be a fair and equal opportunity for the designated airlines of both Contracting Parties to operate on the specified air routes between their respective territories.

2. The capacity and the frequency of services on the specified routes are determined in the annex to this Agreement.

Article 5

APPLICABILITY OF LAWS AND REGULATIONS

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 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.

Article 6

ENTRY AND CLEARANCE REGULATIONS

The laws and regulations of one Contracting Party relating to the admission to or departure from its territory of passengers, crew or cargo of aircraft, including 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 or airlines of the other Contracting Party upon entrance into or departure from and while within the territory of the first Contracting Party.

Article 7

RECOGNITION OF CERTIFICATES AND LICENCES

Certificates of airworthiness, certificates of competency and licenses, 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. Each Contracting Party reserves the right however, to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licenses granted to its own nationals by the other Contracting Party.

Article 8

APPROVAL OF SCHEDULES AND TYPES OF AIRCRAFT

The designated airline of each Contracting Party shall communicate for approval to the Aeronautical Authorities of the other Contracting Party not

later than thirty days prior to the inauguration of services on the routes specified in the Annex to the present Agreement, the flight schedules and the types of aircraft to be used. This shall likewise apply to later changes.

Article 9

REVOCATION AND SUSPENSION

1. Each Contracting Party reserves the right to withhold, revoke or impose conditions on the permission provided for in Article 3 of this Agreement with respect to an airline designated by the other Contracting Party in the following circumstances:

- (a) in the event of the failure by such airline to qualify before the aeronautical authorities of that Contracting Party under the laws and regulations normally applied by these authorities;
- (b) in the event of failure by such airline to comply with the laws and regulations referred to in Articles 5 and 6 hereof; or
- (c) 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 that Contracting Party.

2. Unless immediate action to withhold or revoke the permission granted to an airline designated by the other Contracting Party is essential to prevent further infringement of the laws and regulations referred to in Articles 5 and 6, the right to withhold or revoke such permission shall be exercised only after consultation with the other Contracting Party.

Article 10

EXEMPTION FROM CUSTOMS AND OTHER DUTIES

1 Fuel introduced into or taken on board aircraft in any territory of one Party by or on behalf of the designated airline of the other Party and remaining on board on departure from the last airport of call in that territory shall, subject to compliance in other respects with the customs regulations of the territory, be exempt from customs duties, inspection fees and similar charges imposed therein.

2. The treatment set out in paragraph (1) shall be in addition to that accorded in terms of Article 24 of the Convention.

Article 11

DIRECT TRANSIT TRAFFIC

Passengers in transit across the territory of either Contracting Party shall be subject to no more than a very simplified control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

Article 12

TRANSPORT TARIFFS

1. The tariffs to be charged by the designated airlines and the conditions of carriage applicable to each such designated airline shall be those agreed upon by the International Air Transport Association and approved by the aeronautical authorities of the Parties.

2. If the International Air Transport Association fails to agree upon such tariffs or if such an agreement is not approved by the aeronautical authority of a Party, the aeronautical authorities of the Party shall endeavour to secure agreement on the tariffs to be charged by the designated airlines.

3. If the position set out in paragraph (2) obtains, the tariffs in force on the date on which the International Air Transport Association so fails to agree or the aeronautical authorities concerned fail to approve, shall continue to be applied until new tariffs have been established as provided in paragraph (2).

Article 13

AIRPORT AND SIMILAR CHARGES

The charges imposed by either Contracting Party for the use of airports and other aviation facilities by the aircraft of the designated airline of the other

Contracting Party shall not be higher than those paid by its national aircraft operating international services.

Article 14

REPRESENTATION

The airlines designated by the Contracting Parties according to Article 3, paragraph (1), are entitled to maintain the technical and commercial personnel required for the performance of air services according to the Annex of the present Agreement and to establish and operate offices in the territory of the other Contracting Party.

Article 15

CONSULTATIONS

1. Either Contracting Party may at any time request consultations on questions concerning the interpretation, application or amendment of this Agreement. Such consultations shall begin within a period of sixty (60) days from the date the other Contracting Party receives the request.

2. Amendments of this Agreement, other than those pertaining to the Annex, will come into force in the same manner as this Agreement comes into force.

3. Amendments of the Annex will come into force after approval in accordance with the domestic laws and procedures of each Contracting Party on the date of an exchange of diplomatic notes.

Article 16

TERMINATION

Either Contracting Party may at any time notify the other Contracting Party of its intention to terminate this Agreement. Such notice shall be sent simultaneously to the International Civil Aviation Organization. The Agreement shall terminate one year after the date of receipt of the notice of

intention to terminate, unless by agreement between the Contracting Parties such notice is withdrawn before the expiration of that time.

Article 17

COMING INTO FORCE

This Agreement will come into force thirty days from the day it is signed.

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

DONE in duplicate at Vienna this 26th day of March 1969, in Afrikaans, English and German languages, all three texts being equally authentic.

For the Government
of the Republic of South Africa:

J. P. VAN DER SPUY

For the Austrian
Federal Government:

K. WALDHEIM

ANNEX

1. (1) The air service undertaken by the designated airline of the Government of the Republic of South Africa shall be operated on the following route in both directions:

- (a) South Africa – Luanda – Sal Island/Las Palmas – Lisbon – Zürich/Rome – Vienna; or
- (b) South Africa – Point on the Continent of Africa – Tel Aviv – Athens/Rome – Vienna – Frankfurt/London.

(2) The air service undertaken by the designated airline of the Government of the Republic of Austria shall be operated on the following route in both directions:

Austria – Athens – Beirut/Tel Aviv – Points on the Continent of Africa – Johannesburg.

(3) Any or all of the points on a route specified for it may be omitted on any or all its flights at the option of the designated airline concerned.

2. The points on the route specified in sub-paragraph (1) of paragraph 1 of the Annex at which, subject to the concurrence of any third country that may be involved, traffic from or for the territory of the Republic of Austria

(a) may be set down or picked up, i.e. are agreed traffic stops;

(b) may not be set down or picked up, i.e. are stops for non-traffic purposes,

by the designated airline of the Government of the Republic of South Africa are the following:

Traffic Stops:

South Africa
Vienna

Stops for non-traffic purposes:

Luanda
Sal Island
Las Palmas
Point on the Continent of Africa
Tel Aviv
Lisbon
Zürich
Athens
Rome
Frankfurt
London

3. The points on the route specified in sub-paragraph (2) of paragraph 1 of the Annex at which, subject to the concurrence of any third country that may be involved, traffic from or for the territory of the Republic of South Africa

(a) may be set down or picked up, i.e. are agreed traffic stops;

(b) may not be set down or picked up, i.e. are stops for non-traffic purposes,

by the designated airline of the Republic of Austria are the following:

Traffic Stops:

Austria
Johannesburg

Stops for non-traffic purposes:

Athens
Beirut
Tel Aviv
Points on the Continent of Africa

4. Notwithstanding the provisions of paragraph 2 of the Annex, the designated airline of the Government of the Republic of South Africa shall not at Vienna pick up or set down more than eighty passengers in any week.

(2) Notwithstanding the provisions of paragraph 3 of the annex, the designated airline of the Government of the Republic of Austria shall not at Johannesburg pick up or set down more than eighty passengers in any week.

(3) There shall be no carry-over of unused passenger capacity from one week to any other week.

5. (1) The frequency of the air service provided by the designated airline of the Government of the Republic of South Africa shall be one flight per week.

(2) The frequency of the air service provided by the designated airline of the Government of the Republic of Austria shall be one flight per week.
