

No. 11334

**SOUTH AFRICA
and
AUSTRALIA**

**Agreement relating to air services (with annex). Signed at
Pretoria on 2 April 1970**

Authentic texts : English and Afrikaans.

Registered by the International Civil Aviation Organization on 17 September 1971.

**AFRIQUE DU SUD
et
AUSTRALIE**

**Accord relatif aux services aériens (avec annexe). Signé à
Pretoria le 2 avril 1970**

Textes authentiques : anglais et afrikaans.

Enregistré par l'Organisation de l'aviation civile internationale le 17 septembre 1971.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT
OF THE COMMONWEALTH OF AUSTRALIA RELATING
TO AIR SERVICES

The Government of the Republic of South Africa and the Government of the Commonwealth of Australia,

Desiring to conclude an Agreement relating to air services between their respective territories,

Agree as follows:

Article 1

For the purposes of the present Agreement, which shall include the Annex hereto, the term—

- (1) “aeronautical authority” means—
 - (a) in the case of the Republic of South Africa, the Secretary for Transport; and
 - (b) in the case of the Commonwealth of Australia, the Director General of Civil Aviation;or in both cases any other person authorized to perform the functions exercised by the said authority;
- (2) “air service” means any scheduled air service performed by aircraft for the public transport of passengers, cargo or mail;
- (3) “designated airline” means an airline which one party has designated in writing to the other party in accordance with the provisions of this Agreement;
- (4) “Party” or “Parties” means a Party or Parties, as the case may be, to this Agreement;
- (5) “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.

¹ Came into force on 2 April 1970 by signature, in accordance with article 13 (1).

Article 2

To the extent to which they are applicable to the air services established under this Agreement, the provisions of the Convention on International Civil Aviation signed at Chicago on 7 December 1944¹ (hereinafter called "the Convention") shall remain in force in their present form as between the Parties for the duration of this Agreement as if they were incorporated herein, unless both 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.

Article 3

(1) The Parties grant to each other the rights specified in the Annex hereto for the operation of air services therein described.

(2) Each Party may designate an airline for the operation of the air service specified for that Party in the Annex.

(3) The capacity which may be provided by the designated airline of each of the Parties on the agreed services shall be such as is agreed between the aeronautical authorities of the Parties from time to time.

Article 4

(1) Each Party shall, subject to the provisions of paragraphs (2) and (3) of this Article, without undue delay deliver appropriate operating permission to the designated airline of the other Party.

(2) A designated airline may be required to satisfy the aeronautical authority of the other Party that it is qualified to fulfil the conditions prescribed under the laws and regulations normally applied by that aeronautical authority to the operation of international air services.

(3) Each Party reserves the right to withhold the grant of operating permission to a designated airline of the other Party, or to impose such conditions as it may deem necessary on the exercise of such operating permission, when it is not satisfied that substantial ownership and effective control of that designated airline are vested in that other Party or in citizens of that other Party.

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, p. 21.

Article 5

(1) Tariffs to be charged by the designated airlines 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 Parties shall endeavour to secure agreement on the tariffs to be charged by the designated airlines.

(3) If the position set out in paragraph (2) of this Article 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) of this Article.

Article 6

(1) The laws and regulations of the one Party governing entry into and departure from its territory of aircraft engaged in international air navigation or flights of such aircraft within its territory shall apply to the designated airline of the other Party.

(2) The laws and regulations relating to formalities, immigration, passports, customs or quarantine of the one Party governing entry into, sojourn in or departure from its territory of passengers, crew, cargo or mail shall apply to passengers, crew, cargo or mail carried by the aircraft of the designated airline of the other Party while they are within the said territory.

(3) Passengers in transit across the territory of the one Party shall be subject to a simplified control and baggage or cargo in direct transit shall be exempt from customs duties, inspection fees and similar charges.

(4) Each Party agrees not to give preference to its own designated airline over the designated airline of the other Party in the application of its regulations concerning customs, visas, immigration, quarantine, exchange control or other regulations affecting air transportation.

Article 7

Fuel, lubricating oils, spare parts, regular equipment and aircraft stores on board aircraft of the designated airline of one Party on arrival in the territory of the other Party or taken on board these aircraft in that territory, and not unloaded from the aircraft without the consent of the customs authorities, if intended solely for use by or in aircraft of that airline in the operation of the agreed services shall, subject to compliance in other respects with the customs requirements of the latter Party, be exempted from all national or local duties and inspection fees imposed in the territory of the latter Party, even though the supplies are used in or consumed by the aircraft on flights in that territory.

Article 8

(1) The designated airline of a Party shall, at the request of the aeronautical authority of the other Party, supply such periodic or other statements of statistics as may be necessary to determine the amount of traffic carried on its service specified in the Annex and the origins and destinations of such traffic.

(2) Discussions between representatives of the aeronautical authorities of the Parties for the purpose of reviewing the capacity provided by the designated airlines on the services specified in the Annex, in the light of traffic statistics, shall take place from time to time at the request of either Party.

Article 9

(1) Each Party reserves the right to revoke, suspend or limit by the imposition of conditions the operating permission, granted to a designated airline of the other in accordance with Article 4, in any case where:

- (a) it is not satisfied that substantial ownership and effective control of the airline are vested in the other Party or in citizens of that other Party; or
- (b) the designated airline fails to operate its air service in accordance with this Agreement or fails to comply with the laws or regulations of the Party granting the operating permission.

(2) The rights reserved in paragraph (1) of this Article shall be exercised by a Party only after consultation with the other Party unless immediate revocation or suspension of the operating permission or imposition of conditions is necessary to prevent further infringements of this Agreement or the laws or regulations of the first mentioned Party.

Article 10

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

(2) If either of the Parties considers it desirable to modify the terms of this Agreement, it may request consultation between the aeronautical authorities of both Parties in relation to the proposed modification and such consultation shall begin within a period of sixty days from the date of the request.

(3) When these authorities agree on modifications to this Agreement, the modifications shall come into effect when they have been confirmed by an exchange of notes through the diplomatic channel.

(4) If a general multilateral agreement concerning air transport comes into force in respect of both Parties, this Agreement shall be amended so as to conform with the provisions of that Agreement.

Article 11

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

Article 12

(1) Either Party may at any time give to the other Party written notice of its intention to terminate this Agreement, and this Agreement shall terminate one year after the date of receipt of that notice, unless by agreement between the Parties the notice is withdrawn before the expiration of that period.

(2) In the absence of acknowledgement by one Party of the notice given by the other Party, such notice shall be deemed to have been received by the first mentioned Party fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

Article 13

(1) This Agreement shall come into force on the date of signature.

(2) As from the date of signature this Agreement shall supersede the agreement entered into between the Government of the Republic of South Africa and the Government of the Commonwealth of Australia on the twenty-sixth day of September, 1958.¹

DONE at Pretoria, in duplicate original, on this second day of April 1970, in the English and Afrikaans languages, both texts being equally authentic.

For the Government of the Republic of South Africa :

H. MULLER

For the Government of the Commonwealth of Australia :

T. W. CUTTS

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:

South Africa – Mauritius – Perth – Sydney.

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

Australia – Mauritius – Johannesburg.

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

2. The designated airline of the Government of the Republic of South Africa may set down or pick up international traffic from or for the territory of the Commonwealth of Australia at any point on the route specified in subparagraph (1) of paragraph 1, provided that the said designated airline shall only be permitted to:

(a) pick up at Perth, for setting down at Sydney, international traffic which has been carried into Perth by the said designated airline;

¹ United Nations, *Treaty Series*, vol. 335, p. 122, and p. 357 of this volume.

(b) pick up at Sydney, for setting down at Perth, international traffic which is to be carried out of Perth by the said designated airline.

3. The designated airline of the Government of the Commonwealth of Australia may set down or pick up international traffic from or for the territory of the Republic of South Africa at any point on the route specified in subparagraph (2) of paragraph 1.
