No. 12441

JAPAN
and
MEXICO

Agreement relating to air services (with route schedule and exchange of notes). Signed at Tokyo on 10 March 1972

Authentic texts: Japanese and Spanish.

Registered by the International Civil Aviation Organization on 19 April 1973.

JAPON
et
MEXIQUE

Accord relatif aux transports aériens (avec tableau des routes et échange de notes). Signé à Tokyo le 10 mars 1972

Textes authentiques : japonais et espagnol.

Enregistré par l'Organisation de l'aviation civile internationale le 19 avril 1973.

[TRANSLATION — TRADUCTION]

AGREEMENT[1] BETWEEN THE GOVERNMENT OF JAPAN AND THE GOVERNMENT OF THE UNITED MEXICAN STATES RELATING TO AIR SERVICES

The Government of Japan and the Government of the United Mexican States,

Desiring to conclude an agreement for the purpose of establishing and operating air services,

Being Parties to the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944,[2]

Have agreed as follows:

Article 1. For the purposes of the present Agreement, unless the context otherwise requires:

(*a*) The term "Agreement" means the present Agreement and the Route Schedule annexed thereto;

(*b*) The term "aeronautical authorities" means, in the case of Japan, the Minister of Transportation and any person or agency authorized to perform any civil aviation functions at present exercised by the said Minister or similar functions, and, in the case of the United Mexican States, the Ministry of Communications and Transport or any person or agency authorized to perform the functions at present exercised by the said Ministry;

(*c*) The term "designated airline" means an airline which one Contracting Party has 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;

(*d*) The terms "territory", "air service:', "international air service", "airline" and "stop for non-traffic purposes" have the meanings respectively assigned to them in articles 2 and 96 of the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944;

(*e*) The term "specified route" means the route specified in the Route Schedule.

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 specified routes (hereinafter called "agreed services").

[1] Came into force on 23 February 1973, the date of the exchange of diplomatic notes indicating its approval by each Contracting Party pursuant to its constitutional procedures, in accordance with article 19.

[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; vol. 514, p. 209, and vol. 740, p. 21.

2. Subject to the provisions of the present Agreement, the designated airline of each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following privileges:

(*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*) to make stops in the said territory at the points specified in the Route Schedule for the purpose of discharging 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 privilege of taking up, 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.

Article 3. 1. The agreed services on any specified route may be inaugurated immediately or at a later date at the option of the Contracting Party to which the rights are granted under the provisions of article 2, paragraph 1, of the present Agreement, subject to the provisions of article 11 of the present Agreement, and not before:

(*a*) the Contracting Party to which the rights have been granted has designated an airline for that route, and

(*b*) the Contracting Party granting the rights has given the appropriate operating permission, in accordance with its laws and regulations, to the airline concerned; which it shall, subject to the provisions of paragraph 2 of this article and of paragraph 1 of article 4, be bound to grant without delay.

2. An airline designated by either Contracting Party shall be required to satisfy the aeronautical authorities of the other Contracting Party that it is qualified to fulfil the conditions prescribed by the laws and regulations normally and reasonably applied by those authorities to the operation of international air services.

Article 4. 1. Each Contracting Party reserves the right to withhold or revoke the privileges specified in article 2, paragraph 2, of the present Agreement in respect of an airline designated by the other Contracting Party in any case where it is not satisfied that substantial ownership and effective control of such airline are vested ih the Contracting Party designating the airline or in nationals of such Contracting Party.

2. Each Contracting Party reserves the right to suspend the exercise by a designated airline of the other Contracting Party of the privileges referred to in paragraph 1, or to impose such conditions as it may consider necessary on the exercise by the airline of those privileges, in any case where such airline fails to comply with the laws and regulations of the Contracting Party granting those privileges or fails to operate in accordance with the conditions prescribed in the present Agreement.

Article 5 1. 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 entering or departing from, or while within, the territory of the first-mentioned Contracting Party.

2. The laws and regulations of one Contracting Party relating to the admission to or departure from its territory of passengers, crew, cargo or mail, such as regulations relating to entry, departure, migration, passports, customs and quarantine, shall be complied with by, or on behalf of, passengers, crew, cargo or mail carried by aircraft of the airline designated by the other Contracting Party upon entry into or departure from, or while within, the territory of the first-mentioned Contracting Party.

3. 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 agreed services, provided that the requirements subject to which such certificates or licenses were issued or rendered valid are equal to or above the minimum standards established pursuant to the Convention on International Civil Aviation. However, each Contracting Party reserves the right to refuse to recognize, for the purposes of flights over its own territory, certificates of competency and licences granted to its own nationals by another State.

Article 6. Each Contracting Party may impose or permit to be imposed on aircraft of the Contracting Party fair and reasonable charges for the use of public airports and other facilities under its authority; such charges shall not be higher than those applied for the use of such airports and facilities by their national aircraft engaged in similar international services.

Article 7. 1. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board aircraft operated on the agreed services by the designated airline of one Contracting Party shall be exempt in the territory of the other Contracting Party from customs duties, inspection fees and similar national or local duties or charges even if such articles are used or consumed on the part of the journey performed over the said territory.

2. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores taken on board aircraft of the designated airline of one Contracting Party in the territory of the other Contracting Party and used in the agreed services shall, subject to compliance with the regulations of the last-mentioned Contracting Party, be exempt from customs duties, inspection fees and similar national or local duties or charges.

3. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores introduced on behalf of the designated airline of one Contracting Party and stored, under customs supervision, in the territory of the other Contracting Party for the purpose of supplying the aircraft of the said designated airline shall, subject to compliance with the regulations of the last-mentioned Contracting Party, be exempt from customs duties, inspection fees and similar national or local duties or charges.

Article 8. There shall be 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.

Article 9. In the operation of the agreed services by the designated airline of either Contracting Party, the interests of the designated 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.

Article 10. 1. The agreed services provided by the designated airlines of the Contracting Parties shall bear a close relationship to the requirements of the public for such services.

2. The agreed services provided by a designated airline shall retain as their primary objective the provision at a reasonable load factor of capacity adequate to the requirements of traffic between the two countries and to traffic originating from or destined for the territory of the Contracting Party which has designated the airline.

3. The development of local and regional services is a matter of prime concern to each Contracting Party. Therefore, consultations between the aeronautical authorities of the two Contracting Parties shall be held, as necessary, for the purpose of considering the manner in which the criteria set out in this article are being observed by the designated airlines so as to ensure that the interests of each Contracting Party in local and regional services are not being impaired.

Article 11. 1. The rates to be charged by the designated 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, including costs of operation, reasonable profit, characteristics of service (such as standards of speed and accommodation) and the rates charged by other airlines.

2. The rates referred to in paragraph 1 of this article shall, if possible, be agreed between the designated airlines of the two Contracting Parties, and such agreement shall, where possible, be reached through the rate-fixing machinery of the International Air Transport Association.

3. The rates, as well as the conditions governing them, shall be submitted by the designated airline for approval to the aeronautical authorities of the Contracting Parties at least forty-five (45) days before the proposed date of their introduction; in special cases, this time-limit may be reduced, subject to the agreement of the said authorities.

4. If the designated airlines cannot agree on any of these rates, or if for some other reason a rate cannot be fixed in accordance with provisions of paragraph 2 of this article, or if, during the first fifteen (15) days of the period referred to in paragraph 3 of this article, one Contracting Party gives the other Contracting Party notice of the dissatisfaction of its aeronautical authorities with any rate agreed in accordance with the provisions of paragraph 2 of this article, the aeronautical authorities of the two Contracting Parties shall try to determine the rate by common agreement.

5. If no agreement can be reached as provided in paragraph 4 of this article, the dispute shall be settled in accordance with the provisions of article 13 of the present Agreement.

6. No rate shall come into force if the aeronautical authorities of either Contracting Party have failed to approve it. The rates established in accordance with the provisions of this article shall remain in force until new rates have been established in accordance with the provisions of this article.

Article 12. It is the intention of both Contracting Parties that there shall be regular and frequent consultation between the aeronautical authorities of the Contracting Parties to ensure close collaboration in all matters affecting the implementation of the present Agreement.

Article 13. 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 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.

3. Each of the Contracting Parties shall designate an arbitrator within a period of sixty (60) days from the date of receipt by either Contracting Party from the other Contracting Party of a diplomatic note requesting arbitration of the dispute, and the third arbitrator shall be agreed upon within a further period of sixty (60) days.

4. If either of the Contracting Parties fails to designate its own arbitrator within the period of sixty (60) days or if the third arbitrator is not agreed upon within the period indicated, the President of the Council of the International Civil Aviation Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators.

5. The Contracting Parties undertake to comply with any decision given under this article. The arbitral tribunal shall decide upon the apportionment of the expenses entailed in this procedure.

Article 14. 1. Either Contracting Party may at any time request consultation with the other Contracting Party for the purpose of amending the present Agreement. Such consultation shall begin within a period of sixty (60) days from the date of receipt of such request.

2. If the amendments relate to provisions of the present Agreement other than those of the Route Schedule, such amendments shall be subject to approval by each Contracting Party in accordance with its constitutional procedures and shall come into force on the date of exchange of diplomatic notes indicating such approvral.

3. If the amendments relate only to the Route Schedule, the consultation shall be between the aeronautical authorities of the two Contracting Parties. When these authorities agree on a new or revised Route Schedule, the amendments agreed upon shall come into force after they have been confirmed by an exchange of diplomatic notes.

Article 15. If a general multilateral air transport convention, accepted by both Contracting Parties, enters into force, the present Agreement shall be amended so as to conform with the provisions of such convention.

Article 16. Either Contracting Party may at any time give notice to the other Contracting Party of its intention to terminate the present Agreement. A copy of such notice shall be simultaneously communicated to the International Civil Aviation Organization. If such notice is given, the present Agreement shall terminate six (6) months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement between the Contracting Parties before the expiry of that period. If the other Contracting Party fails to acknowledge receipt, notice shall be deemed to have been received fourteen (14) days after the date of receipt of the copy of the notice by the International Civil Aviation Organization.

Article 17. Subject to the provisions of article 16, the present Agreement shall remain in force for a period of three (3) years from the date of its entry into force and shall be extended for successive periods of three (3) years, unless one of the Contracting Parties notifies the other Contracting Party, six (6) months before the expiry of any three (3) year period, of its intention to terminate the present Agreement

Article 18. The present Agreement, and all amendments thereto, shall be registered with the International Civil Aviation Organization.

Article 19. The present Agreement shall be subject to approval by each Contracting Party in accordance with its constitutional procedures and shall come into force on the date of exchange of diplomatic notes indicating such approval.

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

DONE at Tokyo on 10 March 1972 in duplicate, in the Japanese and Spanish languages, both texts being equally authentic.

For the Government of Japan:
[TAKEO FUKUDA]

For the Government of the United Mexican States:
[EMILIO O. RABASA]

ROUTE SCHEDULE

1. Route to be operated in both directions by the designated airline of Japan:

Points in Japan – Vancouver – Honolulu – Mexico City – Bogotá or any other point to be agreed on later – São Paulo and/or Rio de Janeiro.

NOTE: The designated airline of Japan shall not exercise traffic rights between intermediate points and Mexico City nor between Mexico City and points beyond, in both directions.

2. Route to be operated in both directions by the designated airline of the United Mexican States:

Points in Mexico – Honolulu – Vancouver – Tokyo – three points beyond in the Far East, India and Oceania to be determined later.

NOTE: The designated airline of the United Mexican States shall not exercise traffic rights between intermediate points and Tokyo nor between Tokyo and points beyond, in both directions.

3. The agreed services provided by the designated airline of either Contracting Party shall begin at a point in the territory of that Contracting Party, but other points on the specified routes may at the option of the designated airline be omitted on any or all flights.

EXCHANGE OF NOTES

I

Tokyo, 10 March 1972

Sir,

I have the honour to refer to the Agreement between the Government of Japan and the Government of the United Mexican States relating to air services,

which was signed today, and to confirm the following understanding reached during the negotiations concerning the said Agreement:

1. In view of the desire to establish and promote relations between the two countries in matters of air services as soon as possible, the Government of Japan and the Government of the United Mexican States undertake to give effect, within the limits of their respective administrative authority, to the provisions of the Agreement on a provisional basis as from the date of its signature until the date of the exchange of diplomatic notes provided for in article 19 of the Agreement.

2. The right of suspension referred to in article 4, paragraph 2, of the Agreement shall, in principle, be exercised when:

(*a*) The violations of the laws and regulations referred to in the said paragraph are of a serious nature; or

(*b*) It is essential to do so in order to prevent subsequent violations of the aforementioned laws and regulations or to ensure the safety of air navigation.

I also have the honour to request you confirm the foregoing understanding on behalf of your Government.

TAKEO FUKUDA
Minister for Foreign Affairs of Japan

His Excellency Mr. Emilio O. Rabasa
Minister for Foreign Affairs
of the United Mexican States

II

Tokyo, 10 March 1972

Sir,

I have the honour to acknowledge receipt of your note of today's date, the text of which is as follows:

[*See note I*]

In reply, I have the pleasure of informing you that my Government confirms the understanding set out in the note reproduced above.

Accept, Sir, the assurances, etc.

(*Signed*)
EMILIO O. RABASA
Minister for Foreign Affairs of the United Mexican States

His Excellency Mr. Takeo Fukuda
Minister for Foreign Affairs of Japan