

No. 13106

**THAILAND
and
AUSTRIA**

Agreement for air services between and beyond their respective territories (with schedule). Signed at Vienna on 11 April 1973

Authentic text: English.

Registered by the International Civil Aviation Organization on 28 February 1974.

**THAÏLANDE
et
AUTRICHE**

Accord relatif aux services aériens entre leurs territoires et au-delà (avec tableau des routes). Signé à Vienne le 11 avril 1973

Texte authentique : anglais.

Enregistré par l'Organisation de l'aviation civile internationale le 28 février 1974.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF THAILAND AND THE AUSTRIAN FEDERAL GOVERNMENT FOR AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES

The Government of the Kingdom of Thailand and the Austrian Federal Government,

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944,² 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 agreed as follows:

Article 1. DEFINITIONS

(1) For the purpose of the present Agreement, unless the context otherwise requires:

(a) The term “the Convention” means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944, and includes any annex adopted under article 90 of that Convention and any amendment of the annexes or Convention under articles 90 or 94 thereof;

(b) The term “aeronautical authorities” means, in the case of the Government of the Kingdom of Thailand, the Minister of Communications and any person or body authorized to perform any functions on civil aviation exercised by the said Minister or similar functions, and, in the case of the Austrian Federal Government, the Federal Minister of Communications and any person or body authorized to perform any functions on civil aviation exercised by the said Minister;

(c) The term “designated airline” means an airline which one Contracting Party shall have 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 term “territory” in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty, protection or trusteeship of that State;

(e) 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; and

(f) The term “schedule” means the route schedule to the present Agreement or as amended in accordance with the provisions of article 12 of the present Agreement.

(2) The schedule forms an integral part of the present Agreement and all reference to the Agreement shall include reference to the schedule except where otherwise provided.

¹ Came into force on 10 June 1973, i.e. 60 days from the date of signature, in accordance with article 15.

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.

Article 2. TRAFFIC RIGHTS

(1) Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing air services on the routes specified in the schedule (hereinafter called “the agreed services” and “the specified routes”).

(2) Subject to the provisions of the present Agreement, the airlines designated by 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 for that route in the schedule to the present Agreement for the purpose of putting down and taking on international traffic in passengers, cargo and mail coming from or destined for other points so specified.

(3) Nothing in paragraph (2) of this article shall be deemed to confer on the airlines 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. AUTHORIZATIONS, SUSPENSION AND REVOCATION

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

(2) On receipt of the designation, the other Contracting Party shall, subject to the provisions of paragraphs (3) and (4) of this article, without delay grant to the airline or airlines designated the appropriate operating authorization.

(3) The aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to satisfy them that it is qualified to fulfill the conditions prescribed under the laws and regulations normally and reasonably applied by them in conformity with the provisions of the Convention to the operation of international commercial air services.

(4) Each Contracting Party shall have the right to refuse to accept the designation of an airline and to withhold or revoke the grant to an airline of the privileges specified in paragraph (2) of article 2 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those privileges in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of the Contracting Party designating the airline.

(5) At any time after the provisions of paragraphs (1) and (2) of this article have been complied with, an airline so designated and authorized, may begin to operate the agreed services, provided that a service shall not be operated unless a tariff established in accordance with the provisions of article 8 of the present Agreement is in force in respect of that service.

(6) Each Contracting Party shall have the right to suspend the exercise by an airline of the privileges specified in paragraph (2) of article 2 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those privileges in any case where the airline fails to comply with the laws or regulations of the Contracting Party granting those privileges or otherwise fails to operate in accordance with the conditions prescribed in the present Agreement;

provided that, unless immediate suspension or imposition of conditions is essential to prevent further infringements of laws or regulations, this right shall be exercised only after consultation with the other Contracting Party.

Article 4. RECOGNITION OF CERTIFICATES AND LICENSES

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. 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 or rendered valid by another State.

Article 5. EXEMPTION FROM CUSTOMS AND OTHER DUTIES

(1) Aircraft operated on international services by the designated airline of either Contracting Party, as well as their regular equipment, supplies of fuels, and lubricants and the aircraft stores (including food, beverages and tobacco) on board such aircraft shall be exempt from all customs duties, inspection fees and other duties or taxes on arriving in the territory of the other Contracting Party, provided such equipment and supplies shall remain on board the aircraft up to such time as they are re-exported.

(2) There shall also be exempt from the same duties and taxes with the exception of charges corresponding to the service performed:

- (a) aircraft stores taken on board in the territory of either Contracting Party, within limits fixed by the authorities of said Contracting Party, and for use on board the aircraft engaged on a specified route of the other Contracting Party;
- (b) spare parts entered in to the territory of either Contracting Party for the maintenance or repair of aircraft used on a specified route by the designated airline of the other Contracting Party;
- (c) fuel and lubricants destined to supply aircraft operated on a specified route by the designated airline of the other Contracting Party, even when these supplies are to be used on the part of the journey performed over the territory of the Contracting Party in which they are taken on board.

Materials referred to in sub-paragraphs (a), (b) and (c) above may be required to be kept under customs supervision or control.

(3) The regular airborne equipment, as well as the materials and supplies retained on board the aircraft of either Contracting Party may be unloaded in the territory of the other Contracting Party only with the approval of the customs authorities of such territory. In such case, they may be placed under the supervision of said authorities up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.

Article 6. CAPACITY REGULATIONS

(1) 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 effect unduly that interest of the latter airline.

(2) 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.

(3) 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:

- (a) the requirements of traffic embarked or disembarked in the territory of the Contracting Party which has designated the airline;
- (b) 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
- (c) the requirements of economical through airline operation.

(4) The capacity to be provided at the outset shall be agreed between both Contracting Parties before the agreed services are inaugurated. Thereafter, the capacity to be provided shall be discussed from time to time between the aeronautical authorities of the Contracting Parties and any changes in capacity agreed upon shall be confirmed by an exchange of notes.

(5) 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, time-tables, 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 7. TRANSFER OF REVENUES AND REPRESENTATION

(1) 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.

(2) 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 free transfer of the excess of receipts over expenditure earned by that airline in the territory of the first Contracting Party in connection with the carriage of passengers, mail and cargo.

(3) The designated airlines of the Contracting Parties are entitled to maintain the technical and commercial personnel required for the performance of the agreed services on the specified routes and to establish and operate offices in the territory of the other Contracting Party.

Article 8. TARIFFS

(1) 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 standards of speed and accommodation) and the tariffs of other airlines for any part of the specified route. These tariffs shall be fixed in accordance with the following provisions of this article.

(2) The tariffs referred to in paragraph (1) of this article, together with the rates of agency commission used in conjunction with them shall, if possible, be agreed in respect of each of the specified routes 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. [The tariffs so agreed shall be subject to the approval of]¹ the aeronautical authorities of both Contracting Parties.

(3) 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 (2) of this article, the aeronautical authorities of the Contracting Parties shall try to reach agreement upon the tariffs.

(4) If the aeronautical authorities cannot agree on the approval of any tariff submitted to them under paragraph (2) of this article or on the determination of any tariff under paragraph (3), the dispute shall be settled in accordance with the provisions of article 11 of the present Agreement.

(5) No tariff shall come into force if the aeronautical authorities of either Contracting Party are dissatisfied with it except under the provisions of paragraph (3) of article 11 of the present Agreement.

(6) The tariffs established in accordance with the provisions of this article shall remain in force until new tariffs have been established in accordance with the provisions of this article.

Article 9. STATISTICS

The aeronautical authorities of each 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 or airlines of the first Contracting Party. Such statements shall include all information required to determine the amount of traffic carried by the airline on the agreed services.

Article 10. CONSULTATIONS

There shall be regular and frequent consultations between the aeronautical authorities of the Contracting Parties to ensure close collaboration in all matters affecting the fulfilment of the present Agreement.

Article 11. SETTLEMENT OF DISPUTES

(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.

¹ The words between brackets are not part of the authentic English text and have been added by the Secretariat.—Les mots entre crochets ne font pas partie du texte authentique anglais et ont été ajoutés par le Secrétariat.

(2) If the Contracting Parties fail to reach a settlement by negotiation, they may agree to refer the dispute for decision to some person or body, or the dispute may at the request of either Contracting Party be submitted for decision to a tribunal of three arbitrators, one to be nominated by each Contracting Party and the third to be appointed by the two so nominated. Each of the Contracting Parties shall nominate an arbitrator within a period of sixty days from the date of receipt by either Contracting Party from the other of a notice through the diplomatic channel requesting arbitration of the dispute, and the third arbitrator shall be appointed within a further period of thirty days. If either of the Contracting Parties fails to nominate an arbitrator within the period specified, or if the third arbitrator is not appointed within the period specified, the President of the Council of the International Civil Aviation Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. Where the President possesses the nationality of one of the two Contracting Parties or is otherwise prevented from carrying out this function, his deputy in office shall make the necessary appointments. The third arbitrator shall be a national of a third State and shall act as president of the arbitral body.

(3) The Contracting Parties undertake to comply with any decision given under paragraph (2) of this article.

(4) 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 (2) of this article, the other Contracti[ng] 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 12. MODIFICATIONS

(1) If either of the Contracting Parties considers it desirable to modify any provisions of the present Agreement, it may request consultation with the other Contracti[ng] Party; such consultation, which may be between aeronautical authorities and which may be through discussion or by correspondence, shall begin within a period of sixty (60) days of the date of the request. Any modifications so agreed shall come into force 45 days after they have been confirmed by an exchange of diplomatic notes.

(2) The present Agreement shall be amended so as to conform with any general multilateral convention which may become binding on both Contracting Parties.

Article 13. TERMINATION

Either Contracti[ng] Party may at any time give notice to the other if it desires to terminate the present Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organization. If such notice is given, the present Agreement shall terminate twelve months after the date of receipt of the notice by the other Contracting Party, unless the notice of terminat[i]on is withdrawn by agreement before the expiry of this period. In the absence of acknowledgement of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen days after the receipt of the notice by the International Civil Aviation Organization.

Article 14. REGISTRATION

The present Agreement and any exchange of diplomatic notes containing modifications thereof shall be registered with the International Civil Aviation Organization.

Article 15. ENTRY INTO FORCE

This Agreement will enter into force sixty days from the date of signature.

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

DONE in duplicate at Vienna this eleventh day of April, 1973, in the English language.

[Signed]

DEJ TALABHAT
Ambassador Extraordinary
and Plenipotentiary
For the Government
of the Kingdom of Thailand

[Signed]

DR. RUDOLF KIRCHSCHLÄGER
Federal Minister
of Foreign Affairs
For the Austrian
Federal Government

SCHEDULE

SECTION I

Route to be operated in both directions by the airline or airlines designated by the Government of the Kingdom of Thailand:

Bangkok via intermediate points to Vienna and points beyond.

The designated airline or airlines of the Kingdom of Thailand may, on any or all flights omit calling at any of the above points, provided that the agreed services on this route begin at Bangkok.

SECTION 2

Route to be operated in both directions by the airline or airlines designated by the Austrian Federal Government:

Vienna via intermediate points to Bangkok and points beyond.

The designated airline or airlines of Austria may, on any or all flights omit calling at any of the above points, provided that the agreed services on this route begin at Vienna.
