No. 13107

CZECHOSLOVAKIA
and
MALAYSIA

Agreement for air services between and beyond their respective territories (with annex). Signed at Prague on 2 May 1973

Authentic texts: Czech, Malay and English.

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

TCHÉCOSLOVAQUIE
et
MALAISIE

Accord relatif aux services aériens entre leurs territoires respectifs et au-delà (avec annexe). Signé à Prague le 2 mai 1973

Textes authentiques : tchèque, malais et anglais.

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

AGREEMENT[1] BETWEEN THE GOVERNMENT OF THE CZECHOSLOVAK SOCIALIST REPUBLIC AND THE GOVERNMENT OF MALAYSIA FOR AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES

The Government of the Czechoslovak Socialist Republic and the Government of Malaysia,

Being parties to the Convention on International Civil Aviation,[2] and,

Desiring to conclude an agreement for the purpose of establishing air services between and beyond their respective territories,

Have agreed as follows:

Article 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 and 94 thereof;

(*b*) The term "aeronautical authorities" means, in the case of the Czechoslovak Socialist Republic the Federal Ministry of Transport, and any person or body authorised to perform any functions at present exercised by the said Federal Ministry of Transport or similar functions, and, in the case of Malaysia the Minister of Communications and any person or body authorised to perform any functions at present exercised by the said Minister or similar functions;

(*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 the annex to the present Agreement;

(*d*) The term "territory" in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, 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 terms "agreed services" and "specified routes" mean the international air services and the routes specified in the annex to the present Agreement.

Article 2. (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 appropriate section of the schedule thereto (hereinafter called "the agreed services" and "the specified routes"). The agreed services may be inaugurated immediately or at a later date at the option of the Contracting Party to whom the rights shall be granted.

[1] Came into force on 2 May 1973 by signature, in accordance with article 16.

[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 provision 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.

(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. (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 authorisation.

(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 fulfil 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, or in the event of consortium of airlines, in the Government or nationals of the States whose airlines comprise that consortium; provided that, with respect to a consortium, air transport agreements providing for the air service in question are in force between the Contracting Party from which the operating permission is being sought and each of the States whose airlines comprise the consortium.

(5) At any time after the provisions of paragraphs (1) and (2) of this article have been complied with, an airline so designated and authorised 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 7 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. (1) Aircraft operated on international services by the designated airlines of either Contracting Party, as well as their regular equipment, spare parts, supplies of fuels and lubricants, and 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 remain on board the aircraft up to such time as they are re-exported.

(2) Supplies of fuels, lubricants, spare parts, regular equipment and aircraft stores introduced into the territory of one Contracting Party by or on behalf of a designated airline of the other Contracting Party, or taken on board the aircraft operated by such designated airline and intended solely for use in the operation of international services, shall be exempt from all national duties and charges, including customs duties and inspection fees imposed in the territory of the first Contracting Party, even when these supplies are to be used on the parts of the journey performed over the territory of the Contracting Party in which they are taken on board. The materials referred to above may be required to be kept under customs supervision or control.

(3) The regular airborne equipment, spare parts, aircraft stores and supplies of fuels and lubricants 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 that Party, who may require that these materials be placed under their supervision up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.

(4) Fuel, lubricating oils, spare parts, regular aircraft equipment and aircraft stores, taken on board aircraft of one Contracting Party in the territory of the other Contracting Party and used solely on flights between two points in the territory of the latter Contracting Party, shall be accorded treatment no less favourable than that accorded to national airlines or to the most favoured airline operating such flights in respect of customs duties, inspection fees and other similar national or local duties and charges.

(5) Passengers, baggage and cargo in direct transit across the territory of one Contracting Party and not leaving the area of the airport reserved for such purpose shall only be subject to a very simplified control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

Article 5. (1) There shall be fair and equal opportunity for the airlines of both Contracting Parties to operate the agreed services on the specified routes between their respective territories.

(2) In operating the agreed services, the airlines of each Contracting Party shall take into account the interests of the airlines of the other Contracting Party so as not to affect unduly the services which the latter provide on the whole or part of the same routes.

(3) The agreed services provided by the designated airlines of the Contracting Parties shall bear close relationship to the requirements of the public for transportation on the specified routes and shall have as their primary objective the provision, at a reasonable load factor, of capacity adequate to carry the current and reasonably anticipated requirements for the carriage of passengers, cargo and mail originating from or destined for the territory of the Contracting Party which has designated the airline. Provision for the carriage of passengers, cargo and mail both taken up and put down at points on the specified routes in the territories of States other than that designating the airline shall be made in accordance with the general principles that capacity shall be related to:

(*a*) traffic requirements to and from the territory of the Contracting Party which has designated the airline;

(*b*) traffic requirements of the area through which the airline passes, after taking account of other transport services established by airlines of the States comprising the area; and

(*c*) the requirements of through airline operation.

Article 6. (1) The laws and regulations of one Contracting Party governing entry into and departure from its territory of aircraft, engaged in international air navigation, or flights of such aircraft over that territory, shall apply to the designated airline of the other Contracting Party.

(2) The laws and regulations of one Contracting Party, governing entry into, sojourn in, and departure from its territory of passengers, crew, cargo or mail, such as formalities regarding entry, exit, emigration and immigration, as well as customs and sanitary measures, shall apply to passengers, crew, cargo or mail carried by the aircraft of the designated airline of the other Contracting Party while they are within the said territory.

(3) Each Contracting Party undertakes not to grant any preferences to its own airlines with regard to the designated airline of the other Contracting Party in the application of the laws and regulations provided for by the present article.

(4) When utilising the airports and other facilities offered by one Contracting Party, the designated airline of the other Contracting Party shall not have to pay fees higher than those which have to be paid by national aircraft operating on scheduled international services.

Article 7. (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 airline concerned, in consultation with other airlines operating over the whole or part of that route, and such agreement shall, where possible, be reached through the rate-fixing machinery of the International Air Transport Association. The tariffs so agreed shall be subject to the approval of 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 determine the tariff by agreement between themselves.

(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 12 of the present Agreement.

(5) No tariff shall come into force if the aeronautical authorities of either Contracting Party are dissatisfied with it except when it is settled under the provisions of article 12 of the present Agreement.

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

Article 8. (1) Transfer of surplus earnings received by the designated airline of either Contracting Party in the country of the other Contracting Party shall be made in accordance with the foreign exchange regulations in force in the territory of this Contracting Party, in any of freely convertible currencies.

(2) The Contracting Parties shall facilitate the transfers of such funds into the other country; these transfers shall be executed without delay.

Article 9. The aeronautical authorities of either 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 airlines of the first Contracting Party. Such statements shall include all information required to determine the amount of traffic carried by those airlines on the agreed services and the origins and destinations of such traffic if available.

Article 10. For the co-ordination of matters concerning air transportation and servicing of aircraft, each Contracting Party shall grant to the designated airline of the other Contracting Party actually operating the agreed services, the right to station personnel in the territory of the first mentioned Contracting Party and the type and number of such personnel shall be agreed from time to time between the aeronautical authorities of the Contracting Parties.

Article 11. There shall be regular and frequent consultation between the aeronautical authorities of the Contracting Parties to ensure close collaboration in all matters affecting the fulfilment of the present Agreement.

Article 12. Any dispute relating to the interpretation or application of the present Agreement or if its annex shall be settled by direct negotiations between the aeronautical authorities of the Contracting Parties. If the aeronautical authorities fail to reach agreement, the dispute shall be settled through diplomatic channels.

Article 13. (1) If either of the Contracting Parties considers it desirable to modify the terms of this Agreement, it may request consultation between the aeronautical authorities of both Contracting Parties in relation to the proposed modification. Consultation shall begin within a period of sixty days from the date of the request. 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.

(2) Modifications of the annex to the present Agreement may be applied provisionally as from the date agreed on by the aeronautical authorities and shall come into force after their confirmation by exchange of diplomatic notes.

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

Article 14. Either Contracting Party may at any time give written 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 to terminate 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 15. The present Agreement and any exchange of notes in accordance with article 13 shall be registered with the International Civil Aviation Organization.

Article 16. The present Agreement shall come into force on the date of signature.

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

DONE at Praha on May 2nd, 1973 in three authentic texts in the Czech, Malay and English languages. In the case of any inconsistency, the text in the English language shall prevail.

For the Government of the Czechoslovak Socialist Republic:

STANISLAV KREBS

For the Government of Malaysia:

DATUK HAJI ABU HASSAN BIN ABDULLAH

ANNEX

SCHEDULE I

Routes to be operated by the designated airline of the Czechoslovak Socialist Republic

Column 1	*Column 2*	*Column 3*	*Column 4*
Points of departure:	*Intermediate Points:*	*Point in Malaysia:*	*Points beyond:*
Praha Bratislava	Belgrade Athens Nicosia Cairo Beirut Teheran Kuwait Karachi Dacca Bombay Colombo Moscow or Tashkent Phnom Penh Bangkok	Kuala Lumpur	Singapore Djakarta Hongkong Manila Tokyo Perth Sydney or Melbourne

The designated airline or airlines of the Czechoslovak Socialist Republic may, on any or all flights omit calling at any of the above points, provided that the agreed services on this route begin at a point in Czechoslovak territory.

SCHEDULE II

Routes to be operated by the designated airline of Malaysia

Column 1	*Column 2*	*Column 3*	*Column 4*
Points of departure:	*Intermediate Points:*	*Point in Czechoslovakia:*	*Points beyond:*
Kuala Lumpur	Bangkok Colombo Madras or Bombay Delhi Dacca Karachi Kuwait Teheran Beirut Bahrein Tashkent or Moscow Cairo Athens Belgrade Rome	Praha	Five points in Europe including Frankfurt Paris London and two points in the United States

The designated airline of Malaysia may, on any or all flights omit calling at any of the above points, provided that the agreed services on this route begin at a point in Malaysian territory.

NOTES: In the case of the unspecified points in Column 4 of Schedule II of the Malaysian route, it is agreed that the determination of such unspecified points shall be by mutual consultation.