No. 14422

SWITZERLAND
and
CUBA

Agreement concerning scheduled air transport services (with annex and protocol of signature). Signed at Havana on 14 February 1974

Authentic texts: French and Spanish.

Registered by the International Civil Aviation Organization on 14 November 1975.

SUISSE
et
CUBA

Accord relatif aux transports aériens réguliers (avec annexe et protocole de signature). Signé à La Havane le 14 février 1974

Textes authentiques : français et espagnol.

Enregistré par l'Organisation de l'aviation civile internationale le 14 novembre 1975.

[TRANSLATION — TRADUCTION]

AGREEMENT[1] BETWEEN THE SWISS CONFEDERATION AND THE REPUBLIC OF CUBA CONCERNING SCHEDULED AIR TRANSPORT SERVICES

The Swiss Federal Council and the Revolutionary Government of the Republic of Cuba,

considering that Switzerland and Cuba are parties to the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944,[2]

desiring to develop international co-operation in the field of air transport, and

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

have appointed their plenipotentiaries, duly authorized for this purpose, who have agreed as follows:

Article 1. For the purpose of this Agreement and its annex:

(*a*) The term "Convention" means the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944;

(*b*) The term "aeronautical authorities" means, in the case of Switzerland, the Federal Air Office and, in the case of Cuba, the Civil Aviation Institute of Cuba or, in both cases, any person or agency authorized to perform the functions at present assigned to the said authorities;

(*c*) The term "designated airline" means an airline which one of the Contracting Parties has designated, in accordance with article 3 of this Agreement, to operate the agreed air services.

Article 2. 1. Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the purpose of establishing air services on the routes specified in the annex to this Agreement. Such services and routes are hereinafter called "agreed services" and "specified routes".

2. Subject to the provisions of this Agreement, the designated airline of each Contracting Party shall enjoy, while operating international services:

(*a*) the right to fly without landing across the territory of the other Contracting Party ;

(*b*) the right to make stops in the said territory for non-traffic purposes;

(*c*) the right to take on and put down in the said territory, at points specified in the annex, international traffic in passengers, cargo and mail.

Article 3. 1. Each Contracting Party shall have the right to designate an airline to operate the agreed services. Such designation shall form the subject of a

[1] Applied provisionally from 14 February 1974, the date of signature, and came into force definitively on 24 January 1975, the date on which the Contracting Parties had notified each other of the completion of their constitutional formalities, 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; vol. 740, p. 21; vol. 893, p. 117, and vol. 958, p. 217.

written notification between the aeronautical authorities of the two Contracting Parties.

2. The Contracting Party which has received the notification of designation shall, subject to the provisions of paragraphs 3 and 4 of this article, without delay grant to the airline designated by the other Contracting Party the necessary operating authorization.

3. 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 applied by those authorities to the operation of international air services in accordance with the provisions of the Convention.

4. Each Contracting Party shall have the right not to grant the operating authorization provided for in paragraph 2 of this article, or to impose such conditions as it may deem necessary for the exercise, by the designated airline, of the rights specified in article 2 of this Agreement, when the said Contracting Party is not satisfied that substantial ownership and effective control of such airline are vested in the Contracting Party which has designated the airline or in its nationals.

5. Upon receipt of the operating authorization provided for in paragraph 2 of this article, the designated airline may at any time commence operations of any agreed service, provided that a tariff established in accordance with the provisions of article 10 of this Agreement is in force in respect of such service.

Article 4. 1. Each Contracting Party shall have the right to revoke an operating authorization or suspend the exercise of the rights specified in article 2 of this Agreement by the designated airline of the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of such rights, if:

(*a*) it is not satisfied that substantial ownership and effective control of such airline are vested in the Contracting Party which designated the airline or in its nationals, or

(*b*) the airline has failed to comply with the laws and regulations of the Contracting Party which granted those rights, or

(*c*) the airline fails to operate the agreed services in the manner prescribed in this Agreement and its annex.

2. Unless the revocation, suspension or imposition of conditions referred to in paragraph 1 of this article is imperative in order to prevent further infringements of the laws and regulations, such right shall be exercised only after consultation with the other Contracting Party.

Article 5. 1. The designated airlines shall enjoy equal and equitable opportunities to operate the agreed services between the territories of the Contracting Parties.

2. The designated airline of each Contracting Party shall take into account the interests of the designated airline of the other Contracting Party so as not to affect unduly the latter airline's agreed services.

3. The capacity provided by the designated airlines shall be related to traffic requirements.

4. The agreed services shall have as their primary objectives the provision of capacity corresponding to traffic requirements between the territory of the Contracting Party which designated the airline and the points served on the specified routes.

5. The capacity provided under paragraph 4 above may be augmented by additional capacity corresponding to the international air traffic between points on the specified routes which are situated in the territories of third States. Such additional capacity shall be related to the transport needs of the areas through which the airline passes, taking into account the special situation of air services established by airlines of such States, in so far as they carry, over the whole or part of the specified routes, international air traffic originating in or destined for their territories.

Article 6. 1. Aircraft used in international service by the designated airline of one Contracting Party, as well as their regular equipment, reserves of fuel and lubricants and aircraft stores, including food, beverages and tobacco, shall be exempt, on entry into the territory of the other Contracting Party, from all customs duties, inspection fees and other duties or charges, provided that such equipment, reserves and stores remain on board until they are re-exported.

2. The following shall likewise be exempt from such duties, fees and charges excluding payments for services performed:

(*a*) aircraft stores taken on board in the territory of one Contracting Party, within the limits fixed by the authorities of the said Contracting Party, and intended for consumption on board aircraft used in international service by the designated airline of the other Contracting Party;

(*b*) spare parts and regular airborne equipment introduced into the territory of one Contracting Party for the maintenance or repair of aircraft used in international service;

c) fuel and lubricants destined to supply aircraft used in international service by the designated airline of the other Contracting Party, even if such supplies are to be used on that part of the flight which takes place over the territory of the Contracting Party in which they were taken on board.

3. Regular airborne equipment, and products and supplies, which are on board aircraft used by the designated airline of one Contracting Party may be unloaded in the territory of the other Contracting Party only with the consent of the customs authorities of that territory. In that case, they may be placed under the supervision of the said authorities until they are reexported or have been otherwise disposed of in accordance with customs regulations.

Article 7. Passengers, baggage and cargo in transit through the territory of a Contracting Party and remaining in the airport area reserved for them 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 charges.

Article 8. 1. The laws, regulations and provisions of one Contracting Party governing the entry into and departure from its territory of aircraft engaged in international air navigation or flights of such aircraft over its territory shall apply to aircraft of the designated airline of the other Contracting Party while they are within that territory.

2. The laws and regulations of one Contracting Party governing the entry into, sojourn in and departure from its territory of passengers, crew, cargo or mail, such as those relating to entry, departure, emigration and immigration, customs, health measures and exchange control, shall apply to passengers, crew, cargo or mail carried by aircraft of the designated airline of the other Contracting Party while such aircraft are in that territory.

3. Each Contracting Party undertakes not to give its own airlines preferential treatment over the designated airline of the other Contracting Party in the application of the laws and regulations mentioned in this article.

4. The designated airline of one Contracting Party shall not be required to pay, for the use of airports and other facilities provided by the other Contracting Party, charges greater than those payable in the case of national aircraft engaged in scheduled international services

5. The designated airline of one Contracting Party shall have the right to maintain agencies in the territory of the other Contracting Party. Such agencies may include commercial, operational and technical personnel.

Article 9. 1. Certificates of airworthiness, certificates of competency and licenses issued or validated by one of the Contracting Parties shall, during the period in which they are in force, be recognized as valid by the other Contracting Party.

2. Each Contracting Party reserves the right, however, to refuse to recognize as valid, for the purpose of flight over its own territory, certificates of competency and licences issued to or validated for its own nationals by the other Contracting Party or by any other State.

Article 10. 1. The tariffs for any agreed service shall be established at reasonable levels, due regard being paid to all relevant factors, including cost of operation, reasonable profit, the characteristics of each service and the tariffs of other airlines.

2. The tariffs referred to in paragraph 1 of this article shall, if possible, be agreed by the designated airlines of both Contracting Parties, after consultation with the other airlines operating over the whole or part of the same route. The designated airlines shall, wherever possible, reach such agreement by the use of the procedures for the working of tariffs established by the international agency recognized by both Contracting Parties which formulates proposals in this respect.

3. The tariffs so established shall be submitted for approval of the aeronautical authorities of the Contracting Parties at least thirty (30) days before the proposed date of their introduction. In special cases, this period may be reduced, subject to the agreement of the said authorities.

4. If the designated airlines are unable to reach agreement or if the tariffs are not approved by the aeronautical authorities of one Contracting Party, the aeronautical authorities of the two Contracting Parties shall endeavor to establish the tariff by mutual agreement.

5. Failing agreement, the dispute shall be subjected to the procedure provided for in article 15 below.

6. Tariffs already etablished shall remain in force until new tariffs have been established in accordance with the provisions of this article or of article 15 of this Agreement, but for not more than twelve (12) months from the date on which the aeronautical authorities of one of the Contracting Parties refuse to give their approval.

Article 11. Each Contracting Party undertakes to enable the designated airline of the other Contracting Party to transfer freely, at the official rate according to the exchange regulations, receipts in excess of expenditure accruing in its territory from the carriage of passengers, baggage, cargo and mail by that designated airline.

If payments between the Contracting Parties are regulated by a special agreement, that special agreement shall be applicable.

Article 12. The aeronautical authorities of the Contracting Parties shall supply each other, upon request, with periodic statistics or other similar information relating to the volume of traffic carried on the agreed services.

Article 13. 1. Each Contracting Party or its aeronautical authorities may request the other Contracting Party or its aeronautical authorities to enter into consultations with a view to modifying any provision of this Agreement, or may at any time simply request consultations with the other Contracting Party or with its aeronautical authorities.

2. Any consultations requested by a Contracting Party or its aeronautical authorities shall begin within a period of sixty (60) days from the date of receipt of the request.

Article 14. 1. Any modification of this Agreement shall enter into force when the two Contracting Parties have notified each other of the completion of their constitutional formalities relating to the conclusion and entry into force of international agreements.

2. Modifications to the annex to this Agreement may be agreed directly by the aeronautical authorities of the Contracting Parties. They shall enter into force after they have been confirmed by an exchange of diplomatic notes.

Article 15. Any dispute between the Contracting Parties relating to the interpretation or application of this Agreement or its annex shall in the first place form the subject of direct consultations between the aeronautical authorities. If a settlement cannot be reached in that manner, the dispute shall be settled through the diplomatic channel.

Article 16. This Agreement and any amendments thereto shall be registered with the International Civil Aviation Organization.

Article 17. In the event of the entry into force of a multilateral air transport convention accepted by both Contracting Parties, this Agreement shall be modified in such a way as to bring it into line with the provisions of the convention.

Article 18. 1. Either Contracting Party may at any time give notice to the other Contracting Party of its decision to denounce this Agreement; such notice shall be communicated simultaneously to the International Civil Aviation Organization.

2. The denunciation shall take effect at the end of the traffic period during which a period of twelve (12) months from the date of the notice shall have elapsed, unless such denunciation is withdrawn by agreement before the end of that traffic period.

3. In the absence of acknowledgement of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

Article 19. This Agreement shall be applied provisionally from the date of its signature; it shall enter into force when the Contracting Parties have notified each other of the completion of their constitutional formalities relating to the conclusion and entry into force of international agreements.

IN WITNESS WHEREOF the plenipotentiaries of the two Contracting Parties have signed this Agreement.

DONE at Havana, on 14 February 1974, in two copies in the French and Spanish languages, both texts being equally authentic.

For the Swiss Federal Council:

[Signed]
SILVIO MASNATA

For the Revolutionary Government of the Republic of Cuba:

[Signed]
RAÚL ROA GARCÍA

ANNEX

A

SCHEDULES OF ROUTES

I

Routes on which air services may be operated by the airline designated by Switzerland:

Points of departure	*Intermediate points*	*Point in Cuba*	*Points beyond*
Points in Switzerland	Amsterdam	Havana	Acapulco
	Brussels		Panamá
	London		Bogotá
	Lisbon		Quito or
	Santa María		Guayaquil
	Hamilton (Bermuda)		
	Nassau (Bahamas)		

II

Routes on which air services may be operated by the airline designated by Cuba:

Points of departure	*Intermediate points*	*Point in Switzerland*	*Points beyond*
Points in Cuba	Nassau (Bahamas)	A point in	Stockholm or
	Hamilton (Bermuda)	Switzerland	Copenhagen
	Santa María		Berlin (GDR)
	Lisbon		Warsaw
	London		Budapest
	Brussels		Sofia
	Amsterdam		

B

1. Any point or points on the specified routes may, at the option of the designated airlines, be omitted on all or some flights.

2. The airline designated by either Contracting Party shall have the right to terminate any of its services in the territory of the other Contracting Party without continuing to points beyond.

3. Each designated airline shall have the right to serve points not mentioned, provided that it does not exercise traffic rights between such points and the territory of the other Contracting Party.

PROTOCOL OF SIGNATURE

On the occasion of the signing this day of an Agreement concerning scheduled air transport services betwen Cuba and Switzerland, the Contracting Parties have agreed as follows:

1. With reference to article 5 of the Agreement, each designated airline may initially operate two flights per week in each direction with aircraft having a maximum capacity of 360 seats or a corresponding number of flights with aircraft having a total capacity of 720 seats per week.

2. With reference to fifth freedom traffic rights for the designated airlines between Havana and Mexico City, on the one hand, and a point in Switzerland and Moscow, on the other hand, the question shall be the subject of further discussions at the beginning of 1975 between the aeronautical authorities of the two Contracting Parties.

3. The aeronautical authorities of the two Contracting Parties shall also discuss further at that time the possible inclusion of Toronto and/or Montreal as intermediate points in the route schedules.

DONE at Havana, on 14 February 1974, in two copies in the French and Spanish languages, both texts being equally authentic.

For the Revolutionary Government of the Republic of Cuba:

[*Signed*]

RAÚL ROA GARCÍA
Minister for Foreign Affairs

For the Swiss Federal Council:

[*Signed*]

SILVIO MASNATA
Ambassador of Switzerland