

No. 14423

**SWITZERLAND
and
GUATEMALA**

Agreement concerning scheduled international air transport services (with annex). Signed at Guatemala City on 27 February 1974

Authentic texts: French and Spanish.

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

**SUISSE
et
GUATEMALA**

Accord relatif aux transports aériens réguliers internationaux (avec annexe). Signé à Guatemala le 27 février 1974

Textes authentiques : français et espagnol.

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

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE SWISS CONFEDERATION AND THE
REPUBLIC OF GUATEMALA CONCERNING SCHEDULED INTER-
NATIONAL AIR TRANSPORT SERVICES

The Swiss Federal Council and the Government of the Republic of Guatemala, considering that Switzerland and Guatemala 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 their respective countries, have appointed their plenipotentiaries:

The Swiss Federal Council:

Mr. Gottlieb Gut, Ambassador Extraordinary and Plenipotentiary of Switzerland to Guatemala,

The Government of the Republic of Guatemala:

Mr. Jorge Arenales Catalán, Minister for Foreign Affairs, duly authorized for this purpose, who have agreed to conclude the Agreement contained in the following articles:

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 Guatemala, the Ministry of Communications and Public Works 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 schedules annexed 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;

¹ Came into force on 18 April 1975, the date on which the Contracting Parties notified each other of the completion of the 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.

(c) the right to take on and put down in the said territory, at points specified in the annex, international traffic in passengers, freight 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 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 contained in 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 fulfils 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 operation 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 objective 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 right of each designated airline to carry international traffic between the territory of the other Contracting Party and the territories of third countries shall be exercised in accordance with the general principles of normal development affirmed by the two Contracting Parties and in such a manner that the capacity shall be related to:

- (a) traffic requirements from and to the territory of the Contracting Party which designated the airline;
- (b) traffic requirements of the areas through which the airline passes, local and regional services being taken into account;
- (c) the requirements of economic operation of the agreed services.

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 reexported.

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 imported 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 re-exported or have been otherwise disposed of in accordance with customs regulations.

Article 7. Passengers, baggage and freight 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 freight in direct transit shall be exempt from customs duties and other similar charges.

Article 8. 1. The laws and regulations 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 the designated airline of the other Contracting Party.

2. The laws and regulations of one Contracting Party governing the entry into, sojourn in and departure from its territory of passengers, crew, freight or mail, such as those relating to entry, departure, emigration and immigration, customs and health measures, shall apply to passengers, crew, freight 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 other aircraft engaged in scheduled international services.

5. The designated airline of one Contracting Party may maintain agencies in the territory of the other Contracting Party, including commercial, operational and technical personnel.

Article 9. 1. Certificates of airworthiness, certificates of competency and licences 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 out of the tariffs established by the international agency which formulates proposals in this respect.

3. The tariffs so established shall be submitted for the 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 endeavour to establish the tariff by mutual agreement.

5. Failing agreement, the dispute shall be settled by arbitration as provided in article 15 below.

6. Tariffs already established 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, at which time services shall be suspended pending a new agreement.

Article 11. Each Contracting Party undertakes to enable the designated airline of the other Contracting Party to transfer freely, at the official rate, receipts in excess of expenditure accruing in its territory from the carriage of passengers, baggage, freight and mail by this 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, upon request, exchange periodic statistics or other similar information relating to the traffic carried on the agreed services and, at their option, to other air transport activities apart from the agreed services.

Article 13. 1. Each Contracting Party or its aeronautical authorities may at any time request consultations with the other Contracting Party or with its aeronautical authorities concerning the interpretation, application or modification of this Agreement.

2. The 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. 1. Any dispute between the Contracting Parties relating to the interpretation or application of this Agreement which cannot be settled by means of direct negotiations or through the diplomatic channel shall, at the request of either Contracting Party, be submitted to an arbitral tribunal composed of three members.

2. Each Contracting Party shall for that purpose appoint an arbitrator and the two arbitrators shall appoint a third arbitrator, who shall be a national of a third State, as president. If within two months from the date on which one Contracting Party appoints an arbitrator the other Contracting Party does not appoint its arbitrator, or if during the month following the appointment of the second arbitrator the arbitrators so appointed fail to agree on the choice of the president, either Contracting Party may request the President of the Council of the International Civil Aviation Organization to make the necessary appointments.

3. The arbitral tribunal shall determine its own procedure and shall decide on the apportionment of the resulting costs.

4. The Contracting Parties undertake to comply with any decision given under this article.

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

<i>Points of departure:</i>	<i>Intermediate points:</i>	<i>Points of destination in Guatemala:</i>	<i>Points beyond:</i>
	Santo Domingo		
	Montego Bay		
	Kingston		
	Port of Spain		
	Caracas		
	Barranquilla		

II

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

<i>Points of departure:</i>	<i>Intermediate points:</i>	<i>Points of destination in Switzerland:</i>	<i>Points beyond:</i>
Points in Guatemala	San Salvador	Two points in	Frankfurt
	Managua	Switzerland, to	Hamburg
	San José	be chosen	Copenhagen or
	Panama	among Basel, Geneva	Stockholm
	Barranquilla	and Zurich	Prague
	Caracas		Vienna
	Port of Spain		Rome
	Kingston		
	Montego Bay		
	San Juan		
	Santo Domingo or		
	Port-au-Prince or		
	Antigua		
	Fort de France or		
	Pointe à Pitre		
	San Pedro Sula		
	Nassau		
	Miami		
	Montreal		
	Hamilton (Bermuda)		
	Santa María or		
	Las Palmas		
	Lisbon		
	Málaga or		
	Madrid		
	London		
	Paris		
	Brussels		
	Amsterdam		

B. NOTES

1. Any point or points on the specified routes may, at the option of the designated airline, be omitted on all or some flights.
2. Any point not mentioned in the schedule of routes may be served by the designated airline of one Contracting Party without traffic rights between such point and the territory of the other Contracting Party.
3. Points mentioned in the schedule of routes as intermediate points may, at the option of the designated airline, be served as points beyond, and points mentioned as points beyond may likewise be served as intermediate points, provided that the route served remains reasonably direct.

Article 17. This Agreement and its annex shall be brought into harmony with any multilateral convention which may in future bind the two Contracting Parties.

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 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 enter into force when the Contracting Parties have notified each other of the completion of the 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 Guatemala City, on 27 February 1974, in two copies in the French and Spanish languages, both texts being equally authentic.

For the Swiss Federal Council:

GOTTLIEB GUT

For the Government
of Guatemala:

JORGE ARENALES

A N N E X

A. SCHEDULE OF ROUTES

I

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

<i>Points of departure:</i>	<i>Intermediate points:</i>	<i>Points of destination in Guatemala:</i>	<i>Points beyond:</i>
Points in Switzerland	Amsterdam	Guatemala City	Acapulco
	Brussels	Flores (Petén)	Guadalajara
	Paris		
	London		
	Shannon		
	Madrid		
	Lisbon		
	Málaga		
	Casablanca		
	Las Palmas		
	Santa María		
	Hamilton (Bermuda)		
	Montreal		
	Boston		
	Nassau		
	Port-au-Prince		