

No. 15115

**UNITED STATES OF AMERICA
and
SWITZERLAND**

**Exchange of letters constituting an understanding relating
to air charter services (with annex). Bern, 20 and
24 November 1975**

Authentic text: English.

Registered by the United States of America on 10 November 1976.

**ÉTATS-UNIS D'AMÉRIQUE
et
SUISSE**

**Échange de lettres constituant un accord relatif aux services
aériens affrétés (avec annexe). Berne, 20 et 24 novem-
bre 1975**

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 10 novembre 1976.

EXCHANGE OF LETTERS¹ CONSTITUTING AN UNDERSTANDING
BETWEEN THE UNITED STATES OF AMERICA AND
SWITZERLAND RELATING TO AIR CHARTER SERVICES

I

*The Swiss Director of the Federal Air Office to the American
Chargé d'Affaires ad interim*

EIDGENÖSSISCHES LUFTAMT²
OFFICE FÉDÉRAL DE L'AIR²
UFFICIO AERONAUTICO FEDERALE²

Bern, 20th November 1975

Ref.: 14/N-Sz 031/615982

Dear Mr. Odell,

From the 29th to 31st of October, 1975, representatives of the Federal Air Office and the Government of the United States of America discussed current rules applicable to passenger air charter traffic between Switzerland and the United States and reached the following Understanding:

A. *Principles*

1. Subject to compulsory clauses of their national air laws the air transport authorities of each country will accept as charterworthy air charter traffic which originates in the territory of the other and which is organized and operated pursuant to the rules of the other air transport authorities, or according to waivers of such rules granted for exceptional reasons.

2. The air transport authorities of the country where a passenger charter is originated have the prime responsibility for the enforcement of charterworthiness rules.*

3. Passenger charterworthiness rules will be applied and enforced in a nondiscriminatory manner.

4. Modifications or additions to the charterworthiness rules of the air transport authorities of one country, which are of a technical or administrative nature and which do not alter the basic character of an existing charter rule nor establish a new charter type, will be accepted by the air transport authorities of the other country.

Other modifications shall be brought to the attention of the other air transport authorities, who may deny or revoke with immediate effect acceptance of those changes.

5. The airlines of both countries shall submit price information on charter contracts between the airline and the charterer as air transport authorities of either country may request.

* Should the air transport authorities of the country of origin not require that a passenger list be filed with them at least 30 days before the initial flight date of each affinity charter group, the air transport authorities of the destination country may require such a filing for any series of affinity charter flights. With respect to the substitution of not previously listed "advance charter" (i.e. TGC/ABC) passengers on a series of flights, the air transport authorities of the receiving country reserve their right to impose conditions consistent with compulsory provisions of their national law.

¹ Came into force on 24 November 1975, date of the letter in reply, in accordance with the provisions of the said letters.

² Federal Air Office.

B. *Traffic originating in Switzerland*

The rules governing this traffic must be within the limits laid down in the Swiss air law. The particular charter types authorized for traffic are listed in the annex to this Exchange of Letters.

C. *Traffic originating in the United States*

The rules governing charter traffic are set forth in the Economic Regulations and Special Regulations of the Civil Aeronautics Board.

D. *Operating environment*

The air transport authorities of each country will continue the present practices of applying reciprocity in approval of charter flights by the airlines of the other country. If air transport authorities of either country contemplate a unilateral departure from these practices they will give prior notice to the other authorities and agree to consultations.

E. *Implementation*

1. This Understanding shall become effective upon receipt by the Federal Air Office of a confirmation that the Government of the United States agrees to its terms, and shall remain in force until the 31st of December, 1976.

2. This Understanding shall supersede the Exchange of Letters dated the 12th of June, 1974, and the 26th of July, 1974,*¹ as supplemented by the letter of the Swiss Federal Air Office of the 7th of March, 1975.

3. Consultations between the air transport authorities for any reason relating to this Understanding shall be held upon request by the air transport authorities of either country.

Your written confirmation that the above Understanding is acceptable to you will, upon its receipt by the Swiss Federal Air Office, place it into effect.

Yours sincerely,

Director of the Federal Air Office,

[Signed]

W. GULDIMANN

Annex:

Swiss Charter Categories

Mr. Harry I. Odell
Chargé d'Affaires a.i.
U.S. Embassy
Bern

A N N E X

Swiss Charter Categories

Advance Booking Charters

Round trip charter flights where the aircraft is hired on behalf of one or several groups, provided that:

* Should read: "12th of June, 1974, and the 25th of July, 1974".

¹ United Nations, *Treaty Series*, vol. 967, p. 227.

1. at least 60 days before the flight, a list of all the passengers in each group who have committed themselves to travel is submitted by the air carrier to the appropriate authorities;
2. such list is accompanied by a waiting-list, if any, in which the number of persons does not exceed 100% of the number of seats contracted for;
3. before the flight, a final list of passengers is submitted to the appropriate authorities showing transfers, if any, from the waiting-list to the main list, such transfers not to exceed 15% of the number of seats contracted for;
4. all the passengers are in possession of a valid and non-transferable ticket;
5. all the passengers of a group travel together, on both the outward and return portion of the journey which, save in exceptional circumstances, shall be operated by the same carrier;
6. the total duration of the journey from departure on the outward portion to arrival on the inward portion is not less than 14 days from 1 April to 31 October and not less than 10 days from 1 November to 31 March;
7. advertisements of such flights clearly identify them as charters of the advance booking type and indicate the main conditions under which they may be operated, including the name of the carrier.

Affinity Charters

Affinity charter flights originating in Switzerland must meet the following requirements:

1. the association has principal purposes, aims and objectives other than travel and sufficient prior affinity to distinguish it and set it apart from the general public;
2. the association has a permanent character and has been in existence for at least two years;
3. the total membership of the association does not exceed 50,000;
4. no part of the capacity of the aircraft is sold to persons outside the association (except other charterers);
5. the passengers of the flight have been members of the association for at least 6 months preceding the flight (or be in the family of such members);
6. the flights are advertised only to members of the association;
7. a group travels together both on the outward and return portions of the journey;
8. when several affinity groups travel on the same aircraft, each group conforms to the above criteria;
9. a passenger list is filed with the aeronautical authority at least 30 days before the departure of the flight and substitution of passengers is accepted only in cases of *force majeure*.

Inclusive Tour Charters (ITC)

Each flight has to fulfill the following conditions:

1. at least local transportation airport–hotel–airport as well as hotel accommodation or similar facilities are provided at the point of destination;
2. the passenger travels together with a group in the framework of an inclusive tour and has a firm booking for the return flight before starting the tour.

Special Event Charters

Round trip charter flights for the carriage of one or more groups of passengers all attending or participating in the same special event of a religious, sporting, cultural, social, professional or other nature, in cases where the date and place of the event were not known and could not have been known in sufficient time for the participants to have qualified for the chartering of an aircraft under advance booking charter conditions or for which the minimum stay requirements of advance booking charter services are inappropriate, provided that:

1. such flights are authorised on a *ad hoc* basis by way of exception from the advance booking charter concept and subject, as far as possible, to the rules of advance booking charter flights;

2. the entire planeload travel together on the outward and return portions of the journey;
3. the duration of stay shall, where appropriate, be limited to not more than the duration of the event, or that part of it which the charter passengers wish to attend, plus a 36-hour period beforehand and a 36-hour period after it;
4. special-event charters shall be operated only to the country where the special event takes place.

Student Charters

Charter flights for the carriage of students, sponsored by recognized institutions or students' associations and reserved for passengers each of whom shall be a student undergoing a full-time course of study at a recognized university or other establishment of higher education except that:

1. members of the teaching staff or other persons may be authorized to participate as leaders of student groups, provided that the number of such leaders is no larger than is necessary for each group;
2. wives and husbands of eligible persons, as well as dependent children, may also be authorized to participate;
3. past pupils or scholars may also be authorized to participate up to 31 December of the year in which they completed their courses;
4. part-time students or scholars and students or scholars taking evening classes or correspondence courses or following courses lasting a few months shall not be eligible;
5. the above shall not include persons who have been gainfully employed and who are attending refresher courses in pursuance of their career or as retraining for a new career.

Own Use Charters

Charter flights in which the entire capacity of the aircraft is chartered by a single person (individual, firm, corporation or institution):

1. for the carriage of his or its staff provided that no part of such capacity is resold; or
2. where the charterer is other than a travel organizer, for the carriage of persons associated with the charterer for purposes other than those specified in 1, provided he does not wholly or partly, directly or indirectly, pass on the charter price to the passengers carried under the charter agreement.

Split Charters

The same aircraft may be chartered to more than one charterer for the same or different types of charters (except "own use"), provided that each charterer contracts for at least 40 seats.

II

The American Chargé d'Affaires ad interim to the Swiss Director of the Federal Air Office

BERN, SWITZERLAND

November 24, 1975

Dear Dr. Guldemann:

I am replying to your letter of November 20, 1975, with regard to the operation of charter air services between our two countries. I am pleased to inform you that the

proposed arrangements are satisfactory to the United States authorities, and I agree that they should be placed into effect on today's date.

Sincerely yours,

[Signed]
HARRY I. ODELL
Chargé d'affaires a.i.

Dr. Werner Guldemann
Director
Federal Air Office
Bern
