

No. 15131

**SPAIN
and
MALTA**

**Air Transport Agreement (with annex). Signed at Madrid
on 3 July 1976**

Authentic texts: Spanish and English.

Registered by Spain on 26 November 1976.

**ESPAGNE
et
MALTE**

**Accord relatif aux transports aériens (avec annexe). Signé à
Madrid le 3 juillet 1976**

Textes authentiques : espagnol et anglais.

Enregistré par l'Espagne le 26 novembre 1976.

AIR TRANSPORT AGREEMENT¹ BETWEEN THE GOVERNMENT OF SPAIN AND THE GOVERNMENT OF THE REPUBLIC OF MALTA

The Government of Spain and the Government of the Republic of Malta,

Desiring to promote the development of Air Transport between Spain and the Republic of Malta and to continue to the fullest extent the international cooperation in this field, and

Desiring to apply to Air Transport the principles and provisions of the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1974,²

Have agreed as follows:

Article I. For the purpose of the interpretation and application of the present Agreement and its Annex, except as otherwise provided herein:

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 so far as those Annexes and amendments have become effective for or been ratified by both Contracting Parties;

b. the term "Aeronautical Authorities" means in the case of Malta the Minister responsible for Civil Aviation and in the case of Spain, the Minister of the Air (Subsecretaría de Aviación Civil) or in both cases any person or body authorized to perform any functions exercised by the said Authorities;

c. the term "Designated Air line" means the airline that each Contracting Party has designated to operate the agreed services on the specified routes listed in the Annex to this Agreement, in accordance with Article III of this Agreement;

d. the terms "Territory," "International Air Service" and "Stop for non-traffic purposes" have the meaning specified in Articles 2 and 96 of the Convention;

e. the term "Specified Routes" means the international air services which can be operated according to the provisions of the present Agreement.

Article II. 1. Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement, for the purpose of establishing scheduled international air services on the routes specified in the Annex hereto.

2. Such services and routes are hereafter called the "Agreed Services" and the "Specified Routes" respectively. The airline designated by each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following rights:

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;

¹ Applied provisionally from 3 July 1976, the date of signature, in accordance with article XVIII.

² Should read "seventh day of December, 1944"; 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. To make stops in the said territory at the points specified for the route in the Annex to the present Agreement for the purpose of putting down and taking on international traffic, passengers, cargo and mail.

3. Nothing in this Agreement shall be deemed to confer on the designated airline of one Contracting Party the privilege of taking up in the territory of the other Contracting Party passengers, cargo or mail, with or without remuneration or hire and destined for another point in the territory of the other Contracting Party.

Article III. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one airline for the purpose of operating the agreed services on the specified routes.

2. On receipt of such designation, the aeronautical authorities of the other Contracting Party shall, subject to the provisions of paragraphs (3) and (4) of this Article, without delay grant to the designated airline the appropriate operating authorizations.

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 to the operation of international air services by such authorities in conformity with the provisions of the Convention.

4. Each Contracting Party shall have the right to refuse to grant the operating authorizations referred to in paragraph (2) of this Article, or to impose such conditions as it may deem necessary on the exercise by a designated Airline of the rights specified in Article II in any case where the said Contracting Party is not satisfied that substantial ownership and effective control of that Airline are vested in the Contracting Party designating the Airline or in its nationals.

5. When an airline has been so designated and authorized, it may begin at any time to operate the agreed services, provided that a tariff established in accordance with the provisions of Article VI of the present Agreement is in force in respect of those services.

6. Each Contracting Party shall have the right, by written notification to the other Contracting Party, to withdraw the designation of any airline and to substitute therefor the designation of another airline.

Article IV. 1. Each Contracting Party shall have the right to withhold or to revoke an operating authorization or to suspend the exercise of the rights specified in Article II of the present Agreement by an airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of these rights:

- a. Where it is not satisfied that substantial ownership and effective control of the airline are vested in the Contracting Party designating the airline or in its nationals;
- b. Where that airline fails to comply with the laws and regulations of the Contracting Party granting these rights; or
- c. Where that airline otherwise fails to operate in accordance with the conditions prescribed under the present Agreement.

2. Unless immediate withholding, revocation, suspension or imposition of the conditions mentioned in paragraph (1) of this Article is essential to prevent further infringements of laws or regulations, such rights shall be exercised only after consultation with the other Contracting Party.

Article V. 1. Aircraft operated on international air services by the designated airline of either Contracting Party, as well as their regular equipment, supplies or fuels and lubricants, and aircraft stores (including food, beverages and tobacco) on board such aircraft shall be exempted 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. 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 a Contracting Party, within limits fixed by the authorities of said Contracting Party, and for use on board aircraft engaged in an international air service of the other Contracting Party;
- b. Spare parts entered into the territory of either Contracting Party for the maintenance or repair of aircraft used on international air services by the designated airline of the other Contracting Party;
- c. Fuel and lubricants destined to supply aircraft operated on international air services by the designated airlines 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 the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.

4. Passengers in transit across the territory of either Contracting Party 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 taxes.

Article VI. In the following paragraphs, the term “tariff” means the prices to be paid for the carriage of passengers, baggage and freight and the conditions under which those prices apply, including prices and conditions for agency and other auxiliary services, but excluding remuneration or conditions for the carriage of mail.

2. The tariffs to be charged by the airlines of one Party for carriage to or from the territory of the other Party shall be established at reasonable levels, due regard being paid to all relevant factors, including cost of operation, reasonable profit, and the tariffs of other airlines.

3. The tariffs referred to in paragraph 2 of this Article shall, if possible, be agreed by the airlines concerned of both Parties, after consultation with the other airlines operating over the whole or part of the route, and such agreement shall, wherever possible, be reached by the use of the procedures of the International Air Transport Association for the working out of tariffs.

4. The tariffs so agreed shall be submitted for the approval of the aeronautical authorities of both Parties at least ninety (90) days before the proposed date of their introduction. In special cases, this period may be reduced, subject to the agreement of the said authorities.

5. This approval may be given expressly. If neither of the aeronautical authorities has expressed disapproval within thirty days from the date of submission, in accordance with paragraph 4 of this Article, these tariffs shall be considered as approved. In the event of the period for submission being reduced, as provided in paragraph 4, the aeronautical authorities may agree that the period within which any disapproval must be notified shall be less than thirty (30) days.

6. If a tariff cannot be agreed in accordance with paragraph 3 of this Article, or if during the period applicable in accordance with paragraph 5 of this Article, one aeronautical authority gives the other aeronautical authority notice of its disapproval of any tariff agreed in accordance with the provisions of paragraph 3, the aeronautical authorities of the two Parties shall, after consultation with the aeronautical authorities of any other State whose advice they consider useful, endeavour to determine the tariff by mutual agreement.

7. If the aeronautical authorities cannot agree on any tariff submitted to them under paragraph 4 of this Article, or on the determination of any tariff under paragraph 6 of this Article, the dispute shall be settled in accordance with the provisions of Article XVI of the present Agreement.

8. A tariff established in accordance with the provisions of this Article shall remain in force until a new tariff has been established. Nevertheless, a tariff shall not be prolonged by virtue of this paragraph for more than twelve months after the date on which it otherwise would have expired.

Article VII. 1. The laws and regulations of each Contracting Party, relating to the admission to or departure from its own territory of aircraft engaged in international air navigation, or relating to the operation of such aircraft while within its territory, will be enforced to the aircraft of the airline designated by the other Contracting Party.

2. The laws and regulations controlling the entry, stay and departure of passengers, crew, baggage, mails and cargo, over the territory of each Contracting Party, and also the regulations relating to the entry and departure from the country, such as immigration, customs and sanitary rules will be enforced in such territory to the operations of the airline designated by the other Contracting Party.

3. For military reasons or public security, each Contracting Party shall have the right to restrain or forbid the flights of the aircraft belonging to the airline designated by the other Contracting Party above certain zones of its territory provided that such restrictions or prohibitions are applied equally to the aircraft of the airline designated by the first Contracting Party or the airlines of other States which operate on international scheduled air services.

Article VIII. 1. Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Contracting Party and still in force shall be recognised as valid by the other Contracting Party for the purpose of operating the routes and services provided for in the Annex to the present Agreement, provided that the requirements under which such certificates or licences were issued or rendered valid are equal to or above the minimum standards which may be established pursuant to the Convention.

2. Each Contracting Party reserves the right, however, of refusing to recognise the validity of the certificates of competency and the licences granted to its own nationals by the other Contracting Party, for the purpose of overflying its own territory.

Article IX. Each Contracting Party shall grant to the other Contracting Party the free right to transfer, at the official rate of exchange, the excess of receipts over expenditure, achieved in its territory in connection with the carriage of passengers, baggage, mail and freight by the designated airline of the other Contracting Party. Where a special payment agreement exists between the Contracting Parties, payments shall be effected in accordance with the provisions of that agreement.

Article X. 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 airline of each Contracting Party shall take into account the interests of the airline of the other Contracting Party so as not to affect unduly the services which the latter provides 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 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 XI. 1. The designated airline of each Contracting Party shall communicate for approval to the aeronautical authorities of the other Contracting Party not later than thirty (30) days prior to the inauguration of services on the routes specified in accordance with Article II of the present Agreement the types of aircraft to be used and the flight schedules. This shall likewise apply to later changes.

2. The aeronautical authorities of either Contracting Party shall supply to the aeronautical authorities of the other Contracting Party at their request such statistical information as may be reasonably required for the purpose of reviewing the capacity provided on the agreed services by the designated airline of the first Contracting Party. Such statements shall include all information required to determine the amount of traffic carried by that airline on the agreed services and the origins and destinations of such traffic.

Article XII. In a spirit of close cooperation, the aeronautical authorities of the Contracting Parties shall consult each other from time to time with a view to ensuring the implementation of, and satisfactory compliance with, the provisions of the present Agreement and the Annex thereto.

Article XIII. 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 Contracting 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 when they have been confirmed by an exchange of diplomatic notes.

2. Modifications of the Annex to this Agreement may be made by direct agreement between the competent aeronautical authorities of the Contracting Parties and confirmed by exchange of diplomatic notes.

Article XIV. The present Agreement and its Annex will be amended so [as] to conform with any multilateral convention which may become binding on both Contracting Parties.

Article XV. 1. Either Contracting Party may at any time give notice to the other Contracting Party of its decision to terminate the present Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organisation. In such case the Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice of termination 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 (14) days after the receipt of the notice by the International Civil Aviation Organisation.

Article XVI. If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement, the Contracting Parties shall in the first place endeavour to settle it by negotiation.

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 (60) days from the date of receipt by either Contracting Party from the other of a notice of the dispute and the third arbitrator shall be appointed within a further period of sixty (60) 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 Organisation may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. In such case, the third arbitrator shall be a national of a third state and shall act as the President of the arbitration body.

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

Article XVII. The present Agreement and all amendments thereto shall be registered with the International Civil Aviation Organisation.

Article XVIII. The present Agreement shall be applied provisionally from the date of signature and shall come into force on the date on which both Governments give written notification to each other that their respective constitutional requirements for entry into force have been fulfilled.

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

DONE at Madrid this third day of July, 1976, in duplicate, in the Spanish and English languages, both texts being equally authentic.

For the Government
of Spain:

[Signed]

MARCELINO OREJA AGUIRRE
Undersecretary of Foreign Affairs

For the Government
of the Republic of Malta:

[Signed]

JOSEPH ATTARD KINGSWELL
Ambassador

A N N E X

TO THE AIR TRANSPORT AGREEMENT BETWEEN THE GOVERNMENT OF SPAIN AND THE GOVERNMENT OF THE REPUBLIC OF MALTA, FOR SCHEDULED AIR TRANSPORT BETWEEN THEIR RESPECTIVE TERRITORIES

1. The specified routes referred to in the Agreement shall be as follows:

A) *Spanish route*

Spain-Malta and vice versa

B) *Maltese route*

Malta-Spain and vice versa.

2. The airline designated by a Contracting Party may only stop on the same service in one single point located in the territory of the other Contracting Party.
