

No. 16664

**UNITED STATES OF AMERICA
and
SWITZERLAND**

**Exchange of letters constituting an agreement relating to air
charter services (with annex). Bern, 14 and 27 July 1977**

Authentic text: English.

Registered by the United States of America on 27 April 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
SUISSE**

**Échange de lettres constituant un accord relatif aux services
aériens affrétés (avec annexe). Berne, 14 et 27 juillet
1977.**

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 27 avril 1978.

EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND SWITZERLAND RELATING TO AIR CHARTER SERVICES

I

The Swiss Director, Federal Air Office, to the American Ambassador

EIDGENÖSSISCHES LUFTAMT
OFFICE FÉDÉRAL DE L'AIR
UFFICIO AERONAUTICO FEDERALE²

July 14, 1977

Unser Zeichen
Notre référence
Nostra referenza
14/N-Sz

Gegenstand/Objet/Oggetto: Exchange of Letters

Dear Mr. Ambassador,

Based on discussions between the Federal Air Office and the competent U.S. authorities regarding the rules to be applied to passenger air charter traffic between Switzerland and the United States, the following Understanding has been reached:

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 authority, 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 authority, who may deny or revoke with immediate effect acceptance of those changes.

The airlines of both countries shall submit price information on charter contracts between the airline and the charterer as either air transport authority 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 27 July 1977, the 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 either air transport authority contemplates a unilateral departure from these practices, it will give prior notice to the other authority 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 March, 1978. The Understanding shall continue in effect for one year periods thereafter unless by 90 days prior to an expiration date either party has given written notice to the other party of its desire to allow the Understanding to expire.

2. Consultation relating to this Understanding shall be held upon request by the air transport authority of either country within sixty days.

3. This Understanding shall supersede the Exchange of Letters dated November 20, 1975, and November 24, 1975,¹ on air charter services.

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.

Annex:

Swiss charter categories

For the Director of the Federal Air Office:

[Signed]

KÜNZL

Ambassador Nathaniel Davis
U.S. Embassy
Bern

ANNEX

SWISS CHARTER CATEGORIES

Advance Booking Charters

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

1. At least 45 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 or charterer to the appropriate authorities; such list contains, apart from the name, the passport number and/or the date of birth of each passenger;

¹ United Nations, *Treaty Series*, vol. 1028, p. 69.

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 7 days.
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 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 at the flight destination (airport–hotel–airport) as well as accommodation in recognized hotels or similar facilities are provided by the charterer for the total duration of the tour;
2. The passenger travels together with the same group both on the outward and return portion of the journey 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 an *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 by 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 per type of charter.

II

EMBASSY OF THE UNITED STATES OF AMERICA
BERN, SWITZERLAND

July 27, 1977

Dear Dr. Guldemann,

I am replying to your letter of July 14, 1977, 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]

NATHANIEL DAVIS
Ambassador

Dr. Werner Guldemann
Director, Federal Air Office
Bern
