

No. 16340

**FRANCE
and
KUWAIT**

**Agreement concerning air services (with annex). Signed at
Kuwait on 5 January 1975**

Authentic texts: French and Arabic.

Registered by France on 31 January 1978.

**FRANCE
et
KOWEÏT**

**Accord relatif aux services aériens (avec annexe). Signé à
Koweït le 5 janvier 1975**

Textes authentiques : français et arabe.

Enregistré par la France le 31 janvier 1978.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE FRENCH REPUBLIC AND THE STATE OF KUWAIT CONCERNING AIR SERVICES

The Government of the French Republic and the Government of the State of Kuwait,

Desiring to promote the development of air transport between the French Republic and the State of Kuwait and to pursue international co-operation in this field as extensively as possible,

Desiring to apply to such transport the principles and provisions of the Convention on International Civil Aviation signed at Chicago on 7 December 1944,²

Have agreed as follows:

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

1. The term “aeronautical authorities” means:

- in the case of the French Republic, the Secretariat-General for Civil Aviation;
- in the case of the State of Kuwait: the Directorate-General for Civil Aviation.

2. The term “designated airline” means any airline which one Contracting Party has designated in accordance with article 3 of this Agreement to operate the agreed air services.

3. The terms “air services”, “international air service”, “airline” and “stop for non-traffic purposes” shall have the meanings assigned to them in article 96 of the Convention on International Civil Aviation signed at Chicago.

4. The term “the Agreement” refers always to the annex as well as to the agreement itself, except where there is an express provision to the contrary.

Article 2. 1. Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement with a view to establishing air services on the routes specified in the schedules contained in the annex to this Agreement. These services and routes shall hereinafter be referred to as “the agreed services” and the “specified routes”.

2. Subject to the provisions of this Agreement, the airline designated by each Contracting Party shall enjoy, while operating an agreed service on an agreed route, the following rights:

- (a) the right to fly without landing over the territory of the other Contracting Party;
- (b) the right to make stops in that territory for non-traffic purposes;
- (c) the right to take on and put down in that territory international traffic in passengers, mail and cargo at the points on the routes specified in the annex.

¹ Applied provisionally from 5 January 1975, the date of signature, and came into force definitively on 12 January 1976, the date of the exchange of diplomatic notes by which the Parties notified each other of the completion of their respective constitutional formalities, in accordance with article 18.

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; vol. 958, p. 217, and vol. 1008, p. 213.

Article 3. 1. Each Contracting Party shall have the right to designate one or more airlines for the purpose of operating the agreed services. This designation shall be the subject of 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 or airlines designated by the other Contracting Party the necessary operating authorization.

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 fulfil the conditions prescribed under the laws and regulations regularly applied to the operation of international air services, in conformity with the provisions of the Convention and of this Agreement, in particular the paragraphs 4 and 5 below.

4. Each Contracting Party shall have the right to refuse to accept the designation of an airline and to suspend or revoke the granting to an airline of the rights specified in article 2, paragraph 2, of this Agreement or to make the exercise of those rights by the designated airline subject to such conditions as it may deem necessary, where the said Contracting Party is not satisfied that substantial ownership and effective control of the airline are vested in the Contracting Party designating the airline or its nationals.

5. Where 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 9 of this Agreement is in force in respect of those services.

Article 4. Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Contracting Party and still valid shall be recognized as valid by the other Contracting Party for the purpose of operating the air services specified in the annex hereto.

Each Contracting Party reserves the right, however, to refuse to recognize as valid for flight above its own territory certificates of competency and licences granted to its own nationals by another State.

Article 5. (a) The laws and regulations of each Contracting Party relating to the admission to and departure from its territory of aircraft engaged in international air navigation or to the operation and navigation of such aircraft while within its territory shall apply to aircraft of the airline or airlines of the other Contracting Party.

(b) Passengers, crews and shippers of goods shall be required to comply, either personally or through a third party acting in their name and on their behalf, with the laws and regulations in force in the territory of each Contracting Party governing the entry, stay and departure of passengers, crews and cargo, such as those related to entry, clearance, immigration, customs and quarantine.

Article 6. 1. Each Contracting Party shall have the right to suspend the exercise by a designated airline of the rights specified in article 2, paragraph 2, of this Agreement or to impose such conditions as it may deem necessary on the exercise of those rights by the said airline in any case where the airline fails to comply with the laws or regulations mentioned in articles 4 and 5 or where it in any other way fails to observe the operating conditions prescribed in this Agreement.

2. Unless immediate suspension or imposition of conditions is essential to prevent further infringements of laws and regulations or is necessitated by security considerations, this right of suspension shall be exercised only after consultation with the other Contracting Party.

3. Any action taken under this article by one Contracting Party shall not affect the rights of the other Contracting Party.

Article 7. 1. The designated airlines of the Contracting Parties shall be accorded fair and equitable treatment in the matter of the operation of the agreed services on the specified routes between the territories of the Contracting Parties.

2. On common routes, the designated airlines shall take into account their mutual interests so as not to affect unduly their respective services.

3. The agreed services operated by a designated airline shall have as their primary objective the provision at a reasonable load factor of capacity adequate to current and reasonably anticipated requirements for the carriage of passengers, cargo and mail between the territory of the Contracting Party which has designated the airline and the points on the specified routes.

4. The right to take on and put down passengers, cargo and mail at the points indicated on the specified routes in the territories of States other than those designating the airlines shall be exercised in accordance with the general principles that capacity shall be related to:

- (a) the traffic requirements between the territory of the Contracting Party which has designated the airline and the points located on the specified routes;
- (b) the traffic requirements of the territories traversed, after taking account of the services provided by the airlines of the States to which such territories belong, and
- (c) the requirements of through airline operation.

Article 8. 1. Aircraft operated on international services by the designated airlines of either Contracting Party, as well as their regular equipment, supplies of fuels and lubricants and aircraft stores (including food, beverages and tobacco) on board such aircraft shall, upon entry into the territory of the other Contracting Party, be exempt from all customs duties, inspection fees and other similar taxes, duties and charges, provided such equipment and supplies remain on board the aircraft until re-exported.

2. The following shall also be exempt from the same duties and charges, excluding fees and charges levied as consideration for services rendered:

- (a) aircraft stores irrespective of origin, obtained in the territory of either Contracting Party, within the limits fixed by the authorities of the said Contracting Party, and placed on board the aircraft of the other Contracting Party engaged in international service;
- (b) spare parts imported into the territory of either Contracting Party for the maintenance or repair of aircraft used in international navigation by the designated airlines of the other Contracting Party;
- (c) fuels and lubricants intended for aircraft employed in international traffic by the designated airlines of the other Contracting Party, even though such supplies be

consumed during that part of the flight which takes place over the territory of the Contracting Party in which they were taken on board.

3. Regular aircraft equipment, materials and stores retained on board the aircraft of either Contracting Party may not be unloaded in the territory of the other Contracting Party save with the consent of the customs authorities of that territory. When so unloaded, they may be placed under the supervision of the said authorities until they are re-exported or have been declared to customs.

Article 9. 1. The tariffs on any agreed service shall be established at reasonable levels, taking into consideration all relevant factors including cost of operation, reasonable profit, characteristics of service and the tariffs of other airlines on the specified routes or sectors thereof.

2. The tariffs referred to in paragraph 1 of this article shall, if possible, be agreed by the designated airlines of the two Contracting Parties, in consultation with other airlines serving all or part of the same routes. Agreement on the tariffs shall, wherever possible, be reached by the designated airlines through the rate-fixing machinery of the International Air Transport Association or that of any other similar international organization of which the airlines of the two Contracting Parties are members.

3. The tariffs so agreed shall be subject to approval by the aeronautical authorities of the Contracting Parties and must be submitted to them at least 30 days before the date proposed for their entry into force. In special cases, this period may be reduced, subject to the consent of the said authorities.

4. If the designated airlines are unable to reach an agreement, or if the tariffs are not approved by the aeronautical authorities of either Contracting Party, the aeronautical authorities of the two Contracting Parties shall endeavour to fix the tariffs by mutual agreement.

5. If agreement is not reached, the dispute shall be submitted to arbitration, in accordance with article 14 of this Agreement.

6. The tariffs already established shall remain in force until new tariffs have been fixed in accordance with the provisions of this article or article 13 of this Agreement.

Article 10. Each Contracting Party grants as of this time to the designated airline of the other Contracting Party the right of free transfer at the official rate of exchange of the excess of receipts over expenditures earned in its territory in due proportion to the carriage of passengers, cargo and mail effected by the designated airline of the other Contracting Party.

Article 11. 1. The designated airlines shall communicate to the aeronautical authorities of both Contracting Parties before the inauguration of the agreed services the type of service, the types of aircraft to be used and the proposed flight schedules. The same rule shall apply in respect of any subsequent changes.

2. The aeronautical authorities of either Contracting Party shall furnish to the aeronautical authorities of the other Contracting Party upon request such periodic or other statistical data as may be reasonably required for the purpose of reviewing the capacity offered on the agreed services and other similar information relating to traffic on the agreed services.

Article 12. In a spirit of close co-operation, the aeronautical authorities of the Contracting Parties shall consult together from time to time with a view to ensuring that the principles set forth in this Agreement are implemented and its objectives achieved in a satisfactory manner.

Article 13. 1. If either of the Contracting Parties considers it desirable to amend any provision of this Agreement, it may request consultation with the other Contracting Party; such consultation shall begin within a period of 60 days from the date of such request. Any amendment agreed upon as a result of such consultation shall come into effect when the two Contracting Parties have notified each other of the completion of their respective constitutional formalities.

2. Amendments to the annex of this Agreement may be agreed upon directly between the aeronautical authorities of the Contracting Parties and shall come into effect when they have been confirmed by an exchange of diplomatic notes.

Article 14. 1. 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 agreement in the course of such negotiations, the dispute shall be submitted for decision to an arbitral tribunal.

3. Such arbitral tribunal shall consist of three members. Each of the two Governments shall appoint its arbitrator; the two arbitrators shall agree upon the appointment of a national of a third State as Chairman.

If the two arbitrators have not been appointed within two months after the date on which one of the two Governments proposed the arbitral settlement of the dispute, or if the arbitrators have not agreed upon the appointment of a Chairman within a further period of one month, each Contracting Party may request the President of the International Civil Aviation Organization to make the necessary appointments.

4. If the arbitral tribunal cannot arrive at an amicable settlement of the dispute, it shall take a decision by majority vote. Unless the Contracting Parties agree otherwise, it shall establish its own rules of procedure and determine its place of meeting.

5. The Contracting Parties undertake to comply with any provisional measures ordered in the course of the proceedings and with the arbitral award, which shall in all cases be considered final.

6. If and so long as either Contracting Party fails to comply with the arbitral awards, the other Contracting Party may limit, suspend or revoke any rights or privileges which it has granted by virtue of this Agreement to the Contracting Party in default.

7. Each Contracting Party shall pay the remuneration for the services of its own arbitrator and half the remuneration of the Chairman appointed.

Article 15. This Agreement and any subsequent modifications shall be registered with the International Civil Aviation Organization.

Article 16. This Agreement and its annex shall be amended so as to conform with any multilateral convention which may become binding upon the two Contracting Parties.

Article 17. Either of the Contracting Parties may at any time notify the other Contracting Party of its wish to denounce this Agreement. The notice shall be sent simultaneously to the International Civil Aviation Organization. In such a case, the Agreement shall terminate 12 months after the date of receipt by the other Contracting Party of the notice of denunciation, unless the denunciation is withdrawn by mutual agreement before the expiration of that period. If the other Contracting Party fails to acknowledge receipt, notice of denunciation shall be deemed to have reached it 14 days after the date of the receipt of the notice by the International Civil Aviation Organization.

Article 18. This Agreement shall enter definitively into force on the date on which the Contracting Parties notify each other, by an exchange of diplomatic notes, of the completion of their respective constitutional procedures.

DONE at Kuwait, on 5 January 1975, in duplicate in the French and Arabic languages, both texts being equally authentic.

For the Government of the French Republic:

[Signed]

PAUL CARTON

For the Government of the State of Kuwait:

[Signed]

JABER AL AZBI AL SABAH

ANNEX

1. Route schedule:

A. Route to be served by the designated airline(s) of the French Republic:

France, one point in Europe, one point in the Middle East,* Kuwait, one point in Pakistan, one point in India, Ceylon and beyond via intermediate points to Japan, on the one hand, and to the French Territories in the Pacific, on the other hand, and vice versa.

B. Route to be served by the designated airlines of the State of Kuwait:

Kuwait, one point in the Middle East,** two points in Europe, Paris, and beyond via an intermediate point in Europe to London and vice versa.

2. Any point on the above routes may, at the option of a designated airline, be omitted on any or all flights.

3. With regard to frequency of services, it is agreed that:

* The designated airline(s) of the French Republic shall exercise no traffic right between any point in the Middle East and Kuwait and vice versa.

** The designated airline(s) of the State of Kuwait shall exercise no traffic right between Beirut and Paris and vice versa.

- (a) the designated French airline shall operate a weekly service in both directions on the route defined in paragraph 1, A, and the designated Kuwaiti airline shall operate two weekly services in both directions on the route defined in paragraph 1, B. The designated Kuwaiti airline shall operate its second weekly service as from April 1970 or before that date in the event that the designated French airline has begun to operate;
 - (b) any change in the provisions of paragraph 3, *a*, above shall be the subject of an agreement between the designated airlines of the two Contracting Parties, account being taken of the normal and foreseeable requirements for the transport of passengers, cargo and mail on the specified routes and must be approved by the aeronautical authorities of the Contracting Parties.
4. The designated airlines of the State of Kuwait shall be authorized to serve Paris-Orly.
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