

No. 19762

**SPAIN
and
SENEGAL**

**Air Transport Agreement (with annex). Signed at Dakar
on 26 June 1968**

Authentic texts: Spanish and French.

Registered by Spain on 29 April 1981.

**ESPAGNE
et
SÉNÉGAL**

**Accord relatif au transport aérien (avec annexe). Signé à
Dakar le 26 juin 1968**

Textes authentiques : espagnol et français.

Enregistré par l'Espagne le 29 avril 1981.

[TRANSLATION — TRADUCTION]

AIR TRANSPORT AGREEMENT¹ BETWEEN SPAIN AND THE REPUBLIC OF SENEGAL

The Government of Spain and the Government of the Republic of Senegal,
Desiring to promote the development of air transport between Spain and the Republic of Senegal and to further as much as possible international co-operation in this field,

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. (a) Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the purpose of establishing scheduled international air services on the routes specified in the annex to this Agreement.

These services and routes shall be referred to as “agreed services” and “specified routes” respectively.

(b) For the purposes of this Agreement and its annex:

(1) The word “territory” shall be understood as it is defined in article 2 of the Convention on International Civil Aviation.

(2) The expression “aeronautical authorities” means:

—In the case of the Spanish State, the Air Ministry, or any person or organization duly authorized to assume the responsibilities exercised by the said Ministry;

—In the case of the Republic of Senegal, the Ministry responsible for air transport, or any person or organization duly authorized to assume the responsibilities exercised by the said Ministry.

(3) The expression “designated airline” means the airline which the aeronautical authorities of one Contracting Party have designated by name as being the instrument chosen by them to operate the traffic rights provided in this Agreement and which has been approved by the other Contracting Party in accordance with the provisions of articles 3 and 4 below.

Article 2. The airlines designated by each Contracting Party shall, while operating an agreed service on a specified route, enjoy 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 the said territory for non-traffic purposes;

¹ Applied provisionally from 26 June 1968, the date of signature, and came into force definitively on 25 April 1972, the date of the last of the notifications (effected on 20 March 1969 and 25 April 1972) by which the Parties informed each other of the completion of the required constitutional procedures, 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; vol. 1008, p. 213, and vol. 1175, p. 297.

- (c) The right to make stops in the territory of the other Contracting Party at the points specified in the schedule of routes contained in the annex to this Agreement for the purpose of taking on and putting down international traffic in passengers, mail and cargo excluding cabotage traffic in the said territory;
- (d) The two Contracting Parties mutually agree as far as possible to reserve third and fourth freedom traffic between their respective territories for the airlines designated by each Contracting Party.

Article 3. (1) Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines for the purpose of operating the agreed services on the specified routes.

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

(3) Each Contracting Party shall have the right to withdraw its designation of an airline and to substitute another airline by written notice to the other Contracting Party at least thirty (30) days prior to entry into service.

(4) The aeronautical authorities of one Contracting Party may require any airline designated by the other Contracting Party to satisfy them, in accordance with the provisions of the Convention on International Civil Aviation (Chicago, 1944), that it is able to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied by the said authorities to the operation of international air services.

Article 4. (1) Each Contracting Party shall have the right to refuse to grant the operating authorizations referred to in article 3, paragraph 2, if it is not satisfied that substantial ownership and effective control of the airline are vested in the Contracting Party designating the airline or in nationals of that Party.

(2) Each Contracting Party shall have the right to revoke the operating authorization granted to an airline designated by the other Contracting Party or to suspend the exercise by such airline of the rights specified in articles 2, 8 and 9 of this Agreement if:

- (a) It is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of that Party; or
- (b) The airline fails to comply with the laws and regulations of the Contracting Party granting the rights; or
- (c) The airline fails to operate the agreed services in accordance with the conditions prescribed in this Agreement.

Unless revocation or suspension is necessary to prevent further infringements of the laws or regulations, such right shall be exercised only after consultation with the other Contracting Party, as provided in articles 13 and 14. Should such consultation be of no avail, recourse shall be had to arbitration, in accordance with article 15.

Article 5. (1) Aircraft operated on international air services by the designated airlines of either Contracting Party, together with their regular equipment, supplies of fuel and lubricants, and aircraft stores (including food, beverages and tobacco) on board such aircraft, shall be exempt from all customs duties,

inspection fees and other duties and charges on arriving in the territory of the other Contracting Party, provided such equipment and supplies remain on board the aircraft until re-exported.

(2) The following shall likewise be exempt from the same duties, fees and charges, with the exception of charges for services performed:

- (a) Aircraft stores taken on board in the territory of a Contracting Party within limits fixed by the authorities of the said Contracting Party and intended for use on board aircraft operating on international air service of the other Contracting Party;
- (b) Spare parts introduced into the territory of a Contracting Party for the maintenance or repair of aircraft used on international services by the designated airlines of the other Contracting Party;
- (c) Fuels and lubricants intended for aircraft operated on international services by the designated airlines of the other Contracting Party, even if such 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.

The articles referred to in subparagraphs (a), (b), and (c) may be required to be kept under customs supervision or control.

(3) Regular aircraft equipment and other articles and supplies retained on board the aircraft of a 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 such time as they are re-exported or are disposed of in a manner duly authorized by the customs services or are declared to customs.

(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 charges.

Article 6. Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Contracting Party which have not expired shall be recognized as valid by the other Contracting Party for the purpose of operating on the routes specified in the annex to this Agreement. Each Contracting Party reserves the right, however, of refusing to recognize as valid for flights over its own territory certificates of competency and licences issued to its own nationals by the other Contracting Party.

Article 7. (1) The laws and regulations of one Contracting Party relating to the admission to or 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 be applied to the aircraft of the airlines of the other Contracting Party.

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

Article 8. (1) The operation of the agreed services between Spanish territory and Senegalese territory and vice versa, on the routes specified in the

schedule annexed to this Agreement, constitutes a basic and primary right of the two countries.

(2) The two Contracting Parties agree to apply the principle of equality and reciprocity in all matters relating to the exercise of rights resulting from this Agreement.

The airlines designated by the two Contracting Parties shall be assured fair and equitable treatment, shall enjoy equal opportunities and rights and shall respect the principle of equal division of the capacity to be provided in operating the agreed services.

(3) Where the airlines operate on the same routes, they shall take one another's interests into account so as not to affect unduly their respective services.

Article 9. (1) On any of the routes specified in the annex to this Agreement, the agreed services shall have as their primary objective the provision, at a load factor regarded as reasonable, of capacity adequate to satisfy the normal and reasonably foreseeable requirements of international air traffic originating in or destined for the territory of the Contracting Party which has designated the airline operating the said services.

(2) The airline or airlines designated by either Contracting Party may, within the limits of the overall capacity stipulated in the first paragraph of this article, satisfy traffic requirements between the territory of third States lying on the agreed routes and the territory of the other Contracting Party, account being taken of local and regional services.

Article 10. The aeronautical authorities of each Contracting Party shall, on request, supply to the aeronautical authorities of the other Contracting Party such periodic or other statements of statistics relating to the designated airlines as may reasonably be requested for the purpose of reviewing the capacity provided on the agreed services by the designated airlines of the first Contracting Party. Whenever possible, such statements shall include all information required to determine the amount of traffic carried by those airlines on the routes specified and the origins and destinations of such traffic.

Article 11. (1) The tariffs to be charged by the airlines of one Contracting Party for carriage to or from the territory of the other Contracting Party shall be established at reasonable levels, due regard being paid to all relevant factors, including cost of operation, reasonable profit and the rates charged by other airlines.

(2) The tariffs referred to in paragraph (1) of this article shall, if possible, be fixed by agreement between the designated airlines of both Contracting Parties, after consultation with other airlines operating over all or part of the route, and such agreement shall, where possible, be reached through the rate-fixing machinery of the International Air Transport Association.

(3) The tariffs so agreed shall be submitted for the approval of the aeronautical authorities of the Contracting Parties at least 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 cannot agree on any of these tariffs, or if for some other reason a tariff cannot be fixed in accordance with the provisions of paragraph (2) of this article, or if, during the first 15 days of the 30 days' period

referred to in paragraph (3) of this article, one Contracting Party gives the other Contracting Party notice of its dissatisfaction with any tariff agreed in accordance with the provisions of paragraph (2) of this article, the aeronautical authorities of the Contracting Parties shall try to determine the tariff by agreement between themselves.

(5) If the aeronautical authorities cannot agree on the approval of any tariff submitted to them under paragraph (3) of this article or on the determination of any tariff under paragraph (4), the dispute shall be settled in accordance with the provisions of article 15 of this Agreement.

(6) Subject to the provisions of paragraph (3) of this article, no tariff shall come into effect if the aeronautical authorities of either Contracting Party have not approved it.

(7) The tariffs established in accordance with the provisions of this article shall remain in effect until new tariffs have been established in accordance with the provisions of this article.

Article 12. Each Contracting Party undertakes to enable the other Contracting Party to transfer freely, at the official rate of exchange, any receipt in excess of expenditure occurring in its territory from the carriage of passengers, baggage, mail and cargo by a designated airline of the other Contracting Party. Where governed by a special agreement, the transfers between the Contracting Parties shall be carried out in accordance with that agreement.

Article 13. Whenever necessary, the aeronautical authorities of the Contracting Parties shall consult each other with a view to ensuring, in a spirit of close co-operation, the satisfactory implementation of the provisions of this Agreement and its annex.

Article 14. (1) Either Contracting Party may at any time request a meeting for consultation between the competent authorities of the two Contracting Parties concerning the interpretation, application or modification of this Agreement.

The consultation shall begin within sixty (60) days from the date of receipt of the request therefor.

Such modifications to this Agreement as are decided upon shall come into effect after they have been confirmed by an exchange of notes through the diplomatic channel.

(2) Modifications to the annex may be made by direct agreement between the competent aeronautical authorities of the Contracting Parties. Their agreement shall be confirmed by an exchange of diplomatic notes.

Article 15. (1) Any dispute relating to the interpretation or application of this Agreement which cannot be settled between the aeronautical authorities or between the Governments of the Contracting Parties in accordance with the provisions of articles 13 and 14 shall, at the request of either Contracting Party, be referred to an arbitral tribunal.

(2) Such arbitral tribunal shall consist of three members. Each of the two Governments shall nominate an arbitrator. These two arbitrators shall then agree on the appointment of a national of a third State as president.

If the two arbitrators have not been nominated within two months from the date on which one of the two Governments proposed that the dispute should be

settled by arbitration, or if the arbitrators fail to agree on the appointment of a president within a further period of one month, either Contracting Party may request the President of the Council of the International Civil Aviation Organization to appoint an arbitrator or arbitrators as the case requires.

(3) 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, the tribunal shall establish its own rules of procedure and determine its place of meeting.

(4) The Contracting Parties undertake to comply with the arbitral award, which shall in every case be considered final.

(5) If and so long as either Contracting Party fails to comply with the arbitral award, 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.

(6) Each Contracting Party shall bear the cost of remuneration for its own arbitrator and half the cost of remunerating the president appointed.

Article 16. Either Contracting Party may at any time give notice to the other Contracting Party of its wish to terminate the present Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organization. The Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice 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 Organization.

Article 17. In the event of the conclusion of any multilateral agreement concerning air transport by which both Contracting Parties become bound, the present Agreement shall be amended so as to conform with the provisions of the multilateral agreement.

Article 18. Each Contracting Party shall notify the other of the completion of the constitutional procedures for the entry into force of this Agreement and its annex, which shall take effect on the date of the latter notice. Nevertheless, the Contracting Parties agree to implement the provisions of this Agreement and its annex from the date of signature.

Article 19. This Agreement and its annexes shall be communicated to the International Civil Aviation Organization for registration.

DONE at Dakar, on 26 June 1968, in duplicate, in the Spanish and French languages, both texts being authentic.

For the Government
of Spain:

[Signed]

L. MARTÍNEZ DE CAMPOS

For the Government
of the Republic of Senegal:

[Signed]

MADY CISSOKHO

ANNEX

ROUTE SCHEDULE

I. *Spanish route*

Las Palmas—Dakar and vice versa.

II. *Senegalese route*

Dakar—Las Palmas and vice versa.

III. NOTE: On the routes mentioned above, the airline or airlines designated by each Contracting Party may at their discretion serve one or more points in third countries, provided that no traffic rights between this or these points and the territory of the other Contracting Party are exercised.
