No. 19942

SWITZERLAND
and
INDONESIA

Agreement relating to regular air transport (with annex). Signed at Jakarta on 14 June 1978

Modification of the annex to the above-mentioned Agreement

Authentic texts of the Agreement: French, Indonesian and English.

Authentic texts of the Modification: English and French.

The Agreement and the certified statement were registered by the International Civil Aviation Organization on 19 June 1981.

SUISSE
et
INDONÉSIE

Accord relatif au trafic aérien de lignes (avec annexe). Signé à Jakarta le 14 juin 1978

Modification de l'annexe à l'Accord susmentionné

Textes authentiques de l'Accord : français, indonésien et anglais.

Textes authentiques de la Modification : anglais et français.

L'Accord et la déclaration certifiée ont été enregistrés par l'Organisation de l'aviation civile internationale le 19 juin 1981.

AGREEMENT[1] BETWEEN THE GOVERNMENT OF THE SWISS CONFEDERATION AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA RELATING TO REGULAR AIR TRANSPORT

Considering that Switzerland and the Republic of Indonesia are Parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944,[2]

Desiring to develop international co-operation in the field of air transport, and

Desiring to establish the necessary basis for the operation of regular air services,

The Swiss Federal Council and the Government of the Republic of Indonesia have appointed plenipotentiaries who, duly authorized to that effect, have agreed as follows:

Article 1. 1. For the purpose of the present Agreement and its annex:

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 or 94 thereof.

b. The term "aeronautical authorities" means, in the case of Switzerland, the Federal Air Office, and, in the case of the Republic of Indonesia, the Minister of Transport, Communications and Tourism, or in both cases any person or body authorized to exercise the functions presently assigned to the said authorities.

c. The term "designated airline" means an airline which one Contracting Party has designated, in accordance with article 3 of the present Agreement, for the operation of the agreed air services.

d. The term "territory" in relation to a State shall have the meaning assigned to it in article 2 of the Convention.

e. The term "air service", "international air service", "airline" and "stop for non-traffic purposes" have the meanings respectively assigned to them in article 96 of the Convention.

f. The term "tariff" means the prices to be paid for the carriage of passengers, baggage and cargo and the conditions under which these prices apply, including commission charges and other additional remuneration for agency or sale of transportation documents but excluding remuneration and conditions for the carriage of mail.

2. The annex forms an integral part of the present Agreement. All references to the Agreement shall include the annex unless explicitly agreed otherwise.

[1] Applied provisionally from 14 June 1978, the date of signature, and came into force definitively on 4 July 1980, the date when the Contracting Parties had notified each other of the fulfilment of their constitutional formalities, in accordance with article 17.

[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, No. I-18810.

Article 2. 1. Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing air services on the routes specified in the schedules of the annex. Such services and routes are hereafter called "agreed services" and "specified routes".

2. Subject to the provisions of the present Agreement the airline designated by each Contracting Party shall enjoy the following privileges, while operating international air services:

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;

c. To take up and set down in the said territory at the points specified in the annex international traffic in passengers, cargo and mail.

3. Nothing in this article 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, baggage, cargo and mail carried for remuneration or hire and destined for another point in the territory of that Contracting Party.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this article, the operation of the agreed services in areas of hostilities or military occupation, or in areas affected thereby, shall, in accordance with article 9 of the Convention, be subject to the approval of the competent military authorities.

Article 3. 1. Each Contracting Party shall have the right to designate one airline for the purpose of operating the agreed services. Such designation shall be effected by virtue of a written notification between aeronautical authorities of both Contracting Parties.

2. The aeronautical authorities which have received the notification of designation shall, subject to the provisions of paragraphs 3 and 4 of this article, grant without delay to the designated airline of the other Contracting Party the necessary operating authorization.

3. The aeronautical authorities of one Contracting Party may require the airline designated by the other Contracting Party to prove that it is qualified to fulfil the conditions prescribed under the laws and regulations normally applied to the operation of international air services by the said authorities in conformity with the provisions of the Convention.

4. Each Contracting Party shall have the right to deny the operating authorization referred to in paragraph 2 of this article, or to impose such conditions as it may deem necessary for the exercise of the privileges specified in article 2 of the present Agreement, whenever the said Contracting Party has no proof that a preponderant part of the ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals.

5. Having received the operating authorization, provided for under paragraph 2 of this article, the designated airline may begin at any time to operate any of the agreed services, provided that tariffs established in accordance with the provisions of article 8 of the present Agreement are in force.

6. Each Contracting Party shall have the right to revoke an operating authorization or to suspend the exercise of the privileges specified in article 2 of the present Agreement by the designated airline of the other Contracting Party or

to impose such conditions as it may deem necessary on the exercise of such privileges if:

a. The said airline cannot prove that a preponderant part of its ownership and effective control are vested in the Contracting Party designating the airline or in its nationals; or

b. The said airline fails to comply with or has seriously disregarded the laws or regulations of the Contracting Party granting these rights; or

c. The said airline fails to operate the agreed services in accordance with the conditions prescribed under the present Agreement.

7. Such a right shall be exercised only after consultation with the other Contracting Party, unless revocation, suspension or imposition of the conditions provided for under paragraph 6 of this article is essential immediately to prevent further infringements of laws and regulations.

Article 4. 1. The designated airlines shall enjoy fair and equal opportunities to operate the agreed services between the territories of the Contracting Parties.

2. The designated airline of each Contracting Party shall take into consideration the interests of the designated airline of the other Contracting Party so as not to affect unduly the agreed services of the latter airline.

3. The capacity of transport offered by the designated airlines shall be adapted to traffic demand.

4. 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 originating from or destined for the territory of the Contracting Party which has designated the airline.

5. Provision 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 5. 1. Aircraft operated on international services by the designated airline of one Contracting Party, as well as their normal equipment, supplies of fuel and lubricants and aircraft stores, including food, beverage and tobacco, carried on board such aircraft shall, on entering into the territory of the other Contracting Party, be exempt from all duties or taxes, provided such equipment, supplies and stores remain on board the aircraft until they are re-exported.

2. Shall also be exempt from the same duties and taxes:

a. Aircraft stores taken on board in the territory of one Contracting Party, within the limits fixed by the authorities of the said Contracting Party, and intended for use on board the aircraft operated on an international service by the designated airline of the other Contracting Party;

b. Spare parts and normal board equipment imported into the territory of one of the Contracting Parties for the maintenance or repair of aircraft operated on international services;

c. Fuel and lubricants destined for the designated airline of the other Contracting Party to supply aircraft operated on international services, 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 have been taken on board.

3. The normal board equipment, as well as the materials and supplies retained on board the aircraft operated by the designated airline of one Contracting Party may be unloaded in the territory of the other Contracting Party only with the approval of the custom authorities of such a territory. In such a case, they may be placed under the supervision of the said authorities until they are re-exported or otherwise disposed of in accordance with customs regulations.

4. In so far as no duties or other charges are imposed on goods mentioned in paragraphs 1 to 3 of this article, such goods shall not be subject to any economic prohibitions or restrictions on importation, exportation and transit that may otherwise be applicable unless such prohibition or restriction applies to all airlines including the national airline in respect to certain items mentioned in paragraphs 1 to 3 of this article.

5. The treatment specified in this article shall be in addition to and without prejudice to that which each Contracting Party is under obligation to accord under article 24 of the Convention.

Article 6. 1. When utilizing the airports and other facilities offered by one Contracting Party, the designated airline of the other Contracting Party shall not have to pay fees higher than those which have to be paid by national aircraft operating on scheduled international services.

2. The designated airline of one Contracting Party shall have the right to maintain representations in the territory of the other Contracting Party. These representations consist, at the option of the airline, of commercial, operational and technical staff. For such activities the principle of reciprocity shall apply.

Article 7. 1. Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one of the Contracting Parties shall, during the period of their validity, be recognised as valid by the other Contracting Party.

2. Each Contracting Party reserves its rights, however, not to recognise as valid, for the purpose of flights over its own territory, certificates of competency and licences granted to its own nationals or rendered valid for them by the other Contracting Party or by any other State.

Article 8. 1. The tariffs to be applied by each designated airline in connexion with any air transportation involving points in the territory of the Contracting Parties shall be established at reasonable levels, due regard being paid

to all relevant factors, including cost of operation, reasonable profit, the characteristics of each service and the tariffs charged by other airlines.

2. The tariffs referred to in paragraph 1 of this article shall, if possible, be established by mutual agreement by the designated airlines of both Contracting Parties and after consultation with the other airlines operating over the whole or part of the same route. The designated airlines shall, wherever possible, reach such agreement through the rate-fixing procedure established by the international body which formulates proposals in this matter.

3. The tariffs so agreed shall be submitted for approval to the aeronautical authorities of the Contracting Parties at least sixty days before the proposed date of their introduction.

4. If the designated airlines cannot agree, or if the tariffs are not approved by the aeronautical authorities of one Contracting Party, the aeronautical authorities of both Contracting Parties shall endeavour to determine the tariffs by mutual agreement. Such negotiations shall begin within thirty days from the date when it becomes obvious that the designated airlines cannot agree upon the tariffs or the aeronautical authorities of one Contracting Party have notified to the aeronautical authorities of the other Contracting Party their disapproval of the tariffs.

5. In default of agreement the dispute shall be submitted to the procedure provided for in article 13 hereafter.

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 the present Agreement but not longer than twelve months from the day of disapproval by the aeronautical authorities of one of the Contracting Parties.

Article 9. 1. Not later than thirty days prior to the operation of the agreed services the designated airline shall submit the envisaged time-table for approval to the aeronautical authorities of the other Contracting Party. The same procedure shall apply to any modification thereof.

2. For supplementary flights which the designated airline of one Contracting Party wishes to operate on the agreed services outside the approved time-table it has to request prior permission from the aeronautical authorities of the other Contracting Party. Such request shall usually be submitted at least two working-days before operating such flights.

Article 10. Each Contracting Party undertakes to guarantee to the designated airline of the other Contracting Party free transfer, at the official rate of exchange, of the excess of receipts over expenditure realised in its territory in due proportion to the carriage of passengers, baggage, cargo and mail by the said designated airline. If payments between the Contracting Parties are regulated by a special agreement, this special agreement shall apply.

Article 11. The aeronautical authorities of the Contracting Parties shall supply each other, on request, with periodic statistics or other similar information relating to the traffic carried on the agreed services.

Article 12. 1. There shall be regular and frequent consultation between the aeronautical authorities of the Contracting Parties to ensure close collaboration in all matters affecting the fulfilment of the present Agreement.

2. Consultations requested by one of the Contracting Parties or their aeronautical authorities shall begin within sixty days after receipt of the request.

Article 13. 1. If any dispute arises between Contracting Parties relating to the interpretation or application of the present Agreement, the Contracting Parties shall in the first place endeavour to settle it by negotiation between themselves.

2. If the Contracting Parties fail to reach a settlement by negotiations, 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 days from the date of receipt by either Contracting Party from the other of a notice through the diplomatic channel requesting arbitration of the dispute, and the third arbitrator shall be appointed within a further period of sixty 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 Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires.

3. The arbitral tribunal shall determine its own procedure and decides on the distribution of the cost of the procedure.

4. The Contracting Parties undertake to comply with any decision given under paragraph 2 of this article.

5. If and so long as either Contracting Party or a designated airline of either Contracting Party fails to comply with a decision given under paragraph 2 of this article, the other Contracting Party may limit, withhold or revoke any rights or privileges which it has granted by virtue of the present Agreement to the Contracting Party in default or to the designated airline of that Contracting Party or to the designated airline in default.

Article 14. 1. If either of the Contracting Parties considers it desirable to modify any provision of the present Agreement, such modification, if agreed between the Contracting Parties, shall be applied provisionally from the date of its signature and enter into force when the Contracting Parties will have notified to each other the fulfilment of their constitutional procedures.

2. Modifications to the annex of the present Agreement may be agreed directly between the aeronautical authorities of the Contracting Parties. They shall be applied provisionally from the date of signature and enter into force after having been confirmed by an exchange of diplomatic notes.

3. In the event of the conclusion of any general multilateral convention concerning air transport by which both Contracting Parties become bound, the present Agreement shall be amended so as to conform with the provisions of such Convention.

Article 15. 1. Either Contracting Party may at any time give notice to the other if it desires to terminate the present Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organization.

2. If such notice is given, the present Agreement shall terminate twelve months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry of this period.

3. In the absence of acknowledgement of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen days after the receipt of the notice by the International Civil Aviation Organization.

Article 16. The present Agreement and its later modifications shall be registered with the International Civil Aviation Organization.

Article 17. The present Agreement shall be applied provisionally from the date of its signature; it shall enter into force when the Contracting Parties will have notified to each other the fulfilment of their constitutional formalities with regard to the conclusion and the entering into force of international agreements.

IN WITNESS WHEREOF the plenipotentiaries of the two Contracting Parties have signed the present Agreement.

DONE at Jakarta in duplicate this fourteenth day of June nineteen hundred and seventy-eight in the French, Indonesian and English languages, all three texts being equally authentic. In case of divergence in interpretation the English text shall prevail.

For the Swiss Federal Council:

[*Signed*]

Dr. W. GULDIMANN

For the Government of the Republic of Indonesia:

[*Signed*]

KARDONO

ANNEX

ROUTE SCHEDULES

Route schedule I. ROUTES ON WHICH AIR SERVICES MAY BE OPERATED BY THE DESIGNATED AIRLINE OF SWITZERLAND

Points of departure	*Intermediate points*	*Points in Indonesia*	*Points beyond Indonesia*
Points in Switzerland	Vienna Athens Cairo or Tel Aviv or Beirut Baghdad 1 point in the Gulf Area or in Saudi Arabia or in Kuwait 1 point in Iran 1 point in Pakistan 1 point in India Colombo Bangkok Singapore Kuala Lumpur	Jakarta	2 points in Australia 1 point in New Zealand Manila

Route schedule II. ROUTES ON WHICH AIR SERVICES MAY BE OPERATED BY THE DESIGNATED AIRLINE OF THE REPUBLIC OF INDONESIA

Points of departure	*Intermediate points*	*Points in Switzerland*	*Points beyond Switzerland*
Points in Indonesia	Singapore Bangkok Bombay Jeddah Cairo or Beirut or Teheran Athens Rome	Basel or Geneva or Zurich	Paris Frankfurt Brussels Amsterdam

NOTES. 1. Points on any of the specified routes may, at the option of the designated airlines, be omitted on any or all flights.

2. Points on any of the specified routes need not necessarily be served in the order in which they are specified, provided that the service in question is flown on a reasonably direct route.

3. Each designated airline may terminate any of its agreed services in the territory of the other Contracting Party.

MODIFICATION OF THE ANNEX TO THE AGREEMENT OF 14 JUNE 1978 BETWEEN THE GOVERNMENT OF THE SWISS CONFEDERATION AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA RELATING TO REGULAR AIR TRANSPORT[1]

By an agreement in the form of an exchange of notes dated 5 August 1980, which came into force on 5 August 1980 by the exchange of the said notes, the annex to the above-mentioned Agreement of 14 June 1978 was modified as follows:

Route schedule II. ROUTES ON WHICH AIR SERVICES MAY BE OPERATED BY THE DESIGNATED AIRLINE OF THE REPUBLIC OF INDONESIA

Points of departure	*Intermediate points*	*Points in Switzerland*	*Points beyond Switzerland*
Points in Indonesia	Singapore or Kuala Lumpur or Bangkok Colombo Bombay or Karachi Abu Dhabi or Jeddah or Cairo Athens Rome	Basel or Geneva or Zurich	Paris Frankfurt Brussels Amsterdam London

[1] See p. 57 of this volume.