

No. 22863

**BURMA
and
BANGLADESH**

**Air Services Agreement (with annex). Signed at Dacca on
3 August 1977**

Authentic text: English.

Registered by the International Civil Aviation Organization on 4 April 1984.

**BIRMANIE
et
BANGLADESH**

**Accord relatif aux transports aériens (avec annexe). Signé à
Dacca le 3 août 1977**

Texte authentique : anglais.

Enregistré par l'Organisation de l'aviation civile internationale le 4 avril 1984.

AIR SERVICES AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF THE UNION OF BURMA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

The Government of the Socialist Republic of the Union of Burma and the Government of the People's Republic of Bangladesh, hereinafter called the Contracting Parties;

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December 1944;² and

Desiring to conclude an Agreement, for the purpose of establishing air services between and beyond their respective territories;

Have agreed as follows:

Article I. For the purpose of this Agreement and its Annex, unless the context otherwise requires:

(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 in so far as those Annexes and amendments have been adopted by both Contracting Parties;

(b) The term "aeronautical authorities" means, in the case of the Government of the Socialist Republic of the Union of Burma, the Department of Civil Aviation of the Ministry of Transport and Communications or any person or agency authorised to perform the functions exercised at present by the Ministry of Transport and Communications and in the case of the Government of the People's Republic of Bangladesh, the Director-General of Civil Aviation or any person or body authorised to perform any function at present exercised by the said Director-General;

(c) The term "designated airline" means an airline which one Contracting Party shall have designated, by written notification to the other Contracting Party, in accordance with Article III of this Agreement;

(d) The term "territory" in relation to a State means the land and water areas and the territorial waters adjacent thereto as well as the air space above under the sovereignty of that State;

(e) The terms "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 "capacity" in relation to an aircraft shall mean the available payload of that aircraft available on the route or section of a route; and

(g) The term "capacity" in relation to "the agreed service" shall mean the capacity of the aircraft used on such service for the carriage of passengers, cargo and mail

¹ Came into force on 3 August 1977 by signature, in accordance with article XVI.

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.

multiplied by the frequency operated by such aircraft over a given period and route or section of a route.

Article II. 1. 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 hereto which shall form part of this Agreement. Such services and routes are hereafter called “the agreed services” and “the specified routes” respectively.

2. Subject to the provisions of this Agreement, the airline designated by each Contracting Party shall have the right to enjoy, while operating the agreed services on the specified routes, the following privileges:

- (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; and
- (c) To make stops in the said territory at the points specified for that route in the Annex hereto, for the purpose of putting down and taking on international traffic in passengers, cargo and mail.

3. Nothing in paragraph 2 of this Article shall be deemed to confer on the airline of one Contracting Party the privilege of taking up, in the territory of the other Contracting Party, passengers, cargo and mail carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

Article III. 1. 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 the designation, the other Contracting Party shall, subject to the provisions of this Article, without delay grant to the airline designated the appropriate operating authorisation.

3. The aeronautical authorities of one Contracting Party may require the airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil 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 accept the designation of the airline or to grant the operating authorisation referred to in paragraph 2 of this Article or to impose such conditions as it may deem necessary on the rights exercised by the designated airline specified in Article II of this Agreement 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. At any time after the provisions of paragraphs 1 and 2 of this Article have been complied with, the airline so designated and authorised may begin to operate the agreed services provided that a service shall not be operated unless a tariff established in accordance with the provisions of Article V of this Agreement is in force in respect of that service.

6. (a) Each Contracting Party shall have the right to revoke the operating authorisation or to suspend the exercise of the rights specified in Article II of this Agreement by the airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of these rights:

- (i) In any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in the nationals of such Contracting Party, or
- (ii) In the case of failure by that airline to comply with the laws or regulation of the Contracting Party granting these rights, or
- (iii) In case the airline otherwise fails to comply with the provisions of this Agreement.

(b) Unless immediate revocation, suspension or imposition of the conditions mentioned in this Article is essential to prevent further infringements of laws or regulations, such right shall be exercised only after consultation with the other Contracting Party. In such case consultations shall commence within a period of sixty days from the date of request made by either Contracting Party for consultations.

(c) In the event of action by one Contracting Party under this Article, the rights of the other Contracting Party under Article XIII shall not be prejudiced.

Article IV. 1. There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to operate the agreed services on the specified routes.

2. In operating the agreed services, the designated airline of each Contracting Party shall take into account the interest of the designated 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 airline 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 had designated the airline. Provision for the carriage of passengers, cargo and mail both taken on 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 between the country of origin and the country of destination;
- (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.

4. The capacity to be provided at the outset shall be agreed between both Contracting Parties before the agreed services are inaugurated; thereafter any changes in capacity to be provided shall be discussed and agreed between the aeronautical authorities of both Contracting Parties.

Article V. 1. In this Article "tariffs" means the prices to be paid for the carriage of passengers and cargo and the conditions under which those prices apply, including prices and conditions for agency services, but excluding remuneration and conditions for the carriage of mail.

2. The tariffs on any of the agreed services shall be established at reasonable levels, due regard being paid to all relevant factors including cost of operation, reasonable profit, characteristics of service (such as standards of speed and accommodation) and the tariffs of other airlines for any part or whole of the specified route. These tariffs shall be fixed in accordance with the provisions of this Article.

3. The tariffs referred to in paragraph 2 of this Article, together with the rates of agency commission used in conjunction with them, shall be agreed in respect of each of the specified routes between the designated airlines concerned who will take into consideration the tariffs of other airlines operating over the whole or part of the route or similar routes. The tariffs so agreed shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

4. If the designated airlines cannot agree upon any of these tariffs, or if for some other reason a tariff cannot be agreed in accordance with the provisions of paragraph 3 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 upon 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 XIII of this Agreement.

6. Pending the settlement of the dispute, the tariffs already established, shall continue to be charged by the airlines concerned, unless otherwise agreed by the aeronautical authorities of the Contracting Parties.

7. When tariffs have been established in accordance with the provisions of this Article these tariffs shall remain in force until new tariffs have been established in accordance with the provisions of this Article.

Article VI. Each Contracting Party shall grant to the designated airline of the other Contracting Party the right of transfer of excess of receipts over expenditure earned by that airline in the territory of the first Contracting Party in connection with the carriage of passengers, baggage, cargo and mail in accordance with the foreign exchange regulations in force (if any) at the official bank rate of exchange.

Article VII. 1. Fuel, lubricating oils, spare parts, regular aircraft equipment and aircraft stores (including food, beverages and tobacco) introduced into the territory of one Contracting Party, or taken on board an aircraft in that territory, by or on behalf of the other Contracting Party or its designated airline and intended solely for use by or in the aircraft of that airline shall be accorded by the first Contracting Party, in respect of customs duties, inspection fees and other similar national or local duties and charges, treatment not less favourable than that granted to its national airline engaged in the operation of international air services.

2. Supplies of fuel, lubricating oils, spare parts, regular equipment and aircraft stores (including food, beverages and tobacco) retained on board aircraft of the designated airline of one Contracting Party shall be exempt in the territory of the other Contracting Party from customs duties, inspection fees or similar duties or charges, even though such supplies be used by such aircraft on flights in that territory. Goods and articles so exempted may only be unloaded with the approval of the customs authorities of the other Contracting Party. Those goods and articles which are to be re-exported shall be kept in bond, until re-exportation under customs supervision.

3. The charges which either of the Contracting Parties may impose, or permit to be imposed, on the designated airline of the other Contracting Party for the use of airports and other facilities under its control shall not be higher than would be paid for the use of such airports and facilities by the national airline of the Contracting Party engaged in similar international air services.

Article VIII. 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 airline designated by the other Contracting Party and shall be complied with by such aircraft upon entrance into or departure from or while within the territory of the first Contracting Party.

2. The laws and regulations of one Contracting Party as to the admission to or departure from its territory of passengers, crews and cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, currency, health and quarantine shall be applicable to such passengers, crews and cargo arriving in or departing from the territory of that Contracting Party in aircraft of the airline designated by the other Contracting Party.

Article IX. The aeronautical authorities of each Contracting Party shall cause its designated airline to supply to the aeronautical authorities of the other Contracting Party at their request:

- (i) Such traffic statistics as may be appropriate for the purpose of reviewing the frequency and capacity of the agreed services; and
- (ii) Such periodic statements as may be reasonably required, relating to the traffic carried by its designated airline on services to, from or through the territories of that other Contracting Party, including information concerning the origin and destination of such traffic.

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

2. Requests for consultation between the aeronautical authorities may be made at any time by either Contracting Party and consultation shall begin within a period of sixty days from the receipt by one of the Contracting Parties of a request from the other Contracting Party stating the subject or subjects on which consultation is desired.

Article XI. Either Contracting Party may at any time request consultation with the other Contracting Party for the purpose of amending this Agreement. Such consultation shall begin within a period of sixty days from the date of receipt of such request. If the amendment relates only to the Annex, the consultation shall be between the aeronautical authorities of both Contracting Parties. When these authorities agree on a new or revised Annex, the agreed amendments on the matter will come into effect after they have been confirmed by an exchange of diplomatic notes.

Article XII. In the event of the conclusion of any general multilateral convention concerning air transport by which the two Contracting Parties become bound, this Agreement shall be amended so as to conform with the provisions of such convention.

Article XIII. 1. If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement and its Annex, 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 negotiation the dispute shall be submitted for decision to a tribunal of three arbitrators, one to be named by each Contracting Party and the third to be agreed upon by the two arbitrators so chosen, provided that such third arbitrator shall not be a national of either Contracting Party. Each of the Contracting Parties shall designate an arbitrator within sixty days of the date of delivery by either Contracting Party to the other Contracting Party of a diplomatic note requesting arbitration of the dispute and the third arbitrator shall be agreed upon within thirty days after such period of sixty days. If either Contracting Party fails to designate its arbitrator or if the third arbitrator is not agreed upon the vacancies thereby created shall be filled by persons designated by the President of the Council of the International Civil Aviation Organization on application by either Contracting Party.

3. The Contracting Parties undertake to comply with any decision given under paragraph 2 of this Article, and each to pay a moiety of the expenses of the Arbitral Tribunal unless the Tribunal should decide otherwise.

4. If and so long as either Contracting Party or the 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 this Agreement to the Contracting Party in default or to the designated airline of that Contracting Party or to the designated airline in default as the case may be.

Article XIV. Either of the Contracting Parties may at any time notify the other of its intention to terminate this Agreement. Such a notice shall be sent simultaneously to the International Civil Aviation Organization. In the event of such notice being given, this Agreement shall terminate twelve months after the date of receipt of the notice to terminate by the other Contracting Party, unless by agreement between the Contracting Parties the notice under reference is withdrawn before the expiry of that period. If the other Contracting Party fails to acknowledge receipt, the notice shall be deemed to have been received fourteen days after its receipt by the International Civil Aviation Organization.

Article XV. This Agreement and its Annex shall be registered with the International Civil Aviation Organization.

Article XVI. This Agreement and its Annex shall enter into force on the date of signature.

IN WITNESS WHEREOF, the undersigned, being duly authorised by the Government of the Socialist Republic of the Union of Burma and the Government of the People's Republic of Bangladesh, have signed this Agreement.

DONE in duplicate at Dacca this day the 3rd of August, 1977, in the English language.

For the Government
of the Socialist Republic
of the Union of Burma :

Colonel ICHIN OHN

For the Government
of the People's Republic
of Bangladesh:

HEDAYAT AHMED

ANNEX

SCHEDULE I

Route to be operated in both directions by the designated airline of the Socialist Republic of the Union of Burma:

<i>Point of origin</i>	<i>Point in Bangladesh</i>	<i>Points beyond</i>
A point in Burma	Dacca	(i) Calcutta (ii) Delhi (iii) Kathmandu

NOTE. The designated airline of the Socialist Republic of the Union of Burma may omit calling at any one or more points on the specified route on any or all flights or to change the sequence of points at its option on the above route. It shall also have the right to terminate its services in the territory of Bangladesh. These rights may be exercised provided the services of the designated airline of the Socialist Republic of the Union of Burma commence or terminate in the territory of Burma.

SCHEDULE II

Route to be operated in both directions by the designated airline of the People's Republic of Bangladesh:

<i>Point of origin</i>	<i>Point in Burma</i>	<i>Points beyond</i>
A point in Bangladesh	Rangoon	(i) Bangkok (ii) Kuala Lumpur or Singapore (iii) Tokyo

NOTE. The designated airline of the People's Republic of Bangladesh may omit calling at any one or more points on the specified route on any or all flights or to change the sequence of points at its option on the above route. It shall also have the right to terminate its services in the territory of Burma. These rights may be exercised provided the services of the designated airline of the People's Republic of Bangladesh commence or terminate in the territory of Bangladesh.