

No. 22862

**BURMA
and
NETHERLANDS**

**Air Transport Agreement (with annex). Signed at Rangoon
on 25 May 1977**

Authentic text: English.

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

**BIRMANIE
et
PAYS-BAS**

**Accord relatif aux transports aériens (avec annexe). Signé
à Rangoon le 25 mai 1977**

Texte authentique : anglais.

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

AIR TRANSPORT AGREEMENT¹ BETWEEN THE COUNCIL OF
MINISTERS OF THE SOCIALIST REPUBLIC OF THE UNION OF
BURMA AND THE GOVERNMENT OF THE KINGDOM OF THE
NETHERLANDS

The Council of Ministers of the Socialist Republic of the Union of Burma and the Government of the Kingdom of the Netherlands,

Desiring to replace the Air Transport Agreement between the Government of the Union of Burma and the Government of the Kingdom of the Netherlands, signed at Rangoon on September 6, 1951,² by a new Agreement for the purpose of promoting direct air communications between and beyond their respective territories,

Have accordingly appointed authorized representatives for this purpose, who have agreed as follows:

Article 1. 1. For the purposes of the present Agreement, and its Annex, except where the text provides otherwise:

(a) The term “aeronautical authorities” shall mean in the case 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 authorized to perform the functions exercised at present by the said Ministry of Transport and Communications and, in the case of the Kingdom of the Netherlands, the Director-General of Civil Aviation in the Netherlands or any person or agency authorized to perform the functions exercised at the present time by the said aeronautical authority.

(b) 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 3 of the present Agreement, for the operation of air services on the routes specified in such notification.

(c) The term “territory” shall have the meaning given to it by Article 2 of the Convention on International Civil Aviation, signed at Chicago on December 7, 1944.³

(d) The definitions contained in paragraphs (a), (b), (c) and (d) of Article 96 of the Convention on International Civil Aviation signed at Chicago on December 7, 1944 shall be applied to the present Agreement.

2. The Annex to this Agreement forms an integral part of the Agreement, and all reference to the Agreement shall include reference to the Annex except where otherwise provided.

Article 2. 1. Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing scheduled international air services on the routes specified in the Annex hereto. Such serv-

¹ Came into force on 1 April 1980, i.e. the first day of the second month following the date on which the Contracting Parties informed each other (on 30 May 1978 and 11 February 1980) of the completion of their required internal procedures, in accordance with article 18 (1).

² United Nations, *Treaty Series*, vol. 108, p. 187.

³ *Ibid.*, 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.

ices and routes are hereafter called “the agreed services” and “the specified routes” respectively.

2. Subject to the provisions of the present Agreement, the airline designated by each Contracting Party shall 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;
- (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/or taking on international traffic in passengers and/or cargo and/or 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 3. 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 such designation the other Contracting Party shall, subject to the provisions of paragraphs 3 and 4 of this Article, without delay grant to the airline designated the appropriate operating authorization.

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.

4. Each Contracting Party shall have the right to refuse to grant the operating authorization referred to in paragraph 2 of this Article, or to impose such conditions as it may deem necessary on the exercise by the designated airline of the rights specified in Article 2, 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. When 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 6 of the present Agreement is in force in respect of that service.

Article 4. 1. Each Contracting Party shall have the right to revoke an operating authorization or to suspend the exercise of the rights specified in Article 2 of the present 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:

- (a) 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 nationals of such Contracting Party, or
- (b) In the case of failure by that airline to comply with the laws or regulations of the Contracting Party granting these rights, or
- (c) In case the airline otherwise fails to operate in accordance with the conditions prescribed under the present Agreement.

2. Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph 1 of 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 consultation shall commence within a period of sixty days from the date of request made by either Contracting Party for consultation.

Article 5. 1. There shall be fair and equal opportunity for the airlines of both Contracting Parties to operate the agreed services on the specified routes between and beyond their respective territories.

2. In operating the agreed services, the airline of each Contracting Party shall take into account the interest of the 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 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 meet 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. Provision for the carriage of passengers, cargo and mail taken on in the territory of the other Contracting Party and put down at points on the specified routes in the territories of third countries and vice versa 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 countries of destination;
- (b) Traffic requirements of the area through which the airline passes, after taking account of local and regional services; and
- (c) The requirements and the economics of through airline operation.

Article 6. 1. In the following paragraphs, the term "tariff" means the prices to be paid for the carriage of passengers, baggage and freight and the conditions under which those prices apply, including prices and conditions for agency and other auxiliary services, but excluding remuneration or 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 routes.

3. These tariffs shall be fixed in accordance with the following provisions:

(a) The tariffs referred to in paragraph 1 of this Article, shall, if possible, be agreed in respect of each of the specified routes and sectors thereof between the designated airlines concerned. The rate-fixing formula of the International Air Transport Association shall, where possible, be made use of in determining the tariffs referred to above. The tariffs so agreed shall be subject to the approval of the aeronautical authorities of both Contracting Parties. This approval may be given expressly. If neither of the aeronautical authorities has expressed disapproval within thirty days from the date of submission, in accordance with this paragraph, these tariffs shall be considered as approved.

(b) If the designated airlines concerned cannot agree on the tariffs, or if the aeronautical authorities of either Contracting Party do not approve the tariffs submitted, in accordance with the provisions of paragraph 3 (a) of this Article, the aeronautical authorities of the Contracting Parties shall endeavour to reach agreement on the appropriate tariffs.

(c) If the agreement under the provisions of paragraph 3 (b) of this Article cannot be reached, the dispute shall be settled in accordance with the provisions of Article 17 of this Agreement.

(d) No new tariff shall come into effect if the aeronautical authorities of either Contracting Party are dissatisfied with it except under the terms of Article 17 of this Agreement. Pending determination of the tariffs in accordance with the provisions of the present Article, the tariffs already in force shall prevail.

Article 7. 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 8. In order to prevent discriminatory practices and to assure equality of treatment, both Contracting Parties agree that:

(a) Each of the Contracting Parties may impose or permit to be imposed on the designated airline of the other Contracting Party just and reasonable charges for the use of public airports and other facilities under its control. Each of the Contracting Parties agrees, however, that these charges shall not be higher than would be paid for the use of such airports and other facilities by its national aircraft engaged in similar international services.

(b) 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. In any case the treatment of the designated airline of either Contracting Party shall not be less favourable than that accorded to airlines of third countries engaged in the operation of international air services to and from the territory of the other Contracting Party.

(c) The aircraft, its fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board aircraft of the designated airlines of one Contracting Party authorized to operate the routes and services described in the Annex shall, upon arriving in or leaving the territory of the other Contracting Party, be exempt from customs, inspection fees or similar duties or charges, even though such supplies be used or consumed by such aircraft on flights in that territory. The supplies so exempted may only be unloaded with the approval of the customs authorities of the other Contracting Party and shall, when unloaded, be kept under the supervision of the customs authorities until they are re-loaded.

Article 9. 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:

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

Article 10. 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 the present 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 11. Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one Contracting Party and still in force shall be recognized as valid by the other Contracting Party for the purpose of operating the routes and services described in the Annex, provided that the requirements under which such certificates or licenses were issued or rendered valid are equal to or above the minimum standards which may be established pursuant to the Convention on International Civil Aviation. Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flights above its own territory, certificates of competency and licenses granted to its own nationals by another State.

Article 12. (a) 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 entering or departing from or while within the territory of the first Party.

(b) The laws and regulations of one Contracting Party as to the admission to or departure from its territory of passengers, crews, or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, currency, health and quarantine shall be complied with by or on behalf of such passengers, crew or cargo of the airlines designated by the other Contracting Party upon entrance into or departure from, or while within the territory of the first party.

Article 13. This Agreement and its Annex therewith shall be registered with the International Civil Aviation Organization.

Article 14. Either of the Contracting Parties may at any time notify the other of its intention to terminate the present Agreement. Such a notice shall be sent simultaneously to the International Civil Aviation Organization. In the event such communication is made, this Agreement shall terminate one year after the date of receipt of the notice to terminate, unless by agreement between the Contracting Parties the

communication under reference is withdrawn before the expiration of that time. If the other Contracting Party fails to acknowledge receipt, notice shall be deemed as having been received 14 days after its receipt by the International Civil Aviation Organization.

Article 15. 1. Each Contracting Party may at any time request consultation with the other Contracting Party for the purpose of amending the present Agreement and/or its Annex. Such consultation shall begin within a period of sixty days from the date of receipt of such request. Amendments to the present Agreement will come into effect after they have been confirmed by an exchange of diplomatic notes, stating that the formalities, if any, required therefor in the respective countries have been complied with.

2. 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 16. If a general multilateral air transport Convention accepted by both Contracting Parties enters into force, the present Agreement shall be amended so as to conform with the provisions of such Convention.

Article 17. Except as otherwise provided in this Agreement or its Annex, any dispute between the Contracting Parties relative to the interpretation or application of this Agreement or its Annex, which cannot be settled through consultation, shall be submitted 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 two months of the date of delivery by either party to the other party of a diplomatic note requesting arbitration of a dispute; and the third arbitrator shall be agreed upon within one month after such period of two months. If the third arbitrator is not agreed upon, within the time limitation indicated, the vacancy thereby created shall be filled by the appointment of a person, designated by the President of the Council of ICAO, from a panel of arbitral personnel maintained in accordance with the practice of ICAO. The Contracting Parties undertake to comply with the decision given by the tribunal. A moiety of the expenses of the arbitral tribunal shall be borne by each party.

Article 18. 1. The present Agreement and its Annex thereto shall enter into force on the first day of the second month following the date on which the Contracting Parties have informed each other in writing that the procedures required therefor in their respective countries have been complied with.

2. On the date on which the present Agreement enters into force, it replaces and abrogates the Air Transport Agreement between the Government of the Union of Burma and the Government of the Kingdom of the Netherlands, signed at Rangoon on September 6, 1951.

IN WITNESS WHEREOF, the undersigned, being duly authorized by the Council of Ministers of the Socialist Republic of the Union of Burma and the Government of the Kingdom of the Netherlands respectively have signed the present Agreement.

DONE at Rangoon in two copies in the English language this 25th day of May, 1977.

For the Council of Ministers
of the Socialist Republic
of the Union of Burma:

Colonel KHIN OHN
Deputy Minister

Ministry of Transport
and Communications

For the Government
of the Kingdom of the Netherlands:

TJ. A. MEURS
Ambassador Extraordinary
and Plenipotentiary

ANNEX

SCHEDULE I

Routes to be operated and conditions to be observed by the designated airline of the Socialist Republic of the Union of Burma:

<i>Point in the Socialist Republic of the Union of Burma</i>	<i>Intermediate Points</i>	<i>Point in the Kingdom of the Netherlands</i>	<i>Points Beyond</i>
1. Rangoon	Dacca Calcutta or Delhi Kathmandu Colombo Karachi or Rawalpindi A point in U.S.S.R. Kabul Tehran or Abadan Bahrain Dubai Dhahran or Jeddah Kuwait Baghdad Damascus Amman Beirut Tel Aviv Cairo Ankara or Istanbul Athens or Thessaloniki Rome or Milan Zurich or Geneva Sofia Bucharest Belgrade or Zagreb Budapest Vienna Prague	Amsterdam	London Shannon New York or Washington Montreal

<i>Point in the Socialist Republic of the Union of Burma</i>	<i>Intermediate Points</i>	<i>Point in the Kingdom of the Netherlands</i>	<i>Points Beyond</i>
	Frankfurt Paris		
2. Rangoon	A point in Belgium Same intermediate points as in Route 1	Amsterdam	Copenhagen Stockholm Oslo

NOTE. Points on the specified routes may, at the option of the designated airline of the Socialist Republic of the Union of Burma, be omitted on any or all flights provided that each of the agreed services has its departure point or its terminal in the territory of the Socialist Republic of the Union of Burma.

SCHEDULE II

Routes to be operated and conditions to be observed by the designated airline of the Kingdom of the Netherlands:

<i>Point in the Kingdom of the Netherlands</i>	<i>Intermediate Points</i>	<i>Point in the Socialist Republic of the Union of Burma</i>	<i>Points Beyond</i>
1. Point in the Netherlands	A point in Belgium A point in Germany A point in Switzerland Vienna Rome or Milan Belgrade or Zagreb Prague Budapest Point in U.S.S.R. Athens or Thessaloniki Nicosia Istanbul or Ankara Beirut Tel Aviv Amman Cairo Damascus Jeddah or Dhahran Baghdad Abadan or Tehran Kuwait Dubai Bahrain Kabul Karachi or Rawalpindi Bombay or Delhi or Calcutta Kathmandu Colombo Dacca	Rangoon	Bangkok Kuala Lumpur Singapore Manila Brunei Denpasar and/or Jakarta Sydney and/or Melbourne A point in New Zealand

<i>Point in the Kingdom of the Netherlands</i>	<i>Intermediate Points</i>	<i>Point in the Socialist Republic of the Union of Burma</i>	<i>Points Beyond</i>
2. Point in the Netherlands	Same intermediate points as in Route 1	Rangoon	Bangkok Vientiane Phnom Penh A point in North Vietnam A point in South Vietnam Manila Hong Kong Canton and/or Shanghai and/or Peking Osaka and/or Tokyo A point in Korea

NOTE. Points on the specified routes may, at the option of the designated airline of the Kingdom of the Netherlands, be omitted on any or all flights provided that each of the agreed services has its departure point or its terminal in the territory of the Kingdom of the Netherlands.
