No. 23022

MEXICO
and
PANAMA

Air Transport Agreement (with route schedules). Signed at Mexico City on 25 February 1974

Authentic text: Spanish.

Registered by Mexico on 26 July 1984.

MEXIQUE
et
PANAMA

Accord relatif aux transports aériens (avec tableaux de routes). Signé à Mexico le 25 février 1974

Texte authentique : espagnol.

Enregistré par le Mexique le 26 juillet 1984.

[TRANSLATION — TRADUCTION]

AIR TRANSPORT AGREEMENT[1] BETWEEN THE GOVERNMENT OF THE UNITED MEXICAN STATES AND THE GOVERNMENT OF THE REPUBLIC OF PANAMA

The Government of the United Mexican States and the Government of the Republic of Panama, wishing to promote and further the development of air transport between Mexico and Panama and to advance, to the fullest extent possible, international co-operation in this domain,

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944,[2]

Considering that the potentialities of commercial aviation as a means of transport and of promoting friendly understanding and goodwill among peoples are increasing from day to day,

Wishing to strengthen still further the cultural, social and economic bonds which link their peoples and the understanding and goodwill which exist between them,

Considering that it is desirable to organize, on an equitable basis of equality and reciprocity, regular air services between the two countries, in order to achieve greater co-operation in the field of international air transport,

Desiring to conclude an agreement which will facilitate the attainment of the aforementioned objectives,

Have for this purpose appointed duly authorized plenipotentiaries, who have agreed as follows:

Article 1. For the purposes of this Agreement:

(A) The term "Agreement" means this Agreement and the route schedule annexed hereto.

(B) The term "aeronautical authorities" means, in the case of the United Mexican States, the Ministry of Communications and Transport or any person or body authorized to perform the functions at present exercised by the Ministry of Communications and Transport; and, in the case of the Republic of Panama, the Civil Aeronautics Office or any other person or body authorized to perform the functions at present exercised by that Office.

(C) The term "airline" means any air transport enterprise offering or operating an international air service.

(D) The term "designated airline" means an airline the name of which has been communicated by the Government of one Contracting Party to the Govern-

[1] Came into force provisionally on 25 February 1974, the date of signature, and definitively on 16 August 1976, the date on which the Contracting Parties notified each other of the completion of the required constitutional procedures, 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, p. 297.

ment of the other Contracting Party as being the airline which will operate a route or routes specified in the route schedule annexed to the Agreement.

(E) The terms "territory"', "air service", "international air service" and "stop for non-traffic purposes" for the purposes of this Agreement have the meanings assigned to them in articles 2 and 96 of the Chicago Convention on International Civil Aviation of 7 December 1944.

(F) The term "capacity of an aircraft" means the payload of an aircraft expressed in terms of the number of seats for passengers and the weight and volume of cargo and mail.

(G) The term "capacity offered" means the total capacity of the aircraft utilized for the operation of each of the agreed services, multiplied by the frequency with which the said aircraft operate over a given period.

(H) The term "air route" means the scheduled route to be followed by an aircraft assigned to regular air service.

(I) The term "specified air route" means the route described in the route schedule annexed to this Agreement.

(J) The term "passenger load factor" means the ratio of the number of passengers carried by an airline on a specified air route over a given period to the number of seats offered by the same airline on the same route over the same period.

(K) The term "frequency" means the number of round trips over a given period that an airline operates on a specified air route.

(L) The term "change of gauge" means the substitution of one aircraft for another of different capacity on a specified route.

(M) The term "scheduled flights" means the flights made by the designated airlines on specified air routes in accordance with the time-tables specifically authorized.

Article 2. 1. Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the purpose of establishing air services on the routes specified in the annexed route schedule.

2. Except as otherwise provided in this Agreement, the airline designated by each Contracting Party shall enjoy, in the operation of international services, the following rights:

(*a*) To fly across the territory of the other Contracting Party without landing;

(*b*) To make stops for non-traffic purposes in the territory of the other Contracting Party;

(*c*) To embark and disembark passengers, cargo and mail in international traffic in the territory of the other Contracting Party, at the points specified in the annexed route schedule.

3. The fact that such rights may not be exercised immediately shall not preclude the subsequent inauguration of the said air services by the airline of a Contracting Party to which such rights are granted over the air routes specified in the route schedule annexed hereto.

Article 3. Air service on a specified route may be inaugurated immediately or at a later date, at the option of the Party to which the rights are granted.

To that end, the said Party shall designate the airline that will provide service on the route, and the other Party shall grant the necessary operating authorization.

The latter Party is obliged, subject to article 4, to give such authorization, on the understanding that, before issuing the authorization in question, it may require the designated airline to meet the requirements of the competent aeronautical authorities of the said Party, in accordance with the laws and regulations normally applied by those authorities, to operate the service provided for in this Agreement.

Article 4. Each Contracting Party reserves the right to withhold or revoke authorization for the operation of an air service by the airline designated by the other Contracting Party if it is not satisfied that majority ownership and the effective control of the airline are vested in nationals of the other Contracting Party, or if the airline fails to comply with the laws and regulations referred to in this Agreement, or if the airline or the Government designating it ceases to fulfil the conditions under which rights are granted, in accordance with this Agreement, or if the airline fails to comply with the conditions stipulated in the authorization granted.

Article 5. 1. The laws and regulations of one Contracting Party relating to the admission to or departure from its territory of aircraft operated on international air services, or relating 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 on entering or departing from, and while within, the territory of the first Contracting Party.

2. The laws and regulations of one Contracting Party relating to the admission to, presence in and departure from its territory of passengers, crew, cargo and mail, such as regulations governing entry, departure, clearance, immigration, customs and health, shall apply to the passengers, crew, cargo and mail transported by aircraft of the airline designated by the other Contracting Party on entering or departing from, and while within, the territory of the first Contracting Party.

Article 6. Certificates of airworthiness, certificates of competency and licences issued or validated 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 this Agreement, provided that the requirements under which such certificates or licences were issued or validated are at least equal to the minimum standards established pursuant to the Convention on International Civil Aviation. Each Contracting Party reserves the right to refuse to recognize, for the purpose of flight over its own territory, certificates of competency and licences granted to its own nationals by another State.

Article 7. 1. Each Contracting Party may impose or permit to be imposed on aircraft of the other Party fair and reasonable charges for the use of public airports and other facilities. The Parties agree, however, that the said charges shall not be higher than those paid for the use of such airports and facilities by their respective national aircraft used in similar international service.

2. Oils, lubricants, technical supplies for consumption, spare parts, tools and special equipment for maintenance work, as well as stores, introduced into the territory of one Contracting Party by the other Contracting Party, solely for

use by aircraft of the latter Contracting Party, shall be exempt, on a basis of reciprocity, from customs duties, inspection fees and other federal, state and municipal taxes and charges.

3. Fuel, lubricating oils, other technical supplies for consumption, spare parts, standard equipment and stores retained on board aircraft of the designated airlines shall be exempt, on a basis of reciprocity, from customs duties, inspection fees and other federal, state and municipal taxes and charges, on arrival in or departure from the territory of other Contracting Party, even if such articles are used or consumed by such aircraft on flights within the said territory.

4. Fuel, lubricating oils, other technical supplies for consumption, spare parts, standard equipment and stores taken on board aircraft of the airlines of one Contracting Party in the territory of the other Contracting Party and used in international service shall be exempt, on a basis of reciprocity, from customs duties, inspection fees and other federal, state and municipal taxes and charges.

Article 8. The Contracting Parties agree that the designated airlines shall be accorded fair and reasonable treatment to ensure equal opportunity for the operation of the air services provided for in this Agreement.

Article 9. In the operation by the designated airline of either Contracting Party of the air services referred to in this Agreement, the interests of the airlines of the other Contracting Party shall be taken into consideration so as not to affect unduly the services provided by the latter airlines over all or part of the routes in question.

Article 10. 1. It is agreed that the services provided by a designated airline under this Agreement shall have as their principal objective the provision of air transport with capacity adequate to the requirements of traffic between the two countries.

2. The services provided by the airlines operating under this Agreement shall be closely related to the public demand for such services.

3. Both Contracting Parties recognize that the development of local and regional services constitutes a right of their respective countries. Consequently, they agree to consult each other periodically on the way in which the provisions of this article are to be applied by their respective designated airlines.

4. Any change of gauge justified by reason of economy of operation shall be permitted at any point on the specified routes. However, no change of gauge may be made in the territory of the other Contracting Party where it would alter the operating pattern of through traffic or would be incompatible with the principles set forth in this Agreement.

5. Before any interest is made in the capacity offered or the frequency of service on one of the specified routes, notice shall be given in writing not less than fifteen (15) days in advance by the aeronautical authorities of the Contracting Party concerned to the aeronautical authorities of the other Contracting Party. Should the latter Party consider such an increase to be unjustified in view of the volume of traffic on the route or to be detrimental to the interests of the airline designated by it, it may, within fifteen (15) days, request consultation with the other Contracting Party. Such consultation shall be initiated within thirty (30) days from the request, and the designated airlines shall be required to submit any information requested of them so as to enable the need or justification for the

proposed increase to be determined. If no agreement is reached between the Contracting Parties within ninety (90) days from the date of the request for consultation, the question shall be submitted to arbitration in accordance with the provisions of article 13. In the mean time, the proposed increase shall not be put into effect.

Article 11. 1. The tariffs charged by the airlines of one Contracting Party in respect of traffic 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, the characteristics of the service and the tariffs of other airlines. No tariff shall enter into effect without the approval of the aeronautical authorities of the other Contracting Party.

2. The tariffs referred to in paragraph 1 above shall, where possible, be agreed by the airlines designated by the two Contracting Parties, in consultation with other airlines operating over all or part of the same route, which agreement shall be reached, where possible, in accordance with IATA levels, and shall be subject to approval by the authorities of the two Contracting Parties.

3. The tariffs so agreed, as well as the terms relating to them and the terms of any ancillary operations associated with their implementation, must be submitted for approval to the aeronautical authorities of the Contracting Parties at least forty-five (45) days before the date proposed for their introduction; in special cases this time-limit may be reduced, subject to the agreement of the said authorities.

4. If the designated airlines do not reach agreement on the tariffs to be applied in respect of the agreed services, or if the tariff submitted by one designated airline is not approved by the competent authority of the other Contracting Party, the latter shall notify the designated airline of the other Party of its disagreement within the time-limit specified in the previous paragraph. The competent authorities of the Contracting Parties shall endeavour to establish the tariff by mutual agreement.

5. If the competent authorities do not grant approval for any tariff submitted in accordance with paragraph 3 above, or fail to establish a tariff in accordance with paragraph 4 above, within the period of forty-five (45) days mentioned in paragraph 3, the disagreement shall be resolved in accordance with the provisions of article 13 of this Agreement.

6. The tariffs established in accordance with this article shall remain in effect until replaced by new tariffs in accordance with this article.

7. When an authorized tariff is no longer applied and, accordingly, is to be discontinued, this shall be done by mutual agreement of the competent authorities of the Contracting Parties.

Article 12. 1. Consultation for the purpose of discussing the interpretation, application or amendment of this Agreement may be requested at any time by either Contracting Party. Such consultation shall begin within a period of sixty (60) days from the date of receipt of the request made by the Ministry of Foreign Affairs of the United Mexican States or by the Ministry of Foreign Affairs of the Republic of Panama, as the case may be. If an agreement to amend the Agreement is reached, such agreement shall be formalized by means of an exchange of diplomatic notes.

2. The agreed amendments shall enter into force provisionally with effect from the date of the exchange of notes, and definitively on the date determined by the Contracting Parties, once they have obtained the approval required under their respective constitutional procedures, in a further exchange of notes.

Article 13. 1. Except as otherwise provided in this Agreement, any dispute between the Contracting Parties relating to the interpretation or application of this Agreement which cannot be settled through consultation shall be submitted to an arbitral tribunal composed of three members, one of whom shall be designated by each of the Contracting Parties and the third by agreement between the first two members of the tribunal. The third member shall not be a national of either of the Contracting Parties and shall serve as president of the arbitral tribunal.

2. Each of the Contracting Parties shall designate an arbitrator within sixty (60) days of the date of delivery by either of the Contracting Parties to the other Contracting Party of a diplomatic note requesting the settlement of a dispute by arbitration; the third arbitrator shall be designated within thirty (30) days of the expiration of the sixty (60) days referred to above.

3. If within the term indicated no agreement is reached concerning the third arbitrator, the post shall be filled by a person appointed for that purpose by the President of the Council of the International Civil Aviation Organization, in conformity with its practice.

4. The Contracting Parties agree to abide by any decision handed down in accordance with this article. The arbitral tribunal shall determine the apportionment of the costs resulting from this procedure.

Article 14. This Agreement and all amendments to it shall be registered with the International Civil Aviation Organization.

Article 15. If a general multilateral air transport convention accepted by both Contracting Parties enters into force, this Agreement, pursuant to the provisions of article 12, shall be amended, so as to conform to the provisions of that convention.

Article 16. Either Contracting Party may at any time notify the other Contracting Party of its intention to terminate this Agreement, undertaking the obligation of simultaneously notifying the International Civil Aviation Organization. The Agreement shall cease to have effect six (6) months after the date of receipt of the notice of termination. If the other Contracting Party fails to acknowledge receipt, the notice shall be deemed to have been received fourteen (14) days after its receipt by the International Civil Aviation Organization.

Article 17. This Agreement shall be applied provisionally from the date of its signature and shall enter into force definitively on the date indicated in an exchange of diplomatic notes, such exchange to take place once the Contracting Parties have obtained the approval required by them in accordance with their respective constitutional procedures.

Article 18. Unless one Party states its intention to do otherwise, in accordance with article 16, this Agreement shall remain in force for a period of three (3) years from the date of its signature, and may be renewed for successive periods of three (3) years by means of an exchange of diplomatic notes.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE at Mexico City on 25 February 1974 in duplicate in the Spanish language, both texts being equally authentic.

For the Government
of the United Mexican States:

[Signed]

EMILIO O. RABASA
Minister for Foreign Affairs

For the Government
of the Republic of Panama:

[Signed]

JUAN ANTONIO TACK
Minister for Foreign Affairs

ROUTE SCHEDULE

SECTION I

The airline designated by the Government of the United Mexican States shall be entitled to operate air services in both directions on the route specified and to make scheduled stops at the points indicated in this paragraph.

Mexico City – Panama – Caracas and beyond to Rio de Janeiro.

NOTES: 1. The designated airline may operate up to seven (7) flights a week on the specified route.

2. The designated airline may initiate its operations with three (3) flights a week, which may be increased in accordance with traffic requirements, as provided for in article 10, paragraph 5, of this Agreement.

3. The designated airline may exercise fifth-freedom traffic rights from Panama to Caracas on any or all of the weekly flights authorized.

4. The designated airline shall not have fifth-freedom or stopover rights from Panama to Rio de Janeiro or vice versa.

5. The designated airline may omit on any or all flights the intermediate points and points beyond.

6. The designated airline shall operate its route with equipment having a maximum capacity of one hundred and fifty (150) seats.

7. The limits imposed under paragraph four (4) above may be negotiated subsequently at the discretion of the Contracting Parties.

ROUTE SCHEDULE

SECTION II

The airline designated by the Government of the Republic of Panama shall be entitled to operate air services in both directions on the route specified and to make scheduled stops at the points indicated in this paragraph.

Panama City – an intermediate point in Central America – Mexico City and beyond to Los Angeles, California.

NOTES: 1. The designated airline may operate up to seven (7) flights a week on the specified route.

2. The designated airline may initiate its operations with four (4) flights a week, which may be increased in accordance with traffic requirements, as provided for in article 10, paragraph 5, of the Agreement.

3. The designated airline may exercise fifth-freedom rights from the intermediate point to Mexico, on any or all of the weekly flights authorized.

4. The designated airline shall not have fifth-freedom or stopover rights from Mexico to Los Angeles, California or vice versa.

5. The designated airline may omit on any or all flights the intermediate points and points beyond.

6. The designated airline shall operate its route with equipment having a maximum capacity of one hundred and fifty (150) seats.

7. The limits established under paragraph four (4) above may be negotiated subsequently at the discretion of the Contracting Parties.