No. 23023

MEXICO
and
COLOMBIA

Air Transport Agreement (with route schedule and memorandum of understanding). Signed at Bogotá on 9 January 1975

Authentic text: Spanish.
Registered by Mexico on 26 July 1984.

MEXIQUE
et
COLOMBIE

Accord relatif aux transports aériens (avec tableau de routes et lettre d'accord). Signé à Bogotá le 9 janvier 1975

Texte authentique : espagnol.
Enregistré par le Mexique le 26 juillet 1984.

[TRANSLATION — TRADUCTION]

AIR TRANSPORT AGREEMENT[1]

The Government of the United Mexican States and the Government of the Republic of Colombia,

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,

Desiring to strengthen still further the cultural 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 designated 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 Republic of Colombia, the Head of the Department of Civil Aeronautics Administration or any person or body authorized to perform the functions at present exercised by the Head of the Department; and, 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.

(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 Government 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.

[1] Came into force provisionally on 9 January 1975, the date of signature, 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.

(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 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 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 route.

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

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

(N) The term "through service" means the service operated by an airline, without a change of aircraft, from a point in the territory of one Contracting Party to another point in the territory of the other Contracting Party and beyond the points on the specified route.

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 said territory;

(*c*) To embark and disembark passengers, cargo and mail in international traffic in that territory 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 air services by the airline of a Contracting Party to which such rights are granted over the routes specified in the said route schedule.

Article 3. 1. With effect from the entry into force of this Agreement, the aeronautical authorities of the Contracting Parties shall, as soon as possible, communicate to each other the relevant information in respect of the authorizations given to operate the service specified in the route schedule.

2. Air service on a specified route may be inaugurated by the designated airline immediately or at a later date, once the other Contracting Party has given

the necessary authorization. The said Contracting Party is obliged to give such authorization, provided that the designated airline meets its requirements in accordance with the applicable laws and regulations.

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 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 ceases to fulfil the conditions under which the 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 on entry into or departure 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.

3. The airline designated by one Contracting Party may maintain and employ staff of its own nationality to discharge the functions of general agent in the territory of the other Contracting Party.

Article 6. Certificates of air worthiness, certificates of competency and licences issued or validated by one Contracting Party and still in force, shall be recognized as valid for 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 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 the designated airline 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 airlines engaged 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 airline designated by the other Contracting Party solely for use by its aircraft, shall be exempt, on a basis of

reciprocity, from customs duties, inspection fees and other national 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 national taxes and charges on arrival in or departure from the territory of the 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 designated 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 national 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 specified in this Agreement.

Article 9. In the operation by the designated airline of either Contracting Party of the air services provided for in this Agreement, the interests of the airline 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.

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, with 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.

Subject to the provisions of paragraph 3 below, 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 Contracting Parties, in consultation with other airlines operating over all or part of the same route, which agreement shall be reached, where possible, through the IATA machinery for setting tariffs and shall be subject to approval by the aeronautical authorities of the two Contracting Parties.

3. The tariffs so agreed 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 agree on a tariff, or if for any reason no tariff can be established in accordance with the provisions of paragraph 2 above, or if during the first fifteen (15) days of the period of forty-five (45) days referred to in paragraph 3 above one Contracting Party notifies the other Party of its disagreement with any tariff established in accordance with the provisions of paragraph 2 above, the aeronautical authorities of the Contracting Parties shall endeavour to establish the tariff by mutual agreement.

5. If the aeronautical authorities do not grant approval for a tariff, as provided for under paragraph 3 above, or fail to establish a tariff in accordance with paragraph 4, the matter shall be resolved in accordance with the provisions of article 13.

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

Article 12. 1. Consultations between the competent authorities of the two Contracting Parties for the purpose of discussing the interpretation, application or amendment of this Agreement may be requested at any time by either Contracting Party. Such consultations shall begin within sixty (60) days of the date of receipt of the request made by the Ministry of Foreign Affairs of the Republic of Colombia or by the Ministry of Foreign Affairs of the United Mexican States, 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, on condition that 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 the dispute by arbitration; the third arbitrator shall be designated within thirty (30) days of the date of expiration of the sixty (60) days referred to above.

3. If within the term indicated no agreement is reached concerning the third arbitrator, or if one of the Contracting Parties has not designated an arbitrator, the appointment shall be made 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 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. This Agreement shall remain in force for an initial period of three years from the date of its signature; if, at least six months prior to the termination of the period of validity, neither Party requests consultations, the Agreement shall be renewed for successive periods of three years.

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

DONE at Bogotá on 9 January 1975 in duplicate, both texts being equally authentic.

For the Government
of the United Mexican States:

[*Signed*]

JAIME JIMENEZ MUÑOZ
Ambassador Extraordinary
and Plenipotentiary

For the Government
of the Republic of Colombia:

[*Signed*]

INDALECIO LIEVANO AGUIRRE
Minister for Foreign Affairs

ROUTE SCHEDULE

1. The airline designated by the Government of the United Mexican States shall be entitled to operate in both directions on the following route:

Points in Mexican territory – Bogotá, and beyond, via intermediate points in Panama and Central America.

2. The airline designated by the Republic of Colombia shall be entitled to operate on the following route:

Points in Colombian territory – Mexico City, and beyond, via intermediate points in Panama and Central America.

3. The designated airlines may omit, on any or all flights, any or all of the intermediate points, subject to the approval of each of the aeronautical authorities, from their respective schedules and routes.

4. Until otherwise agreed by the aeronautical authorities, the designated airlines may exercise third- and fourth-freedom traffic rights only.

5. Each designated airline may operate on its specified route up to a maximum of five flights a week.

6. The designated airlines shall operate their specified route with equipment having a capacity of up to 160 passengers.

MEMORANDUM OF UNDERSTANDING

By virtue of the good relations existing between the Colombian and Mexican peoples, and in order to continue to provide appropriate air service between Colombia and Mexico, the following is agreed:

1. Until the airline designated by the Government of the Republic of Colombia starts operations on its specified route, the airline designated by the Government of the United Mexican States, subject to the provisions of article 10 of the Agreement signed between the Parties, may, on a provisional basis, gradually increase the frequency of its flights above those authorized in the route schedule annexed to the Agreement, it being understood that when the airline designated by the Mexican Government starts operations on its route, the frequency of flights of the airlines shall be adjusted, by agreement between the aeronautical authorities, on the basis of demand and service.

2. In the desire to increase co-operation between the national airlines of each Contracting Party, the aeronautical authorities agree to promote pooling, joint operations or other commercial arrangements between the said airlines for the operation of the specified routes as a whole or of some of their sections.

Such arrangements shall be submitted to the aeronautical authorities of both Contracting Parties for their approval.