# No. 23020

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# MEXICO
# and
# CUBA

## Air Transport Agreement (with route schedule). Signed at Mexico City on 31 July 1971

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

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# MEXIQUE
# et
# CUBA

## Accord relatif aux transports aériens (avec tableau de routes). Signé à Mexico le 31 juillet 1971

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

[TRANSLATION — TRADUCTION]

# AIR TRANSPORT AGREEMENT[1] BETWEEN THE UNITED MEXICAN STATES AND THE REPUBLIC OF CUBA

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

Considering that the two countries are parties to the Convention on International Civil Aviation done at Chicago on 7 December 1944,[2]

Considering that their bilateral relations in the field of civil aviation should be brought into line with current circumstances,

Have decided to conclude an air transport agreement to replace the agreement of 18 November 1954 and, to this end, have 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 Cuba, the Institute of Civil Aeronautics of Cuba or any person or body authorized to perform the functions at present exercised by the Institute of Civil Aeronautics of Cuba.

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

(D) The term "designated airline" means an airline or airlines the name or names of which have been communicated by the aeronautical authorities of one Contracting Party to the aeronautical authorities of the other Contracting Party as being the airline or airlines 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.

[1] Came into force provisionally on 31 July 1971, the date of signature, and definitively on 22 July 1974, 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.

(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 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 specified.

*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 air 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; and

(*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.* Air service on a specified route may be inaugurated either 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, which will operate a service on that route, and the other Party shall grant the necessary authorization for its operation.

The latter Party is obliged, subject to article 4, to give such permission, on the understanding that it may require the designated airline to meet the requirements of the aeronautical authorities of the said Party, in accordance with the laws and regulations normally applied by those authorities.

The Contracting Parties may freely substitute other national airlines for the designated airlines, with prior notice to the other Contracting Party. A newly designated airline shall have all the rights and obligations of its immediate predecessor.

*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 in the following cases:

1. If it is not satisfied that majority ownership and effective control of the airline are vested in nationals of the other Contracting Party;
2. If the airline fails to comply with the laws and regulations referred to in this Agreement;
3. If the airline or the Party designating it ceases to fulfil the conditions under which rights are granted in accordance with this Agreement;
4. If the designated airline fails to comply with the conditions stipulated in the authorization granted.

*Article 5.* 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 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 6.* I. The laws and regulations of one Contracting Party relating to the entry into and departure from its territory of aircraft operated on international air services, 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 on entering or departing from, and while within, the territory of the said Contracting Party.

II. The laws and regulations of one Contracting Party relating to the entry into and departure from its territory of the passengers, crew, cargo and mail of aircraft shall apply to the passengers, crew, cargo and mail of the aircraft of the airline designated by the other Contracting Party while within the territory of the first Contracting Party.

III. In the application of paragraphs 1 and 2, each Contracting Party shall ensure that the airline designated by the other Contracting Party is accorded treatment equal to that enjoyed in its territory by the airlines of other countries.

*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, installations and other services. The Contracting Parties agree, however, that the charges shall not be higher than those paid for the use of such airports, installations and services by their respective aircraft used in similar international service.

2. Lubricating oils, 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 duties and taxes.

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 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. Lubricating oils, other technical supplies for consumption, spare parts, standard equipment and stores introduced in accordance with the provisions of paragraph 2 above, which are taken on board aircraft of the airlines of one Contracting Party in the territory of the other Contracting Party and used in international air service shall be exempt, on a basis of reciprocity, from customs duties, inspection fees and other duties and taxes.

*Article 8.* Each designated airline may maintain in the territory of the other Contracting Party its own technical and administrative personnel, due account being taken in this connection of the national regulations of the respective Contracting Parties. It is understood that this authorization extends only to the minimum staff essential for the normal operation of services.

*Article 9.* The Contracting Parties agree that the designated airlines shall be accorded fair and reasonable treatment to ensure equal opportunity for the operation of agreed air services between the territories of the Contracting Parties.

*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. Before any increase is made in the capacity offered or the frequency of service on one of the specified air routes, within the limits provided for under this Agreement, notice shall be given 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 dealt with in accordance with the procedure laid down in article 13. In the meantime, 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.

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 two Contracting Parties.

3. The tariffs so agreed, as well as the terms relating to them and the terms of any ancilliary 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 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 the tariffs, as provided for under paragraph 3 above, or fail to agree on 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 determined in accordance with this article.

*Article 12.* 1. Consultation 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 consultation shall begin within a period of sixty (60) days from the date of receipt of the request made by either Contracting Party.

2. If an agreement to amend the Agreement is reached, such agreement shall be formalized by means of an exchange of diplomatic notes.

3. The amendments so agreed 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.* In the event of a dispute between the Contracting Parties relating to the interpretation or application of this Agreement or of the route schedule annexed hereto, the Parties shall first seek to resolve the matter by means of direct consultations between their aeronautical authorities. If no settlement is reached, the dispute shall be resolved through the diplomatic channel.

*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 one year 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, which is to take place once the Contracting Parties have obtained the approval required by them in accordance with their respective constitutional procedures.

*Article 18.* Without prejudice to the provisions of article 16, this Agreement shall remain in force for three years from the date of its signature. It shall be understood to have been tacitly renewed for a further two years, unless the Contracting Parties agree to hold consultations for the purpose of considering a possible amendment of the Agreement, in accordance with the procedures established in article 12.

On the expiry of the period referred to in the above paragraph, in either of the two eventualities, this Agreement shall be tacitly renewed for successive terms of five years, unless one of the Contracting Parties states its intention to the contrary in accordance with the terms of article 16.

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

DONE at Mexico City on 31 July 1971, in duplicate, 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 Cuba:

[*Signed*]

JOAQUÍN HERNÁNDEZ ARMAS
Ambassador Extraordinary
and Plenipotentiary

## ROUTE SCHEDULE

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

Mexico City, Merida, Yucatan (optional), Havana, Cuba.

2. The airline designated by the Government of the Republic of Cuba shall be entitled to operate air services in both directions between the points specified on the following air route:

Havana, Cuba, Mexico City.

3. The airlines designated by the Contracting Parties shall exercise third and fourth freedom traffic rights exclusively.

4. Each of the airlines designated by the Contracting Parties shall be entitled to a frequency of four flights a week, with equipment having a capacity of not more than 250 seats.