

No. 24097

**AUSTRIA
and
MOROCCO**

**Air Transport Agreement (with annex). Signed at Rabat on
22 October 1975**

Authentic texts: German and French.

Registered by Austria on 9 May 1986.

**AUTRICHE
et
MAROC**

**Accord relatif aux transports aériens (avec annexe). Signé à
Rabat le 22 octobre 1975**

Textes authentiques : allemand et français.

Enregistré par l'Autriche le 9 mai 1986.

[TRANSLATION — TRADUCTION]

AIR TRANSPORT AGREEMENT¹ BETWEEN THE FEDERAL GOVERNMENT OF AUSTRIA AND THE GOVERNMENT OF HIS MAJESTY THE KING OF MOROCCO

The Federal Government of Austria and the Government of His Majesty the King of Morocco,

Desiring to promote the development of air transport between Austria and Morocco and to pursue international co-operation in this sphere to the widest extent possible;

Desiring to apply to such transport the principles and provisions of the Convention on International Civil Aviation, signed at Chicago on 7 December 1944,² hereinafter called “the Convention”, have agreed as follows:

Article 1. GRANT OF RIGHTS

The Contracting Parties grant each other the rights specified in this Agreement for the purpose of establishing the international civil air services enumerated in the Annex thereto.

Article 2. DEFINITIONS

For the application of this Agreement and the Annex thereto:

(a) The term “territory” has the meaning assigned to it in article 2 of the Convention;

(b) The term “Aeronautical Authorities” means:

- In the case of Austria, the Federal Ministry of Transport;
- In the case of Morocco, the Ministry of Public Works and Communications, Directorate of Air;

(c) The term “designated airline” means an airline designated in writing by one of the Contracting Parties, in accordance with article 17, as the airline authorized to operate the agreed services hereunder;

(d) The terms “aircraft equipment”, “aircraft stores” and “spare parts” have the meanings assigned to them by the definitions in Annex 9 of the Convention.

Article 3. CHARGE — DUTIES AND CUSTOMS

In order to avoid any discriminatory practices and to ensure complete equality of treatment, the Contracting Parties have agreed that:

(a) The fees or other duties and charges levied by each Contracting Party for the use of aerodromes and other aeronautical facilities in its territory by aircraft of

¹ Came into force on 29 March 1981, i.e., 60 days after the Contracting Parties had notified each other (on 29 September 1980 and 28 January 1981) of the completion of the required constitutional formalities, in accordance with article 21.

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.

the other Contracting Party shall not be higher than those paid by national aircraft of the same type engaged in similar international services;

(b) Subject to the regulations of the Contracting Party concerned:

1. Aircraft used by the designated airlines of one Contracting Party, together with the fuel, lubricating oils, spare parts, aircraft equipment, aircraft stores and the general materials to be used solely by the aircraft and imported and re-exported therewith, shall be exempt, upon admission to the territory of the other Contracting Party, from customs duties and other duties and fees levied on the import, export and transit of goods.

2. The fuel, lubricating oils, spare parts, regular equipment and stores to be used by the aircraft designated in paragraph 1 above shall, upon arrival in or departure from the territory of the other Contracting Party, be exempt from customs duties, inspection fees or other similar duties and fees.

3. The fuels and lubricants placed on board the aircraft used by the designated airlines of one Contracting Party in the territory of the other, and subsequently re-exported, shall be exempt from customs duties, taxes on consumption and other national duties and taxes.

Article 4. REPRESENTATION OF AIRLINES

Any airline designated by one Contracting Party may maintain on the aircraft or in the cities of the other Contracting Party such administrative and technical staff as the designated airline may deem necessary as its representatives. Where a designated airline declines to maintain its own staff at the airports of the other Contracting Party, it shall as far as possible assign any work to the airport staff or to the staff of a designated airline of the other Contracting Party.

Article 5. RECOGNITION OF CERTIFICATES AND LICENCES

Certificates of airworthiness and certificates and licences issued or validated by one of the Contracting Parties and still in force shall be recognized as valid by the other Contracting Party for the purposes of operating the air routes specified in the Annex hereto. Each Contracting Party reserves the right, however, to refuse to recognize as valid, for the purpose of flight over its territory, certificates and licences granted to its own nationals by the other Contracting Party or by any other State.

Article 6. APPLICATION OF AIR REGULATIONS; REGULATIONS CONCERNING ADMISSION AND DEPARTURE

The laws and regulations of each Contracting Party relating to the admission to and departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft during their stay in its territory, shall be applied to aircraft of the airline or airlines of the other Contracting Party.

Passengers, crews and shippers of goods shall be required to comply either personally or through a third party acting in their name and on their behalf, with the laws and regulations governing the admission to, stay in and departure from the territory of each Contracting Party of passengers, crews or goods, such as those which apply to admission, clearance formalities, immigration, customs and quarantine.

Article 7. EXERCISE OF RIGHTS GRANTED

Each Contracting Party reserves the right to refuse authorization to an airline designated by the other Contracting Party or to revoke such authorization if, on valid grounds, it is not satisfied that substantial ownership and effective control of that airline are vested in the other Contracting Party or in its nationals, or if that airline fails to comply with the laws and regulations referred to in article 6, or fails to fulfill its obligations under this Agreement.

Each Contracting Party shall exercise this right only after consultation as provided for in article 9 below, unless an immediate suspension of operations or the imposition of restrictive conditions is essential to prevent further infringements of the laws or regulations.

Article 8. TERMINATION OF THE AGREEMENT

Either Contracting Party may at any time notify the other Contracting Party of its desire to terminate this Agreement. Such notification shall be simultaneously communicated to the International Civil Aviation Organization. The termination shall become effective nine months after the date of receipt of the notification by the other Contracting Party, unless it is withdrawn by mutual agreement before the end of that period. If the other Contracting Party does not acknowledge receipt of the notification, it shall be deemed to have been received fifteen (15) days after its receipt at the headquarters of the International Civil Aviation Organization.

Article 9. CONSULTATION BETWEEN THE AERONAUTICAL AUTHORITIES

Either Contracting Party may at any time request consultation between the competent Aeronautical Authorities of the two Contracting Parties concerning the interpretation, application or modification of this Agreement and the Annex thereto.

Such consultation shall begin within sixty (60) days from the receipt of the request.

Any decisions with respect to modifications of this Agreement shall enter into force upon confirmation by an exchange of notes through the diplomatic channel.

Article 10. SETTLEMENTS OF DISPUTES

(a) In the event that a dispute relating to the interpretation or application of this Agreement has not been settled in accordance with the provisions of article 9, either by the Aeronautical Authorities or by the Governments of the Contracting Parties, it shall be referred to an arbitral tribunal at the request of one of the Contracting Parties.

(b) The arbitral tribunal shall be composed of three members. Each of the two Governments shall appoint its arbitrators; these two arbitrators shall agree on the appointment of a national of a third State as president.

If within a period of two months from the day on which one of the two Governments proposed the settlement of the dispute by arbitration, the two arbitrators have not been designated, or if within the month following their designation, the arbitrators have not reached agreement on the appointment of a president, each Contracting Party may request the President of the Council of the International Civil Aviation Organization to make the necessary appointments.

(c) If the arbitral tribunal is unable to settle the dispute amicably, it shall decide by majority vote. Unless the Contracting Parties agree otherwise, it shall determine its own rules of procedure and seat.

(d) The Contracting Parties undertake to comply with any interim measures decreed during the proceedings and with the arbitral decision, which shall be deemed final in all cases.

(e) If and so long as either Contracting Party fails to comply with the decisions of the arbitrators, 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.

(f) Each Contracting Party shall defray the expenses involved in the activities of its arbitrator and half the expenses of the designated president.

Article 11. REGISTRATION OF THE AGREEMENT PARAGRAPH

This Agreement and the Annex thereto shall be communicated to the International Civil Aviation Organization for registration.

Article 12. CONFORMITY WITH MULTILATERAL AGREEMENTS

This Agreement shall be made to conform with any multilateral agreement relating to civil aviation which may become binding on both Contracting Parties.

Article 13. AGREED SERVICES

The Federal Government of Austria grants to the Government of His Majesty the King of Morocco, and the Government of His Majesty the King of Morocco reciprocally grants to the Federal Government of Austria, the right to arrange for the operation, by an airline or airlines designated by their respective Governments, of the air services specified in the schedules which appear in the Annex to this Agreement. Those services will hereinafter be designated by the term "agreed services".

Article 14. NECESSARY AUTHORIZATIONS

(a) The agreed services may be operated immediately or subsequently, at the discretion of the Contracting Party to which the rights are granted, on condition that:

1. The Contracting Party to which the rights have been granted has designated an airline or airlines to operate the specified route or routes;
2. The Contracting Party which grants the rights has granted the necessary operating licence to the airline or airlines in question under the conditions specified in paragraph (b) below, the said licence shall be granted in the shortest possible time, subject to the provisions of article 7 above.

(b) The designated airlines may be required to satisfy the Aeronautical Authorities of the Contracting Party which grants the rights that they are in a position to fulfil the conditions provided for under the laws and regulations normally applied by those authorities with respect to the operation of commercial airlines.

Article 15. TRAFFIC RIGHTS

The airline or airlines designated by either of the Contracting Parties in accordance with this Agreement shall enjoy, in the territory of the other

Contracting Party, the right to discharge and take on board passengers, mail and cargo in international traffic at the landing points and on the routes specified in the Annex hereto.

Article 16. EQUAL TREATMENT

The airlines designated by each of the two Contracting Parties shall receive just and equitable treatment so that they may enjoy equal opportunity for the operation of the agreed services.

They shall take into consideration their mutual interests on the routes operated in common so as not to affect unduly their respective services.

Article 17. CAPACITY

(a) The operation of services between Austrian territory and Moroccan territory, or vice versa, on the routes specified in the schedule which appears in the Annex to this Agreement, shall be a fundamental and primary right of both countries.

(b) For the operation of these services:

1. Capacity shall be shared equally between the Austrian and Moroccan airlines, subject to paragraph 3 below;

2. The total capacity to be provided on each of the routes shall be adapted to the reasonably anticipated demand.

In order to respond to an unanticipated or momentary demand for traffic on these routes, the designated airlines shall decide together on appropriate measures to satisfy this temporary increase in traffic. They shall immediately give notice of their decision to the Aeronautical Authorities of their respective countries, who may consult each other if they deem it appropriate;

3. Should one of the designated airlines not wish to use a part or all of the transport capacity allotted to it on one or more routes, it shall reach agreement with the other designated airline to transfer to the latter, for a definite period, all or part of its transport capacity within the specified limit.

A designated airline which has transferred all or part of its rights may recover them at the end of the said period.

Article 18. SCHEDULE OF OPERATION; MONITORING OF STATISTICS

(a) The designated airline shall indicate to the Aeronautical Authorities of the two Contracting Parties, no later than thirty (30) days before beginning the operation of the agreed services, the nature of the transport, the types of aircraft to be used and the anticipated schedules. The same rule shall apply for subsequent changes.

(b) The Aeronautical Authorities of each Contracting Party shall supply to the Aeronautical Authorities of the other Contracting Party upon request such periodic or other statistical material concerning the designated airlines as may be reasonably required for the purpose of monitoring the transport capacity provided by a designated airline of the first Contracting Party. Such statistics shall include all information required to determine the amount as well as the origins and destinations of such traffic.

Article 19. TARIFFS

(a) The tariffs to be charged for the agreed services provided on the Austrian and Moroccan routes specified in this Agreement shall, to the extent possible, be established by agreement between the designated airlines.

These airlines shall proceed:

1. Either by implementing any decisions adopted under the procedure of the International Air Transport Association (IATA) for the establishment of tariffs;
2. Or by direct agreement, after consultation, where appropriate, with the airlines of third countries operating all or part of the same routes.

(b) The tariffs so established shall be submitted for the approval of the Aeronautical Authorities of each Contracting Party at least thirty (30) days before the proposed date of their introduction; in special cases, this period may be reduced, subject to the agreement of the said authorities.

(c) Where the designated airlines are unable to agree on the establishment of a tariff in accordance with the provisions of paragraph (a) above, or where one of the Contracting Parties indicates its disapproval of the tariff submitted to it in accordance with the provisions of paragraph (b) preceding, the Aeronautical Authorities of the two Contracting Parties shall endeavour to reach a satisfactory settlement.

As a last resort, the Parties shall have recourse to arbitration as provided for in article 10 of this Agreement.

Until the arbitral decision has been rendered, the Contracting Party which indicated its disapproval may require the other Contracting Party to maintain the tariffs previously in force.

Article 20. FLIGHTS NOT SUBJECT TO RESTRICTIONS

(a) Each Contracting Party shall grant to the designated airlines of the other Contracting Party authorization to provide non-scheduled commercial air service from or to its territory, without imposing the "regulations, conditions and limitations" provided for in the second paragraph of article 5 of the Convention, when such aircraft are used for one of the following activities:

1. Transport provided for humanitarian purposes or in case of dire necessity;
2. Occasional transport of passengers by air taxi on request, provided that the aircraft has a capacity of no more than six seats, the destination is chosen by the customers and no part of that capacity is resold to the public;
3. Transport provided by aircraft of which the full capacity is leased to a single individual or corporation for the transport of personnel or goods, provided that no part of that capacity is resold to a third party.

(b) The same conditions shall apply to aircraft used for one of the following activities:

1. All-cargo transport;
2. Transport of passengers between regions which are not connected by regular air services;

3. Individual flights, it being understood that, under the terms of this subparagraph, no carrier shall be entitled, in respect of all aircraft at its disposal, to more than one flight per month between the same two traffic centres.

However, each Contracting Party may require the activities provided for in paragraph (b) of this article to be discontinued if, in its opinion, they are harmful to the interests of its regular air services.

Furthermore, with regard to the activity mentioned in subparagraph 2 of paragraph (b), each Contracting Party may freely define the extent of the regions (particularly the airport or airports concerned) and may change this definition at any time.

Article 21. ENTRY INTO FORCE OF THE AGREEMENT

This Agreement shall enter into force sixty (60) days after the date on which the two Contracting Parties have notified each other through the diplomatic channel of the completion of their required constitutional formalities.

IN WITNESS WHEREOF the undersigned representatives, duly authorized by their respective Governments, have affixed their signatures to this Agreement.

DONE at Rabat, on 22 October 1975 in duplicate, in the German and French languages, both texts being equally authentic.

For the Federal Government of Austria:

JOHANNES WILLFORT

For the Government of His Majesty the King of Morocco:

MOHAMMED MEKOUAR

ANNEX

I. The airline designated by the Federal Government of Austria shall have the right to operate the agreed services in both directions on the routes specified below:

1. Points of departure: points in Austria
2. Destination points: Casablanca, or Agadir, or Marrakesh, or Tangiers

II. The airline designated by the Government of His Majesty the King of Morocco shall have the right to operate the agreed services in both directions on the routes specified below:

1. Points of departure: points in Morocco
2. Destination points: Vienna

III. Intermediate points and those beyond the respective territories of the Contracting Parties may be served by the designated airlines without fifth freedom rights.