

No. 24099

**AUSTRIA
and
REPUBLIC OF KOREA**

**Agreement for air services between and beyond their
respective territories (with annex). Signed at Vienna on
15 May 1979**

Authentic text: English.

Registered by Austria on 9 May 1986.

**AUTRICHE
et
RÉPUBLIQUE DE CORÉE**

**Accord relatif aux services aériens entre leurs territoires
respectifs et au-delà (avec annexe). Signé à Vienne le
15 mai 1979**

Texte authentique : anglais.

Enregistré par l'Autriche le 9 mai 1986.

AGREEMENT¹ BETWEEN THE AUSTRIAN FEDERAL GOVERNMENT AND THE GOVERNMENT OF THE REPUBLIC OF KOREA FOR AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES

The Austrian Federal Government and the Government of the Republic of Korea,

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944,² and,

Desiring to conclude an Agreement for the purpose of establishing and operating air services between and beyond their respective territories,

Have agreed as follows:

Article 1. For the purpose of the present Agreement, unless the context otherwise requires:

(a) The term “the Convention” means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944, and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or Convention under Articles 90 and 94 thereof;

(b) The term “aeronautical authorities” means, in the case of the Austrian Federal Government, the Federal Ministry of Transport and/or any other authority legally empowered to perform the functions exercised now by the said authorities, and, in the case of the Government of the Republic of Korea, the Minister of Transportation and/or any person or body authorized to perform any function exercised at present by the said Minister or similar functions;

(c) 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 the Annex;

(d) The term “territory” in relation to a Contracting Party means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or trusteeship of that Contracting Party;

(e) The terms “air service”, “international air service”, “airline” and “stop for non-traffic purposes” have the meanings respectively assigned to them in Article 96 of the Convention; and

(f) The term “Annex” means the Annex to the present Agreement or as amended in accordance with the provisions of Article 14 of the present Agreement.

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

¹ Came into force on 14 July 1979, i.e., 60 days from the date of signature, in accordance with article 16.

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.

Article 2. 1. Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement to enable its designated airline to establish and operate international air services on the routes specified in the Annex thereto hereinafter called “the agreed services” and “the specified routes” respectively.

2. Subject to the provisions of the present Agreement, the designated airline of 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; and
- (c) To make stops in the said territory at the points specified for that route in the Annex for the purpose of putting down and taking on international traffic in passengers, cargo and mail.

3. Nothing in paragraph (2) of this Article shall be deemed to confer on the designated airline of one Contracting Party the privilege of taking up, in the territory of the other Contracting Party, passengers, cargo or 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 an airline for the purpose of operating the agreed services on the specified routes. This designation shall be made by written notification between the competent authorities of the two Contracting Parties.

2. On receipt of the designation, the other Contracting Party shall, subject to the provisions of paragraphs (3) and (4) of this Article, grant without delay to the designated airline the appropriate operating authorization.

3. The aeronautical authorities of one Contracting Party may require the designated airline of 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 by them, in conformity with the provisions of the Convention, to the operation of international air services.

4. Each Contracting Party reserves the right to withhold or revoke the grant to the designated airline of the privileges specified in paragraph (2) of Article 2 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by such airline of those privileges, 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 its nationals.

5. Each Contracting Party reserves the right to revoke an authorization for operation or to suspend the exercise by the designated airline of the other Contracting Party of the privileges specified in paragraph (2) of Article 2 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by such designated airline of those privileges, in any case where such airline fails to comply with the laws and regulations of the Contracting Parties granting those privileges or otherwise fails to operate in accordance with the conditions prescribed in the present Agreement; provided that, unless immediate revocation, suspension or imposition of conditions is essential to prevent further infringements of such laws and regulations, or for reason of safety of air navigation, this right shall be exercised only after consultation with the other Contracting Party.

6. The airline designated and authorized in accordance with the provisions of paragraphs (1) and (2) of this Article may begin to operate the agreed services, provided that tariffs established in accordance with the provisions of Article 9 of the present Agreement are in force in respect of those services.

Article 4. 1. Aircraft operated on international services by the designated airlines of either Contracting Party, as well as their regular equipment, supplies of fuels and lubricants, and aircraft stores (including food, beverages and tobacco) on board such aircraft shall be exempt from all customs duties, inspection fees and other duties or taxes on arriving in the territory of the other Contracting Party, provided such equipment and supplies remain on board the aircraft up to such time as they are re-exported.

2. There shall also be exempt from the same duties and taxes, with the exception of charges corresponding to the service performed:

- (a) Aircraft stores taken on board in the territory of either Contracting Party, within limits fixed by the authorities of said Contracting Party, and for use on board aircraft engaged in an international service of the other Contracting Party;
- (b) Spare parts entered into the territory of either Contracting Party for the maintenance or repair of aircraft used on international services by the designated airline of the other Contracting Party;
- (c) Fuel and lubricants destined to supply aircraft operated on international services by the designated airline of the other Contracting Party, even when these supplies are to be used on the part of the journey performed over the territory of the Contracting Party in which they are taken on board.

Materials referred to in sub-paragraphs (a), (b) and (c) above may be required to be kept under customs supervision or control.

Article 5. The regular airborne equipment, as well as the materials and supplies retained on board the aircraft of either Contracting Party may be unloaded in the territory of the other Contracting Party only with the approval of the customs authorities of such territory. In such case, they may be placed under the supervision of said authorities up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.

Article 6. 1. The laws and regulations of one Contracting Party governing entry into or departure from its territory of aircraft engaged in international air navigation or flights of such aircraft over that territory shall be applied to the aircraft of the designated airline of the other Contracting Party, and shall be complied with by such aircraft upon entering into or departing from, and while within the territory of the first Contracting Party.

2. The laws and regulations of one Contracting Party governing entry into, sojourn in, or departure from its territory of passengers, crew, cargo or mail, such as those concerning the formalities of entry and exit, of emigration and immigration, customs and sanitary measures shall be applicable to the passengers, crew, cargo or mail carried by the aircraft of the designated airline of the other Contracting Party while within the territory of the first Contracting Party.

3. Each Contracting Party undertakes not to grant any preferences to its own airlines with regard to the designated airline of the other Contracting Party in the application of the laws and regulations provided for by the present Article.

4. The designated airline of one Contracting Party shall have the right to establish representative offices in the territory of the other Contracting Party. These representative offices may include commercial, operational and technical staff.

Article 7. 1. Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by either of the Contracting Parties shall, during the period of their validity, be recognized as valid by the other Contracting Party.

2. Each Contracting Party reserves the right, however, not to recognize as valid, for the purpose of flights over its own territory, certificates of competency and licenses granted to its own nationals or rendered valid for them by the other Contracting Party or by any other State.

Article 8. 1. There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to operate the agreed services on the specified routes between their respective territories.

2. In the operation by the designated airline of either Contracting Party of the services described in this Agreement, the interest of the airline of the other Contracting Party shall be taken into consideration so as not to affect unduly the services which the latter provides on all or part of the same routes.

3. The agreed services provided by the designated airline of either Contracting Party shall have as their primary objective the provision of capacity adequate to the current and foreseeable traffic demands to and from the territory of the Contracting Party designating the airline, and the carriage of traffic embarked or disembarked in the territory of the other Contracting Party to and from points on the specified routes in the territories of States other than that designating the airline shall be of supplementary character. The right of such airline to carry traffic between points of the specified route located in the territory of the other Contracting Party and points in third countries shall be exercised in the interests of an orderly development of international air transport in such a way that the capacity is related to:

- (a) The traffic demand to and from the territory of the Contracting Party designating the airline;
- (b) The traffic demand existing in the areas through which the air services pass, taking account of local and regional air services;
- (c) The requirements of an economical operation of through traffic routes.

Article 9. 1. The tariffs on any agreed service 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 of the specified routes.

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

(a) The tariffs referred to in paragraph (1) of this Article, together with the rates of agency commission used in conjunction with them shall, if possible, be agreed in respect of each of the specified routes and sectors thereof between the designated airlines concerned and such agreement shall, where possible, be reached through the rate-fixing machinery of the International Air Transport Association. The tariffs so agreed shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

(b) If the designated airlines concerned cannot agree on the tariffs, or if for some other reasons tariff cannot be agreed upon in accordance with the provisions of paragraph (2) (a) of this Article, the aeronautical authorities of the Contracting Parties shall try to determine the tariff by agreement between themselves.

(c) If the aeronautical authorities of either Contracting Party do not approve any tariff submitted to them under provisions of paragraph 2 (a) of this Article or the aeronautical authorities of both Contracting Parties cannot determine any tariff under provisions of paragraph (2) (b) of this Article, the dispute shall be settled in accordance with the provisions of Article 13 of the present Agreement.

(d) No new tariff shall come into force if the aeronautical authorities of either Contracting Party are dissatisfied with it except under the provisions of paragraph (3) of Article 13 of the present Agreement. Pending determination of the tariffs in accordance with the provisions of this Article, the tariffs already in force shall prevail.

Article 10. Each Contracting Party grants to the designated airline of the other Contracting Party the right to remit to its head office the excess over expenditure of receipts earned in the territory of the first Contracting Party. The procedure for such remittances, however, shall be in accordance with the foreign exchange laws and regulations of the Contracting Party in the territory of which the revenue accrued.

Article 11. The aeronautical authorities of either Contracting Party shall supply to the aeronautical authorities of the other Contracting Party, at their request, such periodic or other statements of statistics as may be reasonably required for the purpose of reviewing the capacity provided on the agreed services by the designated airline of the first Contracting Party. Such statements shall include all information required to determine the amount of traffic carried by that airline on the agreed services and the origins and destinations of such traffic.

Article 12. There shall be regular and frequent consultation between the aeronautical authorities of the Contracting Parties to ensure close collaboration in all matters affecting the fulfilment of the present Agreement.

Article 13. 1. If any dispute arises between the Contracting Parties relating to the interpretation or application of this present Agreement the Contracting Parties shall in the first place endeavour to settle it by negotiation.

2. If the Contracting Parties fail to reach a settlement by negotiation, they may agree to refer the dispute for decision to some person or body, or the dispute may at the request of either Contracting Party be submitted for decision to a tribunal of three arbitrators, one to be nominated by each Contracting Party and the third to be appointed by the two so nominated. Each of the Contracting Parties shall nominate an arbitrator within a period of sixty days from the date of receipt by either Contracting Party from the other of a notice through diplomatic channels requesting arbitration of the dispute and the third arbitrator shall be appointed within a further period of sixty days. If either of the Contracting Parties fails to nominate an arbitrator within the period specified, or if the third arbitrator is not agreed, the President of the Council of the International Civil Aviation Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. In such case, the third arbitrator shall be a national of a third State and shall act as president of the tribunal.

3. The Contracting Parties undertake to comply with any decision given under paragraph (2) of this Article.

Article 14. 1. If either of the Contracting Parties considers it desirable to amend the terms of present Agreement, it may at any time request consultation with the other Contracting Party for the purpose of amending the present Agreement. Such consultation shall begin within a period of sixty days from the date of the request. 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 on the sixtieth day after they have been confirmed by an exchange of diplomatic notes.

2. If a general multilateral convention concerning air transport comes into force in respect of both Contracting Parties, present Agreement shall be amended so as to conform with the provisions of such convention.

Article 15. Either Contracting Party may at any time give written notice through diplomatic channels to the other if it desires to terminate the present Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organization. If such notice is given, the present Agreement shall be terminated twelve months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of acknowledgment of receipt by the other Contracting Party, the notice shall be deemed to have been received fourteen days after the receipt of the notice by the International Civil Aviation Organization.

Article 16. The present Agreement shall enter into force sixty days from the date of signature.

The present Agreement and any Exchange of Notes in accordance with Article 14 shall be registered with the International Civil Aviation Organization.

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

DONE at Vienna on this 15th day of May 1979 in duplicate in the English language.

For the Austrian Federal Government:

WILLIBALD P. PAHR

For the Government of the Republic of Korea:

YOUNG-CHOO KIM

ANNEX

ROUTE SCHEDULE

The airline designated by the Austrian Federal Government shall be entitled to operate air services in both directions as specified hereafter: Points in Austria, via intermediate points, to one or several points in the Republic of Korea and points beyond.

The airline designated by the Government of the Republic of Korea shall be entitled to operate air services in both directions as specified hereafter: Points in the Republic of Korea, via intermediate points, to one or several points in Austria and points beyond.

Points on any of the above routes may at the option of the designated airline be omitted on any or all flights, provided that such service shall have its starting point in the territory of the Contracting Party designating the airline.
