

No. 24095

**AUSTRIA
and
ISRAEL**

**Air Transport Agreement (with annex). Signed at Jerusalem
on 22 August 1963**

Authentic text: English.

Registered by Austria on 9 May 1986.

**AUTRICHE
et
ISRAËL**

**Accord relatif aux transports aériens (avec annexe). Signé à
Jérusalem le 22 août 1963**

Texte authentique : anglais.

Enregistré par l'Autriche le 9 mai 1986.

AIR TRANSPORT AGREEMENT¹ BETWEEN THE AUSTRIAN FEDERAL GOVERNMENT AND THE GOVERNMENT OF THE STATE OF ISRAEL

The Austrian Federal Government and the Government of the State of Israel

Desiring to promote the development of air communications between their countries and to pursue international cooperation in this field to the largest extent possible;

Wishing to apply to these communications the principles and rules of the Convention on International Civil Aviation signed at Chicago on December 7, 1944;²

Have agreed as follows:

Article 1. DEFINITIONS

1. For the purpose of the present Agreement and the Annex thereto the following terms have the following meaning, unless otherwise stated in the text:

(a) "Aeronautical Authorities" means in the case of the Austrian Federal Government the Federal Ministry of Communications and of Electric Power Development and in the case of the Government of the State of Israel the Ministry of Communications and Transport or in both cases any other authority empowered to perform the functions presently exercised by the said Authorities.

(b) "Designated airline" means the airline that one of the Contracting Parties shall have designated in writing to the other Contracting Party in accordance with Article 3 of this Agreement as the airline which is to operate the international air services on the routes specified in the Annex to the present Agreement.

(c) "Convention" means the Convention on International Civil Aviation signed at Chicago on December 7, 1944.

2. "Territory", "air services", "international air services" and "stop for non-traffic purposes" shall have, in the application of the present Agreement, the meaning specified in Articles 2 and 96 of the Convention.

Article 2. TRAFFIC RIGHTS

Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing scheduled international air services on the routes specified in the Annex to this Agreement.

Such services and routes are hereinafter called "the agreed services" and "the specified routes" respectively.

The airline designated by each Contracting Party shall enjoy while operating an agreed service on a specified route, the following rights:

(a) To fly, without landing, over the territory of the other Contracting Party;

¹ Came into force on 5 September 1963, i.e., 14 days after 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.

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

Article 3. NECESSARY AUTHORIZATIONS

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.

2. On receipt of such designation, the other Contracting Party shall, subject to the provisions of paragraphs (4) and (5) of this Article, without delay, grant to the designated airline the appropriate authorizations.

3. Each Contracting Party shall have the right, by written notification to the other Contracting Party, to withdraw the designation of an airline and to designate another airline.

4. The Aeronautical Authorities of one Contracting Party may require the airline designated by the other Contracting Party to satisfy them that it is qualified to fulfill the conditions prescribed under the laws and regulations normally and reasonably applied to the operation of international air services by such authorities in conformity with the provisions of the Convention.

5. Each Contracting Party shall have the right to refuse to grant the authorizations referred to in paragraph (2) of this Article, or to impose such conditions as it may deem necessary on the exercise by a designated airline of the rights specified in Article 2:

- (a) 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 nationals of such Contracting Party, or
- (b) In the case of failure by that airline to comply with the laws or regulations of the Contracting Party granting these rights.

6. When an airline has been so designated and authorized, it may begin at any time to operate the agreed services, provided that a tariff established in accordance with the provisions of Article 8 of the present Agreement is in force in respect of that service.

Article 4. CAPACITY REGULATIONS

1. The capacity offered by the designated airlines of the Contracting Parties shall be in direct relationship to the traffic requirements on the specified routes.

2. In applying the principle established in paragraph (1) of this Article:

(a) The air services operated by a designated airline shall have as their primary objective the provision, at a reasonable load factor, of capacity adequate to current and reasonably anticipated demand for the transport of international air traffic coming from or destined for the territory of the Contracting Party designating the airline.

(b) The capacity provided under the above sub-paragraph (a) may be increased by complementary capacity for the transport of international air traffic coming from or destined for points on the specified routes situated in States other than that of the Contracting Party designating the airline.

3. Both Contracting Parties agree to recognize that the fifth freedom is complementary to the traffic requirements on the routes between the territories of the Parties, and at the same time is subsidiary in relation to the traffic requirements of the third and fourth freedom between the territory of the other Party and a country on the route.

4. The frequency of services shall be reviewed from time to time by the designated airlines of the two Contracting Parties.

5. The frequency of the services on the specified routes shall be discussed from time to time between the competent authorities of the two Contracting Parties.

6. In order to meet the provisions of the above-mentioned paragraphs the designated airlines of both Contracting Parties shall, subject to the approval of the competent authorities, agree upon their flight schedules in due time before the services start or are changed. If no agreement is reached the provisions of this Agreement shall apply.

7. In so far as a designated airline of one Contracting Party may not wish, permanently or temporarily, to operate, in full or in part, the frequency of service to which it is entitled under its rights, it may arrange with the designated airline of the other Contracting Party to transfer, for a certain period of time, all or part of the frequencies in question to that airline.

The Contracting Party which may have transferred all or part of its rights may reassume them at the end of the said period.

Article 5. REVOCATION AND SUSPENSION

1. Each Contracting Party shall have the right to revoke an authorization or to suspend the exercise of the rights specified in Article 2 of the present Agreement by the airline designated by the other Contracting Party, or to impose on the exercise of these rights such conditions which seem to be necessary in order to prevent further infringements of laws or regulations:

- (a) 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 nationals of such Contracting Party, or
- (b) In the case of failure by that airline to comply with the laws or regulations of the Contracting Party granting these rights, or
- (c) In case the airline otherwise fails to operate in accordance with the conditions prescribed under the present Agreement.

2. Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph (1) of this Article is essential to prevent further infringements of laws or regulations, such right shall be exercised only after consultation with the other Contracting Party.

Article 6. EXEMPTION FROM CUSTOMS AND OTHER DUTIES

1. Aircraft operated on international services by the designated airline of either Contracting Party, as well as their regular equipment, supplies of fuels and lubricants and the 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 shall remain on board of 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 representing services rendered:

- (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 on a specified route 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 a specified route by the designated airline of the other Contracting Party;
- (c) Fuel and lubricants destined to supply aircraft operated on a specified route 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.

The customs authorities of each Contracting Party may order that materials referred to in sub-paragraphs (a), (b) and (c) above are to be kept under customs supervision.

3. 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 the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.

Article 7. AIR CREW DOCUMENTS

The members of the crew of aircraft used in the operation of an air service on a specified route are exempted from passport and visa formalities as long as they are in possession of an air crew member certificate as mentioned in paragraphs 3.10 or 3.11 of Annex 9 of the Convention.

Article 8. TRANSPORT TARIFFS

1. The tariffs to be charged by the airline of one Contracting Party for carriage 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, and the tariffs of other airlines on the same route.

2. The tariffs referred to in paragraph (1) of this Article shall, if possible, be agreed by the designated airlines concerned of both Contracting Parties in consultation with other airlines operating over the whole or part of the route, and such agreement shall, where possible, be reached through the rate-fixing machinery of the International Air Transport Association.

3. The tariffs so agreed shall be submitted for approval to the Aeronautical Authorities of the Contracting Parties at least thirty days before the proposed date of their introduction; in special cases, this time limit may be reduced, subject to the agreement of the said authorities.

4. Subject to the provisions of paragraph (3) of this Article, no tariff shall come into force if the Aeronautical Authorities of either Contracting Party have not approved it.

5. The tariffs established in accordance with the provisions of this Article shall remain in force until new tariffs have been established in accordance with the provisions of this Article.

If the designated airlines cannot agree on a tariff in accordance with the provisions of paragraph (2) of this Article or if one of the Contracting Parties gives notice of its dissatisfaction with any tariff submitted in accordance with the provisions of paragraph (3) of this Article, the Aeronautical Authorities of the Contracting Parties shall negotiate in order to fix the tariff.

6. In the last resort the provisions of Article 13 of this Agreement shall apply.

Until such time as an arbitral decision is rendered, the Contracting Party which has expressed disagreement with the tariffs shall be entitled to require the other Contracting Party to maintain the tariffs previously in effect.

Article 9. STATISTICS

The Aeronautical Authorities of one Contracting Party shall furnish the Aeronautical Authorities of the other Contracting Party, at their request, with all periodic statistical data of the designated airline, as may be reasonably required for the purpose of reviewing the capacity provided by the designated airline of the first Contracting Party on the routes specified.

Article 10. CONSULTATIONS

In a spirit of close cooperation, the Aeronautical Authorities of the Contracting Parties shall consult each other from time to time with a view to ensuring the implementation of, and satisfactory compliance with, the provisions of the present Agreement and the Annex thereto.

Article 11. MODIFICATIONS

1. If either of the Contracting Parties considers it desirable to modify any provision of the present Agreement, it may request consultation with the other Contracting Party. Such consultation, which may be between Aeronautical Authorities and which may be through discussion or by correspondence, shall begin within a period of sixty days from the date of the request. Any modifications so agreed upon shall come into force when they have been confirmed by an exchange of diplomatic notes.

2. Modifications to the Annex of this Agreement may be made by direct agreement between the competent Aeronautical Authorities of the Contracting Parties and shall come into force upon exchange of notes through diplomatic channels.

Article 12. ADAPTATION TO MULTILATERAL CONVENTIONS

The present Agreement and the Annex to this Agreement will be amended so as to conform with any multilateral convention which may become binding on both Contracting Parties.

Article 13. SETTLEMENT OF DISPUTES

1. If any dispute arising from the interpretation or application of the present Agreement cannot be settled in accordance with the provisions of Article 10, either between the Aeronautical Authorities or between the Government of the

Contracting Parties, it will be submitted to a Tribunal of arbitration at the request of either Contracting Party.

2. This Tribunal will be composed of three members. Each of the two Governments will nominate an arbitrator; these two arbitrators shall appoint a national of a third State as President of the Tribunal.

If within two months from the date on which one of the governments requested arbitration of the dispute the two arbitrators have not been nominated, or if within the following month 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.

3. The arbitral Tribunal, unless it succeeds at a friendly settlement of the dispute, decides with a majority of votes; unless the Contracting Parties agree otherwise, it establishes its own rules of procedure and determines its seat.

4. The Contracting Parties shall comply with the provisional measures decreed in the course of the procedure as well as with the final arbitral decision which in any case shall be regarded as definitive.

5. 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 under the present Agreement to the Contracting Party in default.

6. Each Contracting Party will pay for the expenses of its own expert and for half of the remuneration of the President.

Article 14. TERMINATION

Either Contracting Party may at any time give notice to the other Contracting Party of its decision to terminate the present Agreement; such notice shall be simultaneously communicated to the International Civil Aviation Organization. In such case the Agreement shall terminate twelve months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by common accord before the expiry of this period. In the absence of acknowledgement of receipt by the other Contracting Party, this notice shall be deemed to have been received fourteen days after the receipt of the notice by the International Civil Aviation Organization.

Article 15. REGISTRATION

The present Agreement, any amendment to it and any exchange of notes under this Agreement shall be communicated to the International Civil Aviation Organization for registration.

Article 16. COMING INTO FORCE

The present Agreement shall come into force fourteen days after the date of its signature.

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

DONE in duplicate, in the English language, at Jerusalem this twenty-second day of August, one thousand nine hundred and sixty-three.

For the Austrian Federal Government:

F. BAUER

For the Government of the State of Israel:

GOLDA MEIR

ANNEX

1. 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 Israel and to points beyond.

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

3. All points mentioned in paragraphs 1 and 2 above shall be determined by common accord of the Aeronautical Authorities of both Contracting Parties. This shall be confirmed by the exchange of diplomatic notes.
