

No. 24100

**AUSTRIA
and
GERMAN DEMOCRATIC REPUBLIC**

**Air Transport Agreement (with annex). Signed at Vienna on
11 November 1980**

Authentic text: German.

Registered by Austria on 9 May 1986.

**AUTRICHE
et
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE**

**Accord relatif aux transports aériens (avec annexe). Signé à
Vienne le 11 novembre 1980**

Texte authentique : allemand.

Enregistré par l'Autriche le 9 mai 1986.

[TRANSLATION — TRADUCTION]

AIR TRANSPORT¹ AGREEMENT BETWEEN THE AUSTRIAN FEDERAL GOVERNMENT AND THE GOVERNMENT OF THE GERMAN DEMOCRATIC REPUBLIC

The Austrian Federal Government and the Government of the German Democratic Republic, guided by the wish to develop and strengthen their mutual relations in the field of civil aviation on the basis of the provisions of the Final Act of the Conference on Security and Co-operation in Europe,² have agreed as follows:

Article 1. DEFINITIONS

(1) For the purposes of this Agreement, unless the context requires otherwise:

(a) The term “aeronautical authority” means, in the case of the Austrian Federal Government, the Federal Minister of Transport or any other person or body legally authorized to perform the functions at present performed by the said person or authority and, in the case of the Government of the German Democratic Republic, the Ministry of Transport, Central Administration for Civil Aviation.

(b) The term “territory” means the land and water area under the sovereignty of a State and the territorial waters adjacent thereto, as well as the air space above.

(c) The term “territory of the Contracting Parties” means the territories of the Republic of Austria and of the German Democratic Republic.

(d) The term “designated airline” means an airline designated and accepted in accordance with article 3 of this Agreement.

(e) The term “agreed services” means the air services agreed in the annex to this Agreement on the routes specified therein.

(f) The term “capacity,” in relation to an aircraft, means the payload of that aircraft available on a service or section of a service.

(g) The term “capacity” in relation to an “agreed service”, means the capacity of the aircraft used on such service, multiplied by the frequency operated by such aircraft over a given period and route or section of a route.

(2) The annex to this Agreement shall form an inseparable part of the Agreement. All references to the Agreement shall, unless explicitly provided otherwise, apply equally to the annex.

Article 2. FLIGHT AND TRAFFIC RIGHTS

(1) Each Party shall grant to the other Contracting Party in respect of its scheduled international air services and non-scheduled flights:

(a) The right to fly across its territory without landing from and to third States;

¹ Came into force on 10 January 1981, i.e., 60 days from the date of signature, in accordance with article 18.

² *International Legal Materials*, vol. 14 (1975), p. 1292 (American Society of International Law).

(b) The right to make stops in its territory for non-traffic purposes.

(2) Each Contracting Party shall grant to the other Contracting Party the rights set forth in this Agreement for the purpose of establishing international air services on the air routes specified in the appropriate section of the route schedule annexed to, and forming a part of, this Agreement. Such air services and air routes shall hereinafter be referred to as "the agreed services" and "the specified routes", respectively. While operating an agreed service on a specified route, the airlines designated by either Contracting Party shall enjoy, in addition to the rights specified in paragraph (1) of this article, the right to make stops in the territory of the other Contracting Party at the points specified for that route in the schedule for the purpose of taking on board and discharging passengers and cargo, including mail.

(3) Nothing in paragraph (2) of this article shall be deemed to confer on the designated airline of a Contracting Party the right to take on board, in the territory of the other Contracting Party, passengers and cargo, including mail, carried for hire or reward and destined for another point in the territory of that other Contracting Party.

Article 3. OPERATING AUTHORIZATION

(1) Each Contracting Party shall have the right to designate to the other Contracting Party an airline for the purpose of operating the agreed services on the specified routes. The designated airlines are listed in the annex.

(2) The aeronautical authorities of the first Contracting Party shall, upon request and subject to the provisions of paragraphs (4) and (5) of this article, grant without delay the appropriate operating authorization to the designated airline of the other Contracting Party.

(3) Each Contracting Party shall have the right, by notifying the other Contracting Party in writing, to withdraw the designation of an airline and to designate another.

(4) The aeronautical authorities of one Contracting Party may require an airline designated by 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 to international air traffic.

(5) Each Contracting Party shall have the right to refuse to grant the operating authorization referred to in paragraph (2) of this article, to limit that authorization or to impose such conditions upon the exercise by the designated airline of the rights specified in article 2 of this Agreement as it may deem necessary, 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.

(6) An airline so designated and authorized may begin at any time to operate the agreed services provided that a tariff established in accordance with the provisions of article 8 of this Agreement is in force for the service in question and that agreement has been reached in respect of that service in accordance with the provisions of article 7 of this Agreement.

Article 4. SUSPENSION AND REVOCATION OF THE OPERATING AUTHORIZATION

(1) Each Contracting Party shall have the right to revoke an operating authorization or to refuse the exercise of the rights specified in article 2 of this

Agreement to the airline designated by the other Contracting Party or to impose such conditions upon it as may appear necessary on the exercise of these rights:

- (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 that Contracting Party, or
- (b) In the case of failure by that airline to comply with the laws and regulations of the Contracting Party granting the rights in question, or
- (c) In case the airline otherwise fails to operate in accordance with the terms of this Agreement.

(2) Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph 1 of this article is required to prevent further infringements of laws or regulations, such right shall be exercised only after consultation with the other Contracting Party. Such consultation must begin within a period of twenty (20) days from the date of a request submitted by one of the Contracting Parties.

Article 5. APPLICATION OF LAWS

(1) The laws and regulations of each Contracting Party governing the entry into or departure from its territory of aircraft engaged in international air navigation or governing the operation and navigation of such aircraft within its territory shall also apply to aircraft of the airline designated by the other Contracting Party; they shall be complied with by aircraft operators and crews upon the aircraft's entry into or departure from the territory as well as during its stay in the territory of the first-named Contracting Party.

(2) The use of aircraft as well as the transport of crews, passengers, baggage, air cargo or mail by the designated airline of one Contracting Party shall be subject, in the territory of the other Contracting Party, to the latter's laws and regulations concerning public order and safety, and in particular to laws concerning frontier, customs and currency control and to passport, registration, health, veterinary and phytosanitary regulations.

(3) The Contracting Parties shall take all those preventive measures in connection with the arrival and departure of an aircraft which are required under international rules to prevent the spread of communicable diseases.

(4) Visas for crew members and other personnel shall, unless there are grounds for withholding them, be issued for a period of validity of at least six months. During their period of validity, the visas shall authorize multiple entry into and departure from the territory of the other Contracting Party.

Article 6. REGISTRATION MARKS AND DOCUMENTS

(1) The aircraft of the designated airlines, when flying over the territory of the other Contracting Party, shall bear their nationality and registration marks as prescribed for international flights.

(2) Certificates of airworthiness, certificates of competency, licences and other documents which have been issued or rendered valid by one of the Contracting Parties and are still valid shall be recognized as valid by the other Contracting Party. Both Contracting Parties shall, however, reserve the right, in respect of flights within their territory, to withhold recognition of certificates of

competence or licences which have been issued to their nationals by another State or have been recognized as valid by another State.

Article 7. CAPACITY

(1) The capacity provided for the operation of the agreed services by the airlines designated by the Contracting Parties shall serve primarily to meet transport requirements between airports situated in the territories of the Contracting Parties.

(2) In order to achieve a fair and equal treatment of both designated airlines, the airlines shall agree in good time on the frequencies of flights on the agreed services, the types of aircraft employed and the flight schedules, including days of operation and planned arrival and departure times, a uniform distribution of available capacity being aimed at.

(3) The flight schedules so agreed shall be submitted for approval to the aeronautical authorities of both Contracting Parties at least thirty (30) days before the planned date of their entry into force. In special cases, this time-limit may be reduced subject to the consent of the said authorities.

(4) If the designated airlines cannot agree on the flight schedules mentioned above, the aeronautical authorities of the Contracting Parties shall endeavour to reach an agreement.

(5) Subject to the provisions of paragraph (4) of this article, a flight schedule shall enter into force only after approval by the aeronautical authorities of both Contracting Parties.

(6) Flight schedules established in accordance with the provisions of this article shall remain in force until new flight schedules are established in accordance with the provisions of this article.

(7) Requests for authorization of flights carried out outside the established flight schedules shall be submitted in accordance with the applicable domestic laws and regulations of the Contracting Parties.

Article 8. TRANSPORT TARIFFS

(1) The tariffs to be charged by the airline of one of the Contracting Parties for carriage to or from the territory of the other Contracting Party shall be established at a reasonable level having due regard to all relevant factors, including cost of operation, reasonable profit and carriage characteristics such as speed and accommodation.

(2) The tariffs referred to in paragraph (1) of this article shall be agreed between the designated airlines of the Contracting Parties.

(3) The tariffs thus established shall be submitted for approval to the aeronautical authorities of the Contracting Parties at least (30) thirty days before the proposed date of their entry into force. In special cases, this time-limit may be reduced subject to the approval of the said authorities.

(4) If the designated airlines cannot agree upon a tariff or if a tariff cannot be established in accordance with the provisions of paragraph (2) of this article for another reason, or if one of the Contracting Parties notifies the other during the first fifteen (15) days of the time-limit referred to in paragraph 3 of this article that it does not agree to a tariff established in accordance with paragraph (2) of this

article, the aeronautical authorities of the Contracting Parties shall endeavour to determine the tariffs by mutual agreement.

(5) Subject to the provisions of paragraph (4) of this article, a tariff shall enter into force only after approval by the aeronautical authorities of both Contracting Parties.

(6) The tariffs established in accordance with the provisions of this article shall remain in effect until new tariffs are established in accordance with the provisions of this article.

Article 9. AIRPORTS AND AIR LANES

(1) Each Contracting Party shall determine, within its territory, the air lanes for the operation of the agreed services on the established routes, as well as the frontier overflight points.

(2) In order to ensure flight safety on the established routes, each Contracting Party shall guarantee to aircraft authorized in the territory of the other Contracting Party the use of all available services, including radio communications and radio navigation aids, ground installations, meteorological service and fire-fighting and rescue apparatus.

(3) The rates for taxes and other charges due for the use of airports and other technical installations may not be higher for aircraft of the designated airlines of the other Contracting Party than for national aircraft engaged in international air traffic or for aircraft of airlines of third States.

Article 10. DIRECT TRANSIT TRAFFIC

Passengers, baggage and cargo in direct transit traffic through the territory of a Contracting Party and remaining in the airport area reserved for them shall, in accordance with the laws of that Contracting Party, undergo a simplified inspection procedure. Baggage and cargo in direct transit traffic shall be exempt from customs dues and other similar charges.

Article 11. EXEMPTION FROM CUSTOMS DUTIES AND OTHER CHARGES

(1) Aircraft operated on international flights by the designated airline of one Contracting Party, as well as their regular equipment, their supplies of fuels and lubricants and aircraft stores (including food, beverages and tobacco) on board shall be exempt from all customs duties, inspection fees and other charges or taxes upon entry into the territory of the other Contracting Party, provided that such equipment and stores remain on board the aircraft until they are re-exported.

(2) The following shall also be exempt from such dues and taxes, with the exception of charges for services rendered:

- (a) Aircraft stores taken on board in the territory of one Contracting Party within limits fixed by the authorities of that Contracting Party for use on board the aircraft;
- (b) Spare parts imported into the territory of one Contracting Party for the maintenance or repair of aircraft used by the designated airline of the other Contracting Party;
- (c) Fuels and lubricants intended as supplies for aircraft operated by the designated airline of the other Contracting Party, even if such supplies are

used in flight 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.

(3) The regular airborne equipment, as well as the materials and supplies retained on board the aircraft of a Contracting Party, may be unloaded in the territory of the other Contracting Party only with the consent of the customs authorities of that Contracting Party. In that case, they may be placed under the supervision of the said customs authorities until they are recovered or otherwise disposed of in accordance with the customs regulations.

Article 12. OFFICES OF DESIGNATED AIRLINES

(1) The airlines designated by the Contracting Parties shall have the right to maintain in the territory of the other Contracting Party an office with the technical and commercial personnel required for the operation of the agreed services.

(2) The personnel of such an office shall, in principle, be composed of nationals of one or the other or both States. Exceptions shall require the approval of the host State. The laws of the host State shall be applicable to such personnel.

(3) Training of the personnel may also be undertaken in the home State of the designated airline concerned.

(4) The principle of reciprocity shall apply in respect of the commercial activities of the Office of the designated airline of one Contracting Party in the territory of the other Contracting Party.

Article 13. TRANSFER OF EARNINGS

(1) Each Contracting Party shall grant the designated airline of the other Contracting Party the right to transfer to its headquarters, without limitation, the excess of earnings derived from the transport of passengers, cargo, baggage and mail at the official exchange rate; and

(2) If the system of payments between the Contracting Parties is governed by a special agreement, that agreement shall apply.

Article 14. ACCIDENT ASSISTANCE

(1) Each Contracting Party shall render to aircraft of the other Contracting Party which are in distress in its territory the same measure of assistance as it renders to its own aircraft engaged in international air traffic. In the event of an accident which entails deaths, severe injuries of persons or serious damage to the aircraft, the Contracting Party in whose territory the accident has occurred shall immediately render assistance to the crew and passengers, shall protect such mail, baggage and cargo as are on board the aircraft and shall make arrangements for their subsequent transport.

(2) The Contracting Party in whose territory the accident occurred shall immediately notify the Contracting Party which has authorized the aircraft and shall institute an inquiry to ascertain the causes and circumstances of the accident. The other Contracting Party shall have the right to send observers.

(3) The aeronautical authority conducting the inquiry shall, upon the conclusion of the investigation, transmit a report on the inquiry to the aeronautical authority of the other Contracting Party.

Article 15. CONSULTATIONS

(1) The aeronautical authorities of the Contracting Parties shall, as required, conduct consultations in a spirit of close co-operation with a view to ensuring the uniform implementation of this Agreement.

(2) If one of the Contracting Parties desires a modification of this Agreement, it shall notify this to the other Contracting Party. Within sixty (60) days of the date of receipt of such notification, consultations shall be instituted between the civil aeronautical authorities with a view to preparing a modification of this Agreement.

(3) If differences of opinion arise between the Contracting Parties in respect of the interpretation or application of this Agreement, consultations shall be instituted between the aeronautical authorities.

Article 16. TERMINATION

Either Contracting Party may at any time give notice in writing through the diplomatic channel to the other Contracting Party of its wish to terminate the Agreement; such notice shall be simultaneously communicated to the International Civil Aviation Organization. In such case the Agreement shall cease to have effect twelve (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by mutual agreement before the expiry of this period.

Article 17. REGISTRATION

This Agreement and any modification shall be registered with the International Civil Aviation Organization.

Article 18. ENTRY INTO FORCE

This Agreement shall enter into force sixty (60) days after the date of signature.

IN WITNESS WHEREOF the signatories, being duly authorized for the purpose by their Governments, have signed this Agreement.

DONE at Vienna on 11 November 1980, in two original texts in the German language.

For the Austrian Federal Government:

WILLIBALD P. PAHR

For the Government of the German Democratic Republic:

OSKAR FISCHER

ANNEX TO THE AGREEMENT BETWEEN THE AUSTRIAN FEDERAL GOVERNMENT AND THE GOVERNMENT OF THE GERMAN DEMOCRATIC REPUBLIC ON AIR TRANSPORT

I

The airline designated by the Austrian Federal Government for the Republic of Austria shall be Austrian Airlines Österreichische Luftverkehrs AG with headquarters in Vienna.

The airline designated by the Government of the German Democratic Republic shall be Interflug Gesellschaft für Internationalen Flugverkehr mbH with headquarters in Berlin/Capital of the GDR.

II

Air services to be operated by the designated airlines in both directions in accordance with article 2 of this Agreement: Vienna–Berlin/Capital of the GDR and vice versa.

III

The granting of traffic rights of the fifth freedom of the air shall be reserved for subsequent agreements.
