No. 26063

MEXICO
and
VENEZUELA

Air Transport Agreement (with annex). Signed at Mexico City on 30 July 1987

Authentic text: Spanish.

Registered by Mexico on 6 July 1988.

MEXIQUE
et
VENEZUELA

Accord relatif aux transports aériens (avec annexe). Signé à Mexico le 30 juillet 1987

Texte authentique : espagnol.

Enregistré par le Mexique le 6 juillet 1988.

[TRANSLATION — TRADUCTION]

AIR TRANSPORT AGREEMENT[1] BETWEEN THE GOVERNMENT OF THE UNITED MEXICAN STATES AND THE GOVERNMENT OF THE REPUBLIC OF VENEZUELA

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

Being Parties to the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944;[2] and

Considering:

That the possibilities of commercial aviation as a means of transport and of promoting friendly understanding and good will among peoples are increasing steadily;

That they wish to strengthen even more the cultural and economic bonds which link their peoples and the understanding and good will which exist between them;

That it is desirable to organize, on equitable bases of equality and reciprocity, scheduled air services between the two countries in order to obtain greater cooperation in the field of international air transport;

Wish to conclude an Agreement which will facilitate the attainment of the aforementioned objectives;

Have accordingly appointed duly authorized plenipotentiaries for that purpose, who have agreed as follows:

Article 1. DEFINITIONS

For the purposes of this Agreement, unless otherwise implied by the context:

(A) The term "Agreement" shall mean this instrument and the Route Schedule annexed hereto.

(B) The term "aeronautical authorities" shall mean, in the case of the United Mexican States, the Ministry of Communications and Transport and, in the case of the Republic of Venezuela, the Ministry of Transport and Communications, or, in either case, any other authority authorized to perform the functions exercised at present by said authorities.

(C) The term "Chicago Convention" shall mean the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944 and shall include any annexes adopted under the provisions of article 90 of that Convention and any amendments made in the annexes to the Convention in accordance with articles 90 and 94 thereof, provided that such annexes and amendments have acquired the force of law for both Contracting Parties or have been ratified by them.

[1] Came into force on 14 January 1988, the date on which the Parties informed each other of the completion of the required procedures, in accordance with article 15 (1).

[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.

(D) The term "designated airline" shall mean the air transport enterprise that the aeronautical authority of one of the Contracting Parties shall designate to operate a route or routes specified in the Schedule annexed to the Agreement.

(E) The terms "territory", "air service", "international air service" and "stop for non-traffic purposes" shall have the respective meanings assigned to them in articles 2 and 26 of the Chicago Convention.

(F) The term "capacity of an aircraft" shall mean the payload of an aircraft expressed in terms of the number of seats for passengers and the weight and volume for cargo and mail.

(G) The term "capacity offered" shall mean the total of the capacities of the aircraft utilized for the operation of each one of the agreed services multiplied by the frequency with which the said aircraft operate over a given period.

(H) The term "agreed air services" shall mean air services for the transport of passengers, cargo and mail specified in the annexed Route Schedule.

(I) The term "frequency" shall mean the number of round trips that an airline operates on a specified route over a given period.

(J) The term "load factor" shall mean:

(i) The "load factor" (passengers and weight) is a statistical measurement of traffic calculated as the ratio of passengers carried to capacity, expressed as a percentage;

(ii) The "passenger load factor" shall mean passengers/kilometers flown, expressed as a percentage.

(K) The term "tariffs" shall mean prices payable for the carriage of passengers, baggage and cargo and the conditions under which such prices shall be charged, including payments and commissions for agency and other auxiliary services, but excluding payments and conditions for the carriage of mail.

Article 2. RIGHTS GRANTED

1. Each Contracting Party shall grant 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 services, the following rights:

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

(*b*) To make stops for non-traffic purposes in the said territory;

(*c*) To embark and disembark passengers, cargo and mail in international traffic in the said territory, at the points specified in the annexed Route Schedule.

Both Contracting Parties recognize that the primary objective of this Agreement is third- and fourth-freedom traffic.

3. This article does not confer upon the airline of either Contracting Party the privilege of embarking in the territory of the other Contracting Party, passengers, cargo and mail for delivery to another point within the territory of the other Contracting Party.

4. The fact that such rights may not be exercised immediately, shall not preclude the subsequent inauguration of air services by the airline of the Contracting Party to whom such rights are granted over the routes specified in the said Route Schedule.

Article 3

1. Each Contracting Party shall have the right to designate an airline for the operation of the agreed air services on the specified routes. Such designation shall be made in writing.

2. Each Contracting Party shall have the right to cancel the designation of its designated airline and to designate another, by notifying the other Contracting Party, in writing, at least thirty (30) days in advance.

Article 4. AUTHORIZATION TO OPERATE SERVICES

1. On receiving notice of such designation, the aeronautical authorities of either Contracting Party may require the designated airline of the other Contracting Party to prove to their satisfaction that it is qualified to fulfil the conditions set forth in their laws and regulations applicable to the operation of international air services, and that a substantial portion of the ownership and effective control of the said airline is exercised by natural or corporate persons of the other Contracting Party or by that Party itself.

In such event, the competent aeronautical authority shall grant the appropriate operating authorization without delay, and the designated airline may operate the agreed air services at any time.

2. If the designated airline is unable, when requested to satisfy the requirements set forth in the preceding paragraph, the competent aeronautical authority may withhold authorization to operate the agreed air services.

Article 5. REVOCATION OR SUSPENSION OF OPERATING AUTHORIZATIONS

1. Either Contracting Party may revoke the operating authorization of the other Party with prior notification.

2. It may also suspend the exercise of the rights specified in article 2 of this Agreement by any airline designated by the other Party on the following grounds:

(*a*) If 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;

(*b*) If that airline does not comply with the laws or regulations of the Contracting Party granting those rights;

(*c*) If the airline fails in any other way to operate in accordance with the conditions set forth in this Agreement.

Article 6. LEGISLATION APPLICABLE TO THE OPERATION OF AIRCRAFT AND TO THE ADMISSION, STAY OR DEPARTURE OF PASSENGERS, CARGO AND MAIL

1. The laws and regulations of one Contracting Party relating to the admission to or departure from its territory of aircraft used in international air navigation, 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 observed by such aircraft upon entering or departing from, and while within, the territory of the first-mentioned Contracting Party.

2. The laws and regulations of one Contracting Party relating to the admission to, stay in or departure from its territory of passengers, crew, cargo and mail, such as regulations relating to entry, exit, clearance, migration, customs and health, shall apply to passengers, crew, cargo and mail carried on the aircraft of the designated airline of the other Contracting Party upon entering or departing from, and while within, the said territory.

Article 7. CHARGES FOR EQUIPMENT, FUEL AND STORES AND EXEMPTION THEREFROM

1. The charges or tariffs levied on the aircraft of the designated airline of one Contracting Party in the territory of the other Contracting Party for the use of airports, services and other navigation aids shall not exceed those paid by aircraft of the national airline on similar international air services.

2. Aircraft of the designated airline of one Contracting Party which are operated on the agreed services and which entering, exiting or flying over the territory of the other Contracting Party shall be exempt from all customs duties, inspection fees, other taxes or any other similar charges.

3. Fuel, lubricating oils, other technical supplies for consumption, spare parts, regular equipment and stores retained on board aircraft of the designated airlines shall be exempt on arrival in, departure from or in flights over the territory of the other Contracting Party from customs duties, inspection fees, other taxes or any other similar charges.

4. Lubricating oils, technical supplies for consumption, spare parts, tools, special maintenance equipment and stores introduced into the territory of one Contracting Party by the other Contracting Party solely for use by the aircraft of the latter Contracting Party shall be exempt, on the basis of reciprocity, from customs duties, inspection fees and other national taxes or charges.

5. The materials referred to in the preceding paragraphs may be used only for flight services and shall be re-exported if not used, unless nationalization is allowed under the laws, regulations and administrative procedures in force in the territory of the Contracting Party concerned. While their use and destination is being determined they shall remain in customs.

6. The exemptions provided for in this article may be subject to specific procedures, conditions and formalities normally in force in the territory of the Contracting Party granting them. The aforementioned exemption shall be granted on the basis of reciprocity.

Article 8. PRINCIPLES GOVERNING THE OPERATION OF THE AGREED AIR SERVICES

1. The Contracting Parties agree that the designated airlines shall be treated in such a way as to enable them to operate air services between the territories of the two Contracting Parties on a fair, equal and reciprocal basis.

2. In the operation of the air services agreed upon in this Agreement, the interests of the airlines of both Contracting Parties shall be taken into consideration so as not to affect unduly their respective services.

3. It is agreed that the primary objective of the services provided by a designated airline under this Agreement shall be to provide air transport capacity adequate to the requirements of traffic between the two countries.

4. Both Contracting Parties recognize that each has a right to operate local and regional services. Consequently they agree to consult each other periodically on the way in which the rules of this article are to be applied by their respective designated airlines.

5. The Contracting Parties recognize that increases in the frequency of service of the designated airlines or in the capacity offered on those services shall be determined by agreement between the aeronautical authorities of both Parties.

6. The services provided by the designated airlines operating under this Agreement shall be closely related to the public demand for such services.

Article 9. TARIFFS

1. The tariffs charged by the designated 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, such as cost of operation, reasonable return or profit, service characteristics and market conditions.

2. For the tariffs to enter into force, they must be approved by the aeronautical authorities of both Contracting Parties.

3. The tariffs charged in accordance with paragraph 1 of this article shall, if possible, be agreed upon by the designated airlines of the two Contracting Parties; such agreement shall be reached, where possible, through the rate-setting machinery of the International Air Transport Association or the International Association for Latin American Air Transport and shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

4. Any tariff set in accordance with the preceding paragraph shall be submitted for approval to the aeronautical authorities of both Contracting Parties at least forty-five (45) days before the date established for its entry into force. This period may be shortened in special cases, subject to the agreement of the aeronautical authorities.

5. If an agreement is not reached in accordance with paragraph 3 of this article or if either of the Contracting Parties is not satisfied with the tariffs submitted for its approval, it shall so inform the other Contracting Party at least fifteen (15) days prior to the date on which such tariffs would have entered into force. The aeronautical authorities of the Contracting Parties shall attempt to reach an agreement; if they succeed, each Contracting Party shall do its utmost to apply those tariffs immediately or by the date agreed upon by both Parties.

6. If the aeronautical authorities fail to give their approval or to set the tariffs, the dispute shall be settled in accordance with article 12.

7. The tariffs established in accordance with this article shall remain in force until replaced by new tariffs according to the terms of this article.

Article 10. TRANSFERS

Each Contracting Party grants the designated airline of the other Contracting Party the right to transfer on request the excess of revenue received in the territory in connection with its airline operations activities over expenditures therein. Such transfers shall be made in accordance with the domestic legislation of each country.

Article 11. CONSULTATION

1. Consultation between the aeronautical authorities of the two Contracting Parties may be requested at any time by either Contracting Party for the purpose of discussing the interpretation, application or amendment of this Agreement. Such consultation shall begin within a period of sixty (60) days from the date of receipt of the request by the Ministry of Foreign Affairs of the United Mexican States or the Ministry of Foreign Affairs of the Republic of Venezuela, as the case may be. Should agreement be reached on the amendment of this Agreement, such agreement shall be formalized in an exchange of diplomatic notes.

2. The agreed amendments shall enter into force provisionally as of the date of the exchange of notes and definitively on the date agreed upon by both Parties in an additional exchange of notes, once the amendments have been approved in accordance with the constitutional procedures of each Party.

Article 12. SETTLEMENT OF DISPUTES

Any dispute between the Contracting Parties relating to the interpretation or application of this Agreement that cannot be settled by means of direct consultation between the aeronautical authorities shall be settled by negotiations through the diplomatic channel.

Article 13. REGISTRATION WITH THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

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

Article 14. MULTILATERAL AGREEMENTS

If a general multilateral air transport agreement, accepted by both Contracting Parties, enters into force, this Agreement shall be amended so as to conform with the provisions of said multilateral agreement.

Article 15. DURATION AND TERMINATION OF THE AGREEMENT

1. This Agreement shall enter into force on the date on which the two Contracting Parties inform one another, in an exchange of diplomatic notes, that they have fulfilled the requirements of their national legislation.

2. This Agreement shall remain in force for a period of three (3) years and shall be renewed for further similar periods unless one of the Contracting Parties informs the other in a diplomatic note, ninety (90) days prior to expiry of the Agreement, that it does not agree to a renewal thereof.

3. Either Contracting Party may at any time notify the other Contracting Party in writing of its intention to terminate this Agreement, in which case it shall be required to notify the International Civil Aviation Organization at the same time.

4. The Agreement shall terminate six (6) months after the date of receipt of the notice of termination. If the other Contracting Party fails to acknowledge receipt, notice shall be deemed to have been received fourteen (14) days after receipt of such notice by the International Civil Aviation Organization.

Article 16. HEADINGS

The headings of the various articles of this Agreement are for reference purposes only and are thus explanatory and non-restrictive in nature.

DONE at Mexico City, on 30 July 1987, in duplicate in the Spanish language, both texts being equally authentic.

For the Government
of the United Mexican States:

[*Signed*]

BERNARDO SEPÚLVEDA AMOR
Minister
for Foreign Affairs

For the Government
of the Republic of Venezuela:

[*Signed*]

Dr. SIMÓN ALBERTO CONSALVI
Minister
for Foreign Affairs

ANNEX

ROUTE SCHEDULE AND CONDITIONS OF OPERATION

Section I

1. The airline designated by the Government of the United Mexican States shall be entitled to operate in both directions on the following route: Points in the territory of Mexico to Caracas, via intermediate points and vice versa.

2. Without fifth-freedom air traffic rights between intermediate points and Caracas, and vice versa.

3. The designated airline shall have the right to omit the intermediate stops on any or all flights.

Section II

1. The airline designated by the Government of Venezuela shall be entitled to operate in both directions on the following route: Points in the territory of Venezuela to Mexico City, via intermediate points and vice versa.

2. Without fifth-freedom air traffic rights between intermediate points and Mexico City, and vice versa.

3. The designated airline shall have the right to omit the intermediate stops on any or all flights.

Section III

1. Each of the airlines designated by the Contracting Parties may offer up to one thousand fifty (1,050) seats a week in each direction, on a maximum of seven (7) round-trip flights.

2. Both Contracting Parties agree to urge the designated airlines to enter into cooperative agreements with one another.

3. Should market growth justify offering a capacity greater than that agreed upon, the aeronautical authorities of the Contracting Parties shall decide on any necessary increases by joint agreement.