

No. 30587

**REPUBLIC OF KOREA
and
VIET NAM**

Agreement for air services between and beyond their respective territories (with annex). Signed at Seoul on 13 May 1993

Authentic texts: Korean, Vietnamese and English.

Registered by the Republic of Korea on 3 December 1993.

**RÉPUBLIQUE DE CORÉE
et
VIET NAM**

Accord relatif aux services aériens entre leurs territoires respectifs et au-delà (avec annexe). Signé à Séoul le 13 mai 1993

Textes authentiques : coréen, vietnamien et anglais.

Enregistré par la République de Corée le 3 décembre 1993.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC
OF KOREA AND THE GOVERNMENT OF THE SOCIALIST RE-
PUBLIC OF VIETNAM FOR AIR SERVICES BETWEEN AND
BEYOND THEIR RESPECTIVE TERRITORIES

The Government of the Republic of Korea and the Government of the Socialist Republic of Vietnam (hereinafter referred to as 'the Contracting Parties'),

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
Definitions

For the purpose of this 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 in so far as these annexes and amendments have become effective for both Contracting Parties;

¹ Came into force on 14 June 1993, the date on which the Contracting Parties informed each other of the completion of the required internal legal procedures, in accordance with article 19.

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) the term 'aeronautical authorities' means, in the case of the Republic of Korea, the Minister of Transportation, and in the case of the Socialist Republic of Vietnam, the Civil Aviation Administration of Vietnam Ministry of Transport, or in both cases any other person or body authorized to perform the functions exercised at present by the said authorities;
- (c) the term 'designated airline' means any airline which one Contracting Party has designated, by written notification to the other Contracting Party, for the operation of air services on the routes specified in the Annex to this Agreement, and to which the appropriate operating authorization has been given by that other Contracting Party, in accordance with Article 3 of this Agreement;
- (d) the term 'territory' in relation to a State means the land areas (mainland and island), internal and territorial waters adjacent thereto and the airspace above them under the sovereignty of that State;
- (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;
- (f) the term 'capacity' in relation to an aircraft means the payload of that aircraft available on a route or section of a route;
- (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;

- (h) the term 'carriage of traffic' means carriage of passengers, cargo or mail; and
- (i) the term 'Annex' means the Annex to this Agreement or as amended in accordance with the provisions of Article 16 of this Agreement. The Annex forms an integral part of this Agreement, and all references to the Agreement shall include references to the Annex except where otherwise explicitly specified.

Article 2
Grant of Rights

1. Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement to enable its designated airlines to establish and operate scheduled international air services on the routes specified in the Annex. Such services and routes are hereinafter called 'the agreed services' and 'the specified routes' respectively.
2. Subject to the provisions of this Agreement, the designated airlines of each Contracting Party shall enjoy, while operating the agreed services on the specified routes, the following rights:
 - (a) to fly without landing across the territory of the other Contracting Party;
 - (b) to make stops in the territory of the other Contracting Party for non-traffic purposes; and
 - (c) to take up and put down passengers, cargo and mail at any points on the specified routes subject to the provisions contained in the Annex.

3. Nothing in paragraph 2 of this Article shall be deemed to confer on the designated airlines of one Contracting Party the rights 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
Designation of Airlines

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines 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 3 and 4 of this Article, grant without delay to the designated airlines the appropriate operating authorization.

3. The aeronautical authorities of one Contracting Party may require the designated airlines of the other Contracting Party to satisfy them that they are 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.

4. Each Contracting Party shall have the right to refuse to accept the designation of airlines, to refuse to grant the operating authorization referred to in paragraph 2 of this Article, or to impose such conditions as it may deem necessary on the exercise by the designated airlines of the rights specified in Article 2 of this Agreement, in any case where the said Contracting Party is not satisfied that substantial ownership

and effective control of those airlines are vested in the Contracting Party designating the airlines or in its nationals.

5. The airlines 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 the capacity is regulated under Article 9 of this Agreement and that tariffs established in accordance with the provisions of Article 10 of this Agreement are in force in respect of those services.

Article 4
Revocation and Suspension of Rights

1. Each Contracting Party shall have the right to revoke an operating authorization or to suspend the exercise of the rights specified in Article 2 of this Agreement by the airlines designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of these rights:

- (a) in any case where it is not satisfied that substantial ownership and effective control of those airlines are vested in the Contracting Party designating the airlines or in nationals of such Contracting Party; or
- (b) in the case of failure by those airlines to comply with the laws or regulations of the Contracting Party granting those rights; or
- (c) in any case where the airlines otherwise fail to comply with the provisions of this 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 rights shall be exercised by each Contracting Party only after consultation with the other Contracting Party.

Article 5
Customs Duties and other Similar Charges

1. Aircraft operated on international air services by the designated airlines of either Contracting Party, as well as their regular equipment, spare parts, supplies of fuel 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 similar charges on arriving in the territory of the other Contracting Party in accordance with the provisions of the laws and regulations in force of that Contracting Party, provided that 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, fees and charges referred to in paragraph 1 of this Article, in accordance with the provisions of the laws and regulations in force of each Contracting Party, with the exception of charges corresponding to the service performed:

- (a) aircraft stores taken on board in the territory of either Contracting Party, within the limits fixed by the competent authorities of the said Contracting Party, and for use on board aircraft engaged in the agreed services of the other Contracting Party;
- (b) spare parts brought into the territory of either Contracting Party for the maintenance or repair of aircraft used on the agreed services by the designated airlines of the other Contracting Party;
- (c) fuel and lubricants destined to supply aircraft operated on the agreed services by the designated airlines of the other Contracting Party, even when those 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 equipment and supplies referred to in paragraph 2 of this Article may be required to be kept under the supervision or control of the appropriate authorities.

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 that other Contracting Party. 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 6 Applicability of Laws and Regulations

1. The laws and regulations of one Contracting Party governing entry into or departure from its territory of an aircraft engaged in international air navigation or flights of such aircraft over that territory shall be applied to the aircraft of the designated airlines 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, stay in, transit through or departure from its territory of passengers, crew, cargo and mail, such as those concerning the formalities of entry and exit, of emigration and immigration, customs, currency, medical and quarantine measures, shall be applied to the passengers, crew, cargo or mail carried by the aircraft of the designated airlines of the other Contracting Party while within the territory of the first Contracting Party.

Article 7
Establishment of Airline Representative Offices

The designated airlines of either Contracting Party shall have the right to establish representative offices in the territory of the other Contracting Party. Those representative offices may include commercial, operational and technical staff.

The representative offices, representatives and staff shall be established in accordance with the laws and regulations in force in the territory of that other Contracting Party.

On the basis of reciprocity, the designated airlines of both Contracting Parties shall be allowed to sell air transportation in the territory of the other Contracting Party directly and, at its discretion, through its agents in freely convertible currencies in accordance with their existing legislation. Each designated airline shall have the right to use for this purpose its own transportation documents.

Article 8
Recognition of Certificates and Licenses

1. Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by either Contracting Party 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 9
Capacity Regulations

1. There shall be fair and equal opportunity and capacity for the designated airlines of the Contracting Parties to operate the agreed services on the specified routes.
2. In operating the agreed services, the designated airlines of each Contracting Party shall take into account the interests of the designated airlines of the other Contracting Party so as not to affect unduly the services which the latter provides on all or part of the same routes.
3. On any specified route the capacity provided by the designated airlines of one Contracting Party together with the capacity provided by the designated airlines of the other Contracting Party shall be maintained in reasonable relationship to the requirements of the public for air transport on that route.
4. The agreed services to be operated by the designated airlines of the Contracting Parties shall have as their primary objective the provision, at reasonable load factors, of capacity adequate to meet the traffic requirements between the territories of the two Contracting Parties.

Article 10
Tariffs

1. For the purpose of the following paragraphs, the term "tariffs" means the prices to be paid for the carriage of passengers and cargo and the conditions under which those prices apply, including prices and conditions for agency and other auxiliary services but excluding remuneration and conditions for the carriage of mail.

2. The tariffs on any agreed services 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.
3. The tariffs shall be fixed in accordance with the following provisions:
 - (a) The tariffs referred to in paragraph 2 of this Article, together with the rates of agency commission used in conjunction with them may be agreed in respect of each of the specified routes and sectors thereof between the designated airlines concerned, and such agreement may be reached through the rate-fixing machinery of the International Air Transport Association.
 - (b) The tariffs so agreed shall be submitted for the approval of the aeronautical authorities of the Contracting Parties at least ninety (90) 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) This approval may be given expressly. If neither of the aeronautical authorities has expressed disapproval within thirty (30) days from the date of submission, in accordance with paragraph 3(b) of this Article, these tariffs shall be considered as approved. In the event of the period for submission being reduced, as provided for in paragraph 3(b), the aeronautical authorities may agree that the period within which any disapproval must be notified shall be less than thirty (30) days.
 - (d) If a tariff cannot be agreed upon in accordance with the provisions of paragraph 3(a) of this Article, or if during the period applicable

in accordance with paragraph 3(c) of this Article, one aeronautical authorities gives the other aeronautical authorities notice of its disapproval of a tariff agreed in accordance with the provisions of paragraph 3(c) of this Article, the aeronautical authorities of the Contracting Parties shall try to determine the tariff by mutual agreement.

- (e) If the aeronautical authorities cannot agree on any tariff submitted to them under paragraph 3(b) of this Article, or on the determination of any tariff under paragraph 3(d) of this Article, the dispute shall be settled in accordance with the provisions of Article 14 of this Agreement.
- (f) A tariff established in accordance with the provisions of this Article shall remain in force until a new tariff has been established. Nevertheless, a tariff shall not be prolonged by virtue of this paragraph for more than twelve (12) months after the date on which it would otherwise have expired.

Article 11 Transfer of Revenues

Each Contracting Party shall grant to the designated airlines of the other Contracting Party the right of transferring the excess of receipts over expenditure earned by the airlines in the territory of the first Contracting Party in connection with the carriage of passengers, mail and cargo, in any freely convertible currencies in accordance with the foreign exchange regulations in force in each Contracting Party.

Article 12
Provision of Statistics

The aeronautical authorities of one 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 airlines of the first Contracting Party. Such statements shall include all information required to determine the amount of traffic carried by those airlines on the agreed services and the points of embarkation and disembarkation of such traffic.

Article 13
Consultation

The Contracting Parties shall have frequent consultations between the aeronautical authorities to ensure close collaboration in all matters affecting the fulfillment of this Agreement.

Article 14
Settlement of Disputes

1. If any dispute arises between the Contracting Parties relating to the interpretation or application of this 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, 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 (60) days from the date of receipt by either

Contracting Party from the other Contracting Party of a notice through the diplomatic channel requesting arbitration of the dispute and the third arbitrator shall be appointed within a further period of sixty (60) days. If either Contracting Party fails to nominate an arbitrator within the period specified, or if the third arbitrator is not appointed within the period specified, the President of the Council of the International Civil Aviation Organization may at the request of either Contracting Party 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 arbitral tribunal.

3. The Contracting Parties shall comply with any decision given, including any interim recommendation made under paragraph 2 of this Article.

4. If and so long as either Contracting Party or a designated airline of either Contracting Party fails to comply with the requirements of paragraph 3 of this Article, the other Contracting Party may limit or revoke any right which it has granted by virtue of this Agreement.

Article 15 Security

1. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement. Without limiting the generality of their rights and obligations under international law, the Contracting Parties shall, in particular act in conformity with the provisions of the Convention on Offences and Certain Other Acts Committed

on Board Aircraft, signed at Tokyo on 14 September 1963,¹ the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970,² and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971³ and any other convention on aviation security to which both Contracting Parties shall become members.

2. The Contracting Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, their passengers and crew, airports and air navigation facilities and any other threat to the security of civil aviation.

3. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as annexes to the Convention to the extent that such security provisions are applicable to the Contracting Parties and they shall require that operators of aircraft of their registry, or operators of aircraft who have their principal place of business or permanent residence in their territory, and the operators of airports in their territory, act in conformity with such aviation security provisions.

4. Each Contracting Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in paragraph 3 of this Article required by the other Contracting Party for entry into, departure from, or while within, the territory of the other Contracting Party. Each Contracting Party shall ensure that adequate measures are effectively

¹ United Nations, *Treaty Series*, vol. 704, p. 219.

² *Ibid.*, vol. 860, p. 105.

³ *Ibid.*, vol. 974, p. 177 and vol. 1217, p. 404 (corrigendum to volume 974).

applied within their territories to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give sympathetic consideration to any request from the other Contracting Party for reasonable special security measures to meet a particular threat.

5. When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of such aircraft, their passengers and crew, airports or air navigation facilities occurs, the Contracting Parties shall facilitate communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

Article 16
Amendment

1. If either Contracting Party considers it desirable to amend any provisions of this Agreement, it may at any time request consultation with the other Contracting Party. Such consultation may be through discussions or by correspondence, and shall begin within a period of sixty (60) days from the date of receipt of the request. Any amendments so agreed shall enter into force when they have been confirmed by an exchange of diplomatic notes.

2. Amendments of the Annex may be made by direct agreement between the aeronautical authorities of the Contracting Parties and shall enter into force when confirmed by an exchange of diplomatic notes.

3. If a multilateral convention or agreement concerning air transport enters into force in respect of the Contracting Parties, this Agreement shall be amended so as to conform with the provisions of such convention or agreement.

Article 17
Termination

Either Contracting Party may at any time give notice in writing through diplomatic channel to the other Contracting Party of its decision to terminate this Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organization. In such case this Agreement shall be terminated 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. In the absence of acknowledgement of receipt by the other Contracting Party, the notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

Article 18
Registration

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

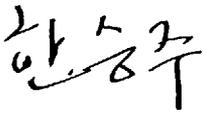
Article 19
Entry into Force

This Agreement shall enter into force on the date when both Contracting Parties, by an exchange of notes through diplomatic channels, notify each other that they have completed internal legal procedures necessary for its entry into force.

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

Done at *Seoul* on this *13th* day of *May*
1993 in duplicate in the Korean, Vietnamese and English languages,
all the texts being equally authentic. In case of any divergence of inter-
pretation, the English text shall prevail.

For the Government
of the Republic of Korea:

1

For the Government
of the Socialist Republic
of Vietnam:

2

¹ Han Sung-joo.

² Nguyen Manh Cam.

ANNEX TO THE AGREEMENT

Section A

1. Routes to be operated in both directions by the designated airlines of the Republic of Korea

<u>Points of Origin</u>	<u>Intermediate Points</u>	<u>Points of Destination</u>	<u>Beyond Points</u>
Points in Korea	two points to be specified later on	Hanoi Ho Chi Minh City	three points to be specified later on

2. The designated airlines of the Republic of Korea may, on all or any flights, omit calling at any of the above points provided that the agreed services on the route begin at a point in the territory of the Republic of Korea.
3. Specification of intermediate points and beyond points shall be subject to an agreement between the aeronautical authorities of the two Contracting Parties.

Section B

1. Routes to be operated in both directions by the designated airlines of the Socialist Republic of Vietnam:

<u>Points of Origin</u>	<u>Intermediate Points</u>	<u>Points of Destination</u>	<u>Beyond Points</u>
Points in Vietnam	two points to be specified later on	Seoul Pusan	three points to be specified later on

2. The designated airlines of the Socialist Republic of Vietnam may, on all or any flights, omit calling at any of the above points provided that the agreed services on the route begin at a point in the territory of the Socialist Republic of Vietnam.

 3. Specification of intermediate points and beyond points shall be subject to an agreement between the aeronautical authorities of the two Contracting Parties.
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