

No. 30088

**AUSTRIA
and
BAHRAIN**

Agreement for air services between and beyond their respective territories (with annexes). Signed at Vienna on 12 November 1992

Authentic text: English.

Registered by Austria on 18 June 1993.

**AUTRICHE
et
BAHREÏN**

Accord relatif aux services aériens entre leurs territoires respectifs et au-delà (avec annexes). Signé à Vienne le 12 novembre 1992

Texte authentique : anglais.

Enregistré par l'Autriche le 18 juin 1993.

AGREEMENT¹ BETWEEN THE AUSTRIAN FEDERAL GOVERNMENT AND THE GOVERNMENT OF THE STATE OF BAHRAIN FOR AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES

The Austrian Federal Government and the Government of the State of Bahrain (hereinafter referred to as Contracting Parties),

Being Parties to the Convention on International Civil Aviation, opened for signature at Chicago on the seventh of December, 1944,² and desiring to conclude an Agreement, supplementary to the said Convention, for the purpose of establishing 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; so far as those Annexes and amendments have been adopted by both Contracting Parties.
- (b) The term "aeronautical authorities" means, in the case of the Austrian Federal Government the Federal Minister for Transport or any other authority legally empowered to perform any functions exercised now by the Federal Minister for Transport and, in the case of the Government of the State of Bahrain, the Minister of Development and Industry and any person or body authorised to perform any functions on Civil Aviation exercised 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 such notification.
- (d) The term "territory" in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty of that State.
- (e) The term "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 "schedule" means the Route Schedule to the present Agreement or as amended in accordance with the provision of Article 12 of this Agreement.
- (g) The term "capacity" in relation to an aircraft means the payload of that aircraft available on a route or section of a route.
- (h) The term "capacity" in relation to "agreed service" means the capacity of the aircraft used on such service, multiplied by the frequency operated by such aircraft over a given period on a route or section of a route.
 - (i) For the purposes of the following paragraphs, the term "tariff" 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.

Article 2

(1) Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the purpose of establishing and operating international air services on the routes specified in the Route Schedule or this Agreement (hereinafter called "the agreed services" and "the specified routes").

(2) Subject to the provisions of the present Agreement, the airline designated by each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following rights:

¹ Came into force on 13 May 1993, i.e., 60 days after the Contracting Parties had notified each other (on 17 November 1992 and 14 March 1993) of the completion of the constitutional requirements, 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.

- (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 Route Schedule of this Agreement for the purpose of putting down and taking on international traffic in passengers, cargo and mail coming from or destined for other points so specified.

(3) Nothing in paragraph 2 of this Article shall be deemed to confer on the airline of one Contracting Party the privilege of taking on board, 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 one airline for the purpose of operating the agreed services on the specified routes.

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

(3) 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 by them in conformity with the provisions of the Convention to the operation of international commercial air services.

(4) Each Contracting Party shall have the right to refuse to accept the designation of an airline and to withhold or revoke the grant to an airline of the rights specified in paragraph (2) of Article 2 of this Agreement or to impose such conditions as it may deem necessary on the exercise by an 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 nationals of the Contracting Party designating the airline.

(5) At any time after the provisions of paragraphs (1) and (2) of this Article have been complied with, the airline so designated and authorised may begin to operate the agreed services, provided that a service shall not be operated unless a tariff established in accordance with the provisions of Article 8 of this Agreement is in force in respect of that service.

(6) Each Contracting Party shall have the right to suspend the exercise by an airline of the rights specified in paragraph 2 of Article 2 of this Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those rights in any case where the airline fails to comply with the laws or regulations of the Contracting Party granting those rights or otherwise fails to operate in accordance with the conditions prescribed in this Agreement, provided that, unless immediate suspension or imposition of conditions is essential to prevent further infringements of laws or regulations, this right shall be exercised only after consultation with the other Contracting Party.

Article 4

Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Contracting Party and still in force, shall be recognized as valid by the other Contracting Party for the purpose of operating the routes and services provided for in this Agreement, provided that the requirements under which such certificates or licences were issued or rendered valid are equal to or above the minimum standards which may be established pursuant to the Convention.

Article 5

(1) Aircraft operated on international air services by the designated airline of either Contracting Party as well as supplies of fuels, lubricating oils, spare parts, regular aircraft equipment and aircraft stores (including foods, beverages and tobacco) introduced into the territory of the other Contracting Party, or taken on board an aircraft in that territory and intended solely for use by or in the aircraft of that airline shall be exempt in the territory of the other Contracting Party from customs duties, inspection fees or similar duties or charges, even though such supplies be used by such aircraft on flights in that territory.

(2) Supplies of fuels, lubricating oils, spare parts, regular aircraft equipment and aircraft stores (including foods, beverages and tobacco) retained on board an aircraft of the designated airline of one Contracting Party shall be exempt in the territory of the other Contracting Party from customs duties, inspection fees or similar duties or charges, even though such supplies be used by such aircraft on flights in that territory. Goods so exempted may only be un-loaded with the approval of the customs authorities of the other Contracting Party. Those goods which are re-exported shall be kept in bond until re-exportation under customs supervision.

(3) The charges which either of the Contracting Parties may impose, or permit to be imposed on the designated airline of the other Contracting Party for the use of airports and other facilities under its control shall not be higher than would be paid for the use of such airports and facilities engaged in similar international air services.

Article 6

(1) The designated airline of each Contracting Party shall have fair and equal opportunity to carry on the agreed services traffic embarked in the territory of one Contracting Party and disembarked in the territory of the other Contracting Party or vice versa and shall regard as being of supplementary character traffic embarked or disembarked in the territory of the other Contracting Party to and from points enroute. The designated airline of each Contracting Party in providing capacity for the carriage of traffic embarked in the territory of the other Contracting Party and disembarked at points on the specified routes or vice versa shall take into consideration the primary interest of the designated airline of the other Contracting Party in such traffic so as not to affect unduly that interest of the latter's airline.

(2) The agreed services provided by the designated airline of each Contracting Party shall be closely related to the requirements of the public for transportation on the specified routes, and each airline shall have as its primary objective the provision of capacity adequate to meet the current and reasonably anticipated demands for the carriage of passengers, cargo and mail embarked or disembarked in the territory of the Contracting Party which has designated the airline.

(3) Provision for the carriage of passengers, cargo and mail embarked in the territory of the other Contracting Party and disembarked at points in third countries on the specified routes or vice versa shall be made in accordance with the general principle that capacity shall be related to:

- (a) The requirements of traffic embarked or disembarked in the territory of the Contracting Party which has designated the airline,
- (b) The requirements of traffic of the area through which the airline passes, after taking account of other air services established by airlines of the States situated in the area, and
- (c) The requirements of economical through airline operations.

(4) The capacity to be provided at the outset shall be agreed between both aeronautical authorities before the agreed services are inaugurated. Thereafter, the capacity to be provided shall be from

time to time discussed between the aeronautical authorities of the Contracting Parties.

(5) As long in advance as practicable, but not less than thirty days, before the introduction of an agreed service or any modification thereof, or within thirty days after receipt of a request from the aeronautical authorities the designated airline of one Contracting Party shall provide to the aeronautical authority of the other Contracting Party information regarding the nature of service, time-tables, types of aircraft including the capacity provided on each of the specified routes and any further information as may be required to satisfy the aeronautical authority of the other Contracting Party that the requirements of this Agreement are being duly observed.

Article 7

(1) There shall be a fair and equal opportunity for the designated airlines of both Contracting Parties to operate the agreed services on their respective routes.

(2) The designated airline of each Contracting Party shall have an equal opportunity to employ, subject to the laws and regulations of the other Contracting Party, the technical and commercial personnel for the performance of the agreed services on the specified routes and to establish and operate offices in the territory of the other Contracting Party.

(3) The designated airline of each Contracting Party shall further have an equal opportunity to issue all kinds of documents of carriage and to advertise and to promote sales in the territory of the other Contracting Party.

(4) The designated airlines of the two Contracting Parties shall enjoy the same facilities existing under the currency regulations of each Contracting Party in selling air transportation. Each Contracting Party shall grant to the designated airline of the other Contracting Party the right of free transfer of the excess of receipts over expenditure earned by that airline in the territory of the first Contracting Party in connection with the carriage of passengers, mail and cargo. Such transfer shall be at the official rate of exchange, where such a rate exists, or otherwise at the prevailing foreign exchange bank rate.

(5) All facilities and the rights mentioned in this Article shall be granted to or enjoyed by the designated airline of either Contracting Party on a reciprocal basis.

Article 8

(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, and the tariffs of other airlines for any part of the specified route. These tariffs shall be fixed in accordance with the following provisions of this Article.

(2) 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 between the designated airlines concerned, and such agreement shall, where possible, be guided by such decisions as are applicable procedure of the International Air Transport Association.

(3) The tariffs so agreed upon by the two designated airlines shall be subject to the approval of the aeronautical authorities of both Contracting Parties. This approval may be given expressly. However, if neither of the aeronautical authorities has expressed disapproval within 30 days from the date of receipt of filing, these tariffs shall be considered approved.

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

(5) If the aeronautical authorities cannot agree on the approval of any tariff submitted to them under paragraph 2 of this Article or on the determination of any tariff under paragraph 4, the dispute shall be settled in accordance with the provisions of Article 11 of this Agreement.

(6) No 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 11 of this Agreement.

(7) 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.

Article 9

The aeronautical authority of each Contracting Party shall supply to the aeronautical authority of the other Contracting Party at its request such periodic or other statements of statistics as may reasonably be required for the purpose of reviewing the capacity provided on the agreed services by the designated airline of either Contracting Party. Such

statements shall include all information required to determine the amount of traffic carried by the airline on the agreed services.

Article 10

(1) 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 this Agreement.

(2) Either Contracting Party may request consultation in writing which shall begin within a period of 60 days of the date of receipt of the request, unless both Contracting Parties agree to an extension of this period. Such consultations may also take place between the two aeronautical authorities.

Article 11

(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 between themselves.

(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 day of receipt by either Contracting Party from the other of a notice through the diplomatic channel requesting arbitration of the dispute, and the third arbitrator shall be appointed within a further period of thirty days. If either of the Contracting Parties 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 Organisation may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. Where the President possesses the nationality of one of the two Contracting Parties or is otherwise prevented from carrying out this function, his deputy in office shall make the necessary appointments. The third arbitrator shall be a national of a third State and shall act as president of the arbitral body.

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

(4) If and so long as either Contracting Party or the designated airline of either Contracting Party fails to comply with a decision given under paragraph 2 of this Article, the other Contracting Party may limit, withhold or revoke any rights or privileges which it has granted by virtue of the present Agreement to the Contracting Party in default or to the designated airline in default as the case may be.

(5) The expenses of the arbitral tribunal shall be shared equally by the Contracting Parties.

Article 12

(1) If either of the Contracting Parties considers it desirable to modify any provisions of the present Agreement including the Annexes thereof it shall request consultation with the other Contracting Party. Such consultation shall begin within a period of sixty days as from the date of the request. Any modification so agreed upon shall come into force sixty days after confirmation by exchange of diplomatic notes as required under Article 16 of this Agreement.

(2) In the event of the conclusion of a multilateral convention or agreement concerning air transport to which both Contracting Parties adhere this Agreement shall be modified to conform to the provisions of such convention or agreement.

Article 13

Either Contracting Party may at any time give notice to the other Contracting Party of its decision to terminate this Agreement. Such notice shall be simultaneously communicated to International Civil Aviation Organisation. If such notice is given, the

present 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 agreement before the expiry of the period. In the absence of acknowledgement of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen days after the receipt of the notice by the International Civil Aviation Organisation.

Article 14

The Annexes to this Agreement shall be deemed to be an integral part of the Agreement.

Article 15

The present Agreement and any exchange of diplomatic notes relative thereto shall be registered with the International Civil Aviation Organisation.

Article 16

This Agreement shall be approved according to the constitutional requirements in the state of each Contracting Party and shall come into force sixty days after an exchange of diplomatic notes confirming that these requirements have been fulfilled.

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

DONE in duplicate in the English language at Vienna, on this 12th day of November 1992.

For the Austrian Federal
Government:

EHRlich-ADAM

For the Government
of the State of Bahrain:

AL-HAMER

ANNEX I

(1) The airline designated by the Austrian Federal Government shall be entitled to operate scheduled air services in both directions on routes specified hereafter:

1. Points in the territory of the Republic of Austria
2. Points in the territory of the State of Bahrain.

(2) The airline designated by the Government of the State of Bahrain shall be entitled to operate scheduled air services in both directions on routes specified hereafter:

1. Points in the territory of the State of Bahrain
2. Points in the territory of the Republic of Austria.

(3) Intermediate points and points beyond may be served by the designated airline of each Contracting Party without exercising fifth freedom traffic rights.

(4) The exercise of fifth freedom traffic rights with respect to intermediate points and points beyond shall be agreed upon by the aeronautical authorities of the two Contracting Parties.

ANNEX II

(1) Pursuant to Article 3 of this Agreement, the Austrian Federal Government hereby designates **AUSTRIAN AIRLINES** as the designated airline.

(2) Pursuant to Article 3 of this Agreement, the Government of the State of Bahrain hereby designates **Gulf Air Co. (GULF AIR)** as the **designated airline**.