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**AUSTRIA
and
JAPAN**

**Agreement for air services (with routes schedule and
exchange of notes). Signed at Vienna on 7 March 1989**

Authentic text: English.

Registered by Austria on 19 December 1990.

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**AUTRICHE
et
JAPON**

**Accord relatif aux transports aériens (avec annexe et échange
de notes). Signé à Vienne le 7 mars 1989**

Texte authentique : anglais.

Enregistré par l'Autriche le 19 décembre 1990.

AGREEMENT¹ BETWEEN THE REPUBLIC OF AUSTRIA AND JAPAN FOR AIR SERVICES

The Austrian Federal Government and the Government of Japan,

Desiring to conclude an agreement for the purpose of establishing and operating air services between and beyond their respective territories,

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on December 7, 1944,²

Have agreed as follows:

Article 1

1. For the purpose of the present Agreement, unless the context otherwise requires:

- (a) the term “aeronautical authorities” means, in the case of the Republic of Austria, the Federal Minister for Public Economy and Transport or any other authority legally empowered to perform the functions exercised now by the said Minister, and, in the case of Japan, the Minister of Transport and any person or body authorized to perform any functions on civil aviation at present exercised by the said Minister or similar functions;
- (b) the term “designated airline” means an 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 such notification, and to which the appropriate operating permission has been given by that other Contracting Party, in accordance with the provisions of Article 3 of the present Agreement;
- (c) the term “air service” means any scheduled air service performed by aircraft for the public transport of passengers, cargo or mail;
- (d) the term “international air service” means an air service which passes through the air space over the territory of more than one State;

(e) the term “airline” means any air transport enterprise offering or operating an international air service;

(f) the term “stop for non-traffic purposes” means a landing for any purpose other than taking on or discharging passengers, cargo or mail;

(g) the term “Schedule” means the Schedule to the present Agreement or as amended in accordance with the provisions of Article 16 of the present Agreement;

(h) the term “specified route” means any of the routes specified in the Schedule;

(i) the term “agreed service” means any air service operated on the specified routes.

2. The Schedule forms an integral part of the present Agreement, and all reference to the “Agreement” shall include reference to the Schedule except where otherwise provided.

Article 2

Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement, particularly to enable its designated airlines to establish and operate the agreed services.

Article 3

1. The agreed services on any specified route may be inaugurated immediately or at a later date at the option of the Contracting Party to which the rights are granted under Article 2 of the present Agreement, subject to the provisions of Article 11 of the present Agreement, and not before:

- (a) the Contracting Party to which the rights have been granted has designated an airline or airlines for that route, and

¹ Came into force on 3 July 1989, the date of the exchange of notes by which the Contracting Parties informed each other that it had been approved pursuant to their constitutional procedures, in accordance with article 20.

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 Contracting Party granting the rights has given the appropriate operating permission in accordance with its laws and regulations to the airline or airlines concerned; which it shall, subject to the provisions of paragraph 2 of this Article and of paragraph 1 of Article 7, be bound to grant without delay.

2. Each of the airlines designated by either Contracting Party may be required to satisfy the aeronautical authorities of the other Contracting Party that it is qualified to fulfil the conditions prescribed by the laws and regulations normally and reasonably applied by those authorities to the operation of international air services.

Article 4

1. The airlines of each Contracting Party shall enjoy the following privileges in respect of their international air services:

- (a) to fly across the territory of the other Contracting Party without landing; and
 (b) to make stops in the territory of the other Contracting Party for non-traffic purposes.

2. Subject to the provisions of the present Agreement, the designated airlines of each Contracting Party shall enjoy, while operating an agreed service on a specified route, the privilege to make stops in the territory of the other Contracting Party at the points specified for that route in the Schedule for the purposes of discharging and of taking on international traffic in passengers, cargo and mail separately or in combinations.

3. Nothing in paragraph 2 of this Article shall be deemed to confer on the airlines of one Contracting Party the privilege of taking on, 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 5

The charges which either of the Contracting Parties may impose, or permit to be imposed, on the designated airlines of the other Contracting Party for the use of airports and other facilities under its control shall be just and reasonable and not higher than would be paid for the use of such airports and facilities by the airlines of the most

favoured nation or by any national airline of the first Contracting Party engaged in international air services.

Article 6

1. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board aircraft engaged in the agreed services operated by the designated airlines of either Contracting Party shall be exempt from customs duties, excise taxes, inspection fees and other similar duties, taxes or charges in the territory of the other Contracting Party, even when they are consumed or used on the part of the journey performed over that territory.

2. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores taken on board aircraft of the designated airlines of either Contracting Party in the territory of the other Contracting Party and used in the agreed services shall, subject to the regulations of the latter Contracting Party, be exempt from customs duties, excise taxes, inspection fees and other similar duties, taxes or charges.

3. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores introduced for the account of the designated airlines of either Contracting Party and stored in the territory of the other Contracting Party under customs supervision for the purpose of supplying aircraft of those designated airlines, shall, subject to the regulations of the latter Contracting Party, be exempt from customs duties, excise taxes, inspection fees and other similar duties, taxes or charges.

Article 7

1. Each Contracting Party reserves the right to withhold or revoke the privileges specified in paragraphs 1 and 2 of Article 4 of the present Agreement in respect of an airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise by the airline of those privileges, in any case where it is not satisfied that substantial ownership and effective control of such airline are vested in the Contracting Party designating the airline or in nationals of such Contracting Party.

2. Each Contracting Party reserves the right to suspend the exercise by a designated airline of the other Contracting Party of the privileges referred to in paragraph 1 above, or to impose such condi-

tions as it may deem necessary on the exercise by the airline of those privileges, in any case where such airline fails to comply with the laws and regulations of the Contracting Party granting those privileges or otherwise fails to operate in accordance with the conditions prescribed in the present Agreement; provided that, unless immediate suspension or imposition of conditions is essential to prevent further infringements of such laws and regulations, or for reasons of safety of air navigation, this right shall be exercised only after consultation with the other Contracting Party. Such consultation shall begin as soon as possible.

Article 8

There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to operate the agreed services on the specified routes between their respective territories.

Article 9

In the operation by the designated airlines of either Contracting Party of the agreed services, the interests of the designated airlines of the other Contracting Party shall be taken into consideration so as not to affect unduly the services which the latter provide on all or part of the same routes.

Article 10

1. The agreed services provided by the designated airlines of the Contracting Parties shall bear a close relationship to the requirements of the public for such services.

2. The agreed services provided by a designated airline shall retain as their primary objective the provision at a reasonable load factor of capacity adequate to current and reasonably anticipated requirements for the carriage of passengers, cargo and mail originating from or destined for the territory of the Contracting Party which has designated the airline. Provision for the carriage of passengers, cargo and mail both taken on and discharged at points on the specified routes in the territories of States other than that designating the airline shall be made in accordance with the general principles that capacity shall be related to:

- (a) traffic requirements to and from the territory of the Contracting Party which has designated the airline;
- (b) the requirements of through airline operation; and

(c) traffic requirements of the area through which the airline passes, after taking account of local and regional services.

3. Capacity to be provided by the designated airlines of the Contracting Parties in respect of the agreed services shall be agreed through consultation between the aeronautical authorities of both Contracting Parties in accordance with the principles laid down in Articles 8, 9, and paragraphs 1 and 2 of this Article.

Article 11

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, characteristics of services (such as standards of speed and accommodation) and the tariffs of other airlines for any part of the specified route.

2. These tariffs shall be fixed in accordance with the following provisions and the aeronautical authorities of each Contracting Party shall, in accordance with the procedures in each Contracting Party, ensure that the designated airlines conform to the tariffs thus fixed.

- (a) Agreement on the tariffs shall, wherever possible, be reached by the designated airlines concerned through the rate-fixing machinery of the International Air Transport Association. When this is not possible, tariffs in respect of each of specified routes and sectors thereof shall be agreed between the designated airlines concerned. In any case the tariffs shall be submitted for the approval of the aeronautical authorities of both Contracting Parties in accordance with the procedures applicable in each Contracting Party.
- (b) If the designated airlines concerned cannot agree on the tariffs, or if the aeronautical authorities of either Contracting Party do not approve the tariffs submitted, in accordance with the provisions of paragraph 2 (a) of this Article, the aeronautical authorities of the Contracting Parties shall endeavour to reach agreement on the appropriate tariffs.
- (c) If the agreement between the aeronautical authorities under the provisions of paragraph 2 (b) of this Article cannot be reached, the dispute shall be settled in accordance with the provisions of Article 15 of the present Agreement.