

No. 29646

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**UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND  
and  
SOUTH AFRICA**

**Agreement for air services between and beyond their res-  
pective territories (with annex). Signed at London on  
11 August 1992**

*Authentic text: English.*

*Registered by the United Kingdom of Great Britain and Northern Ireland  
on 22 March 1993.*

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**ROYAUME-UNI DE GRANDE-BRETAGNE  
ET D'IRLANDE DU NORD  
et  
AFRIQUE DU SUD**

**Accord relatif aux services aériens entre leurs territoires  
respectifs et au-delà (avec annexe). Signé à Londres le  
11 août 1992**

*Texte authentique : anglais.*

*Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord  
le 22 mars 1993.*

AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA FOR AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES

The Government of the United Kingdom and Northern Ireland and the Republic of South Africa, hereinafter referred to together 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;<sup>2</sup>

Desiring to contribute to the progress of international civil aviation;

Desiring to conclude an Agreement for the purpose of establishing 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 “aeronautical authorities” means:
- for the Government of the United Kingdom of Great Britain and Northern Ireland, the Secretary of State for Transport and for the purpose of Article 8, the Civil Aviation Authority;
- for the Republic of South Africa, the Minister responsible for Civil Aviation;
- or in both cases, any person or body authorised to perform any functions at present exercisable by the above-mentioned authorities;
- (b) the terms “agreed service” and “specified route” mean an international air service pursuant to Article 3 of this Agreement and the route specified in the appropriate Section of the Annex to this Agreement respectively;
- (c) the term “Agreement” means this Agreement, its Annex drawn up in application thereof, and any amendments to the Agreement or to the Annex;
- (d) 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;

<sup>1</sup> Came into force on 11 August 1992 by signature, in accordance with article 18.

<sup>2</sup> 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.

- (e) the terms “Convention” and “Chicago Convention” mean 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 to the Convention under Articles 90 and 94 thereof, in so far as those Annexes and amendments have become effective for, or been ratified by both Contracting Parties;
- (f) the term “designated airline” means an airline which has been designated and authorised in accordance with Article 4 of this Agreement;
- (g) the term “tariff”—see paragraph 1 of Article 8; and
- (h) the term “territory” in relation to a State has the meaning assigned to it in Article 2 of the Convention.

## ARTICLE 2

### **Applicability of the Chicago Convention and Multilateral Agreements**

- (1) The provisions of this Agreement shall be subject to the provisions of the Chicago Convention in so far as those provisions are applicable to international air services.
- (2) If a multilateral agreement concerning any matter covered by this Agreement, and which is accepted by both Parties, enters into force, the relevant provisions of that agreement shall supersede the relevant provisions of the present Agreement to the extent agreed upon by both Contracting Parties.

## ARTICLE 3

### **Grant of Rights**

- (1) Each Contracting Party grants to the other Contracting Party the following rights in respect of its international air services:
  - (a) the right to fly across its territory without landing;
  - (b) the right to make stops in its territory for non-traffic purposes; and
  - (c) while operating an agreed service on a specified route, the right to make stops in its territory for the purpose of taking up and discharging international passengers, cargo, and mail, separately or in combination.
- (2) Nothing in paragraph (1) of this Article shall be deemed to grant to the designated airlines of one 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 the other Contracting Party.
- (3) If because of armed conflict, political disturbances or developments, or special and unusual circumstances, a designated airline of one Contracting Party is unable to operate a service on its normal routeing, the other Contracting Party shall use its best efforts to facilitate the continued operation of such service through appropriate temporary rearrangement of routes.

## ARTICLE 4

**Designation and Authorisation**

- (1) Each Contracting Party shall have the right by written notification through the diplomatic channel to the other Contracting Party to designate an airline or airlines to operate the agreed air services on the specified routes and to withdraw or alter such designations.
- (2) On receipt of such notification, the other Contracting Party shall, without delay, grant to an airline or airlines so designated the appropriate operating authorisations subject to the provisions of this Article.
- (3) Upon receipt of the operating authorisation referred to in paragraph (2) of this Article, a designated airline may at any time begin to operate the agreed services, in part or in whole, provided that it complies with the provisions of this Agreement.
- (4) For the purpose of granting the appropriate operating authorisation under paragraph (2) of this Article, the aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to satisfy it that it is qualified to fulfil the conditions prescribed under the laws and the regulations normally and reasonably applied to the operation of international air services by those authorities in conformity with the provisions of the Convention.
- (5) Each Contracting Party shall have the right to refuse to grant the operating authorisation referred to in paragraph (2) of this Article, or to grant this authorisation under conditions that may be deemed necessary on the exercise by a designated airline of the rights specified in Article 3 of this Agreement, if the said Contracting Party is not satisfied that substantial ownership and effective control of the airline are vested in the Contracting Party designating it or in its nationals.

## ARTICLE 5

**Revocation or Suspension of Operating Authorisation**

- (1) Each Contracting Party shall have the right to revoke an operating authorisation or to suspend the exercise of the rights granted under this Agreement to a designated airline of the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of such rights:
  - (a) in the event of failure by such airline to comply with the laws and regulations normally and reasonably applied by the Contracting Party granting those rights;
  - (b) in the event that it is not satisfied that substantial ownership and effective control of the airline are vested in the Contracting Party designating the airline or in its nationals; and
  - (c) in case the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.
- (2) Unless immediate action is essential to prevent further infringement of the laws and regulations referred to above, the rights enumerated in paragraph (1) of this Article shall be exercised only after consultation with the other Contracting Party.

**ARTICLE 6****Airline Representation and Sales**

(1) The designated airline or airlines of one Contracting Party shall be entitled, in accordance with the laws and regulations relating to entry, residence and employment of the other Contracting Party, to bring in and maintain in the territory of the other Contracting Party those of their own managerial, technical, operational and other specialist staff who are required for the provision of air services.

(2) The designated airlines of each Contracting Party shall have the right to engage in the sale of air transportation in the area of the other Contracting Party, either directly or through agents. The designated airlines of each Contracting Party shall have the right to sell, and any person shall be free to purchase, such transportation in local currency or in any freely convertible other currency.

**ARTICLE 7****Principles Governing the Operation of Agreed Services**

(1) The designated airlines of the two Contracting Parties shall be afforded fair and equitable treatment in order that they may enjoy equal opportunity in the operation of the agreed services. Each Contracting Party shall take all appropriate action within its jurisdiction to eliminate all forms of discrimination or unfair competitive/predatory practices adversely affecting the competitive position of the airlines of the other Contracting Party.

(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 provide on the whole or part of the same routes.

(3) The agreed services provided by the designated airlines of the Contracting Parties shall bear a close relationship to the requirements of the public for transportation on the specified routes and shall have as their primary objective the provision at a reasonable load factor of capacity adequate to carry the current and reasonably anticipated requirements for the carriage of passengers and/or cargo, including mail, coming from or destined for the territory of the Contracting Party which has designated the airline. Provision for the carriage of passengers and cargo, including mail, both taken on board and discharged at points on the specified route 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) traffic requirements of the area through which the agreed service passes, after taking account of other transport services established by airlines of the States comprising the area; and
- (c) the requirements of through airline operation.