

No. 30312

**AUSTRALIA
and
SWITZERLAND**

**Agreement relating to air services (with annex). Signed at
Canberra on 17 October 1990**

Authentic texts: English and French.

Registered by Australia on 28 September 1993.

**AUSTRALIE
et
SUISSE**

**Accord relatif aux services aériens de lignes (avec annexe).
Signé à Canberra le 17 octobre 1990**

Textes authentiques : anglais et français.

Enregistré par l'Australie le 28 septembre 1993.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE SWISS FEDERAL COUNCIL RELATING TO AIR SERVICES

Considering that Australia and Switzerland are Parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944² desiring to develop international co-operation in the field of air transport, and desiring to establish the necessary basis for the operation of air services, the Swiss Federal Council and the Government of Australia have agreed as follows:

Article I

DEFINITIONS

1. For the purposes of this Agreement:

(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 are applied by both Contracting Parties.

(b) The term “aeronautical authorities” means, in the case of Switzerland, the Federal Office for Civil Aviation and, in the case of Australia, the Secretary to the Department of Transport and Communications or in both cases any person or body, authorised to exercise the functions currently assigned to the said authorities.

(c) The terms “air service”, “international air service”, “airline” and “stop for non-traffic purposes” have the meanings assigned to them in Article 96 of the Convention.

(d) The term “agreed service” means any scheduled air service operated on a specified route.

(e) The term “specified route” means a route specified in the Annex to this Agreement.

(f) The term “designated airline” means an airline which one Contracting Party has designated, in accordance with Article VI of this Agreement, for the operation of the agreed services.

(g) The term “tariff” means the prices which the designated airlines charge for the carriage of passengers, baggage and cargo and the conditions under which these prices apply, including commission charges and other additional remuneration for agency or sale of transportation of documents but excluding remuneration and conditions for carriage of mail.

2. The Annex forms an integral part of this Agreement. All references to the Agreement shall include the Annex unless explicitly agreed otherwise.

¹ Came into force on 1 February 1993, when the Contracting Parties notified each other (on 28 January and 1 February 1993) of the completion of their constitutional formalities, in accordance with article XX.

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.

Article II

GRANT OF RIGHTS

1. Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the purpose of operating agreed services.

2. Subject to the provisions of this Agreement, the designated airline of each Contracting Party shall enjoy:

(a) The right to fly without landing across the territory of the other Contracting Party;

(b) The right to make stops in that territory for non-traffic purposes;

(c) The right to embark and disembark in the territory of one Contracting Party at the points specified in the Annex of this Agreement passengers, baggage, cargo and mail destined for or coming from points in the territory of the other Contracting Party; and

(d) The right to embark and disembark in the territory of third countries at points on a specified route passengers, baggage, cargo and mail destined for or coming from points on that specified route in the territory of the other Contracting Party.

3. Nothing in this Article shall be deemed to confer on the designated airline of one Contracting Party the privilege of embarking, in the territory of the other Contracting Party, passengers, baggage, cargo and mail carried for remuneration or hire and destined for another point in the territory of that Contracting Party.

4. If because of armed conflict, political disturbances or developments, or special and unusual circumstances, the designated airline of one Contracting Party is unable to operate a service on its normal routes, the other Contracting Party shall use its best efforts to facilitate the continued operation of such service through appropriate temporary rearrangements of such routes as are mutually decided by the Contracting Parties.

Article III

EXERCISE OF RIGHTS

1. The designated airline of each Contracting Party shall enjoy fair and equal opportunities to operate the agreed services on the specified routes.

2. The designated airline of a Contracting Party shall take into consideration the interests of the designated airline of the other Contracting Party so as not to affect unduly the agreed services of the latter airline.

3. The agreed services provided by the designated airlines shall bear a close relationship to traffic demand. The agreed services provided by the designated airlines shall have as their primary objective the provision of capacity adequate for the requirements of traffic originating in the territory of one Contracting Party and destined for the territory of the other Contracting Party.

4. Provision for the carriage of passengers and cargo both taken up and discharged at points on the specified routes in the territories of third countries 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 areas through which the airline passes, local and regional air services being taken into account; and

(c) The requirements of viable through airline operations.

5. The capacity on the agreed services to be operated by the designated airlines of the Contracting Parties may from time to time be arranged by the designated airlines of the Contracting Parties. The initial capacity and share of capacity and any increase in capacity on the agreed services which may be provided in accordance with this Agreement shall be such as are mutually arranged between the aeronautical authorities of the Contracting Parties before the commencement of each agreed service and each such increase in capacity and from time to time thereafter.

Article IV

APPLICATION OF LAWS AND REGULATIONS

1. The laws and regulations of one Contracting Party governing entry into and departure from its territory of aircraft engaged in international air navigation or flights of such aircraft over that territory shall apply to the designated airline of the other Contracting Party.

2. The laws and regulations of one Contracting Party governing entry into, sojourn in, and departure from its territory of passengers, crew, baggage, cargo or mail, including formalities regarding entry, exit, emigration and immigration, as well as customs and sanitary measures shall apply to passengers, crew, baggage, cargo or mail carried by the aircraft of the designated airline of the other Contracting Party while they are within that territory.

3. Neither Contracting Party may grant to its own designated airline any preference over the designated airline of the other Contracting Party in the application of the laws and regulations provided for in this Article.

Article V

AVIATION SECURITY

1. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligations 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, opened for signature at Tokyo on 14 September 1963,¹ the Convention for the Suppression of Unlawful Seizure of Aircraft, opened for signature at The Hague on 16 December 1970² and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation opened for signature at Montreal on 23 September 1971³ and any other convention relating to the security of civil aviation applied by both Contracting Parties.

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

² *Ibid.*, vol. 860, p. 105.

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

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, 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 standards and recommended practices established by the International Civil Aviation Organisation and designated as annexes to the Convention to the extent that such security standards and recommended practices are applied by the Contracting Parties. 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 standards and recommended practices. In this paragraph the reference to aviation security standards and recommended practices includes any differences notified by the Contracting Party concerned. Each Contracting Party shall advise the other Contracting Party of any difference between its national regulations and practices and the aforementioned security standards and recommended practices. Each Contracting Party may request immediate consultations with the other Contracting Party at any time to discuss such differences.

4. Each Contracting Party agrees that its designated airline may be required to observe the aviation security standards and recommended practices 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 effective measures are taken within its territory to protect aircraft, to screen passengers and their carry-on items, and to carry out appropriate checks on crew, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give positive consideration to any request from the other Contracting Party for reasonable special security measures to meet a particular threat to civil aviation.

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 assist each other by facilitating communications and other appropriate measures intended to terminate such incident or threat as rapidly as possible commensurate with minimum risk to life.

6. When a Contracting Party has reasonable grounds to believe that the other Contracting Party has departed from the aviation security provisions of this Article, the aeronautical authorities of the first Contracting Party may request immediate consultations with the aeronautical authorities of the other Contracting Party. The consultations shall commence within 15 days from the date on which consultations were requested. If the Contracting Parties fail to reach a satisfactory resolution within 15 days from the commencement of consultations and if the other Contracting Party has not adequately met its obligations pursuant to paragraphs 4 and 5 of this Article, the first Contracting Party may immediately take appropriately measured protective action which may involve limiting or imposing conditions on the operating authorisations or technical permissions of the airline of the other Contracting Party. Any action taken in accordance with this paragraph shall be discontinued upon compliance by the other Contracting Party with the provisions of this Article. When justified by an emergency involving an immediate threat to the safety