

**No. 49351**

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**Australia  
and  
Spain**

**Agreement between Australia and the Kingdom of Spain relating to air services (with annexes). Canberra, 24 June 2009**

**Entry into force:** *5 April 2011 by notification, in accordance with article 20*

**Authentic texts:** *English and Spanish*

**Registration with the Secretariat of the United Nations:** *Australia, 28 February 2012*

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**Australie  
et  
Espagne**

**Accord entre l'Australie et le Royaume d'Espagne relatif aux services aériens (avec annexes).  
Canberra, 24 juin 2009**

**Entrée en vigueur :** *5 avril 2011 par notification, conformément à l'article 20*

**Textes authentiques :** *anglais et espagnol*

**Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies :** *Australie,  
28 février 2012*

[ ENGLISH TEXT – TEXTE ANGLAIS ]

**AGREEMENT BETWEEN  
AUSTRALIA  
AND  
THE KINGDOM OF SPAIN  
RELATING TO AIR SERVICES**

Australia and the Kingdom of Spain (hereinafter, "the Parties");

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

Desiring to promote an international aviation system based on competition among airlines in the marketplace and wishing to encourage airlines to develop and implement innovative and competitive services;

Desiring to ensure the highest degree of safety and security in international air transport and reaffirming their grave concern about acts or threats against the security of aircraft, which jeopardise the safety of persons or property, adversely affect the operation of air transport, and undermine public confidence in the safety of civil aviation;

Have agreed as follows:

## **ARTICLE 1**

### **Definitions**

For the purpose of this Agreement, unless otherwise stated, the term:

- (a) "Aeronautical authorities" means for each Party, the authority or authorities as notified in writing from time to time by one Party to the other Party.
- (b) "Agreed services" means services for the uplift and discharge of traffic as defined in Article 3, subparagraph 1 (c);
- (c) "Agreement" means this Agreement, its Annexes, and any amendments thereto;
- (d) "Air transportation" means the public carriage by aircraft of passengers, baggage, cargo, and mail, separately or in combination, for remuneration or hire;
- (e) "Airline" or "air carrier" means any air transport enterprise marketing or operating air transportation;
- (f) "Capacity" is the amount(s) of services provided under the Agreement, usually measured in the number of flights (frequencies), or seats or tonnes of cargo offered in a market (city pair, or country-to-country) or on a route during a specific period, such as daily, weekly, seasonally or annually;

- (g) “Convention” means the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944, and includes:
  - (i) any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as such Annex or amendment is at any given time in force for both Parties; and
  - (ii) any amendment which has entered into force under Article 94(a) of the Convention and has been ratified by both Parties;
- (h) “Designated airline” means an airline providing international air services that a Party has designated to operate the agreed services on the specified routes as established in Annex 1 to this Agreement and in accordance with Article 2 (Designation, Authorisation and Revocation) of this Agreement.
- (i) “Ground-handling” includes but is not limited to passenger, cargo and baggage handling, and the provision of catering facilities and/or services;
- (j) “ICAO” means the International Civil Aviation Organization;
- (k) “Intermodal air transportation” means the public carriage by aircraft and by one or more surface modes of transport of passengers, baggage, cargo and mail, separately or in combination, for remuneration or hire;
- (l) “International air transportation” means air transportation which passes through the air space over the territory of more than one State;
- (m) “Marketing airline” means an airline that offers air transportation on an aircraft operated by another airline, through code-sharing;
- (n) “Member State” means a Member State of the European Community
- (o) “Nationals of Member States”, in the case of Spain, shall be understood as referring to nationals of European Community Member States
- (p) “Operating airline” means an airline that operates an aircraft in order to provide air transportation – it may own or lease the aircraft;
- (q) “Slots” means the permission to use the full range of airport infrastructure necessary to operate an air service at an airport on a specific date and time for the purpose of landing or take off.
- (r) “Tariffs” means any price, fare, rate or charge for the carriage of passengers (and their baggage) and/or cargo (excluding mail) in international air transportation, including transportation on an intra-or interline basis, charged by airlines, including their agents, and the conditions governing the availability of such price, fare, rate or charge;

- (s) “Territory” and “Stop for non-traffic purposes” have the meaning respectively assigned to them in Articles 2 and 96 of the Convention; and
- (t) “User charges” means a charge made to airlines by a service provider for the provision of airport, airport environmental, air navigation and aviation security facilities and services.

## **ARTICLE 2**

### **Designation, Authorisation and Revocation**

1. Each Party shall have the right to designate as many airlines as it wishes to conduct international air transportation in accordance with this Agreement, and to withdraw or alter such designations. Such designations shall be transmitted to the other Party in writing through diplomatic channels.

2. On receipt of such a designation, and of applications from designated air carrier(s), in the form and manner prescribed for operating authorisations and technical permissions, each Party shall, subject to paragraphs 3 and 4 grant the appropriate authorisations and permissions with minimum procedural delay, provided that:

- (a) in the case of an air carrier designated by the Kingdom of Spain:
  - (i) the air carrier is established in the territory of the Kingdom of Spain under the Treaty establishing the European Community and has a valid operating licence from a Member State in accordance with European Community law; and
  - (ii) effective regulatory control of the air carrier is exercised and maintained by the Member State responsible for issuing its Air Operators Certificate and the relevant aeronautical authority is clearly identified in the designation; and
  - (iii) the air carrier has its principal place of business in the territory of the Member State from which it has received the valid operating licence; and
  - (iv) the air carrier is owned directly or through majority ownership and is effectively controlled by Member States and/or nationals of Member States, and/or by the Republic of Iceland, the principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation and/or nationals of such other states.
- (b) In the case of an air carrier designated by Australia:
  - (i) Australia has and maintains effective regulatory control of the air carrier; and
  - (ii) it has its principal place of business in Australia.