

**No. 50498**

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**United States of America  
and  
Malaysia**

**Air Transport Agreement between the Government of the United States of America and the Government of Malaysia (with annexes). San Francisco, 21 June 1997**

**Entry into force:** *21 June 1997 by signature, in accordance with article 17*

**Authentic text:** *English*

**Registration with the Secretariat of the United Nations:** *United States of America, 26 February 2013*

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**États-Unis d'Amérique  
et  
Malaisie**

**Accord relatif aux transports aériens entre le Gouvernement des États-Unis d'Amérique et le Gouvernement de la Malaisie (avec annexes). San Francisco, 21 juin 1997**

**Entrée en vigueur :** *21 juin 1997 par signature, conformément à l'article 17*

**Texte authentique :** *anglais*

**Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies :** *États-Unis d'Amérique, 26 février 2013*

[ ENGLISH TEXT – TEXTE ANGLAIS ]

AIR TRANSPORT AGREEMENT  
BETWEEN  
THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
AND  
THE GOVERNMENT OF MALAYSIA

The Government of the United States of America and the Government of Malaysia (hereinafter, "the Parties");

Desiring to promote an international aviation system based on competition among airlines in the marketplace with minimum government interference and regulation;

Desiring to facilitate the expansion of international air transport opportunities;

Desiring to make it possible for airlines to offer the traveling and shipping public a variety of service options at the lowest prices that are not discriminatory and do not represent abuse of a dominant position, and wishing to encourage individual airlines to develop and implement innovative and competitive prices;

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 jeopardize the safety of persons or property, adversely affect the operation of air transportation, and undermine public confidence in the safety of civil aviation; and

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

Have agreed as follows:

Article 1

Definitions

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

1. "Aeronautical authorities" means, in the case of the United States, the Department of Transportation, or its successor, and in the case of Malaysia, the Minister of Transport and any person or agency authorized to perform the functions exercised by the said Minister;
2. "Agreement" means this Agreement, its Annexes, and any amendments thereto;

3. "Air transportation" means the public carriage by aircraft of passengers, baggage, cargo, and mail, separately or in combination, for remuneration or hire;
4. "Convention" means the Convention on International Civil Aviation, opened for signature at Chicago on December 7, 1944, and includes:
  - a. any amendment that has entered into force under Article 94(a) of the Convention and has been ratified by both Parties, and
  - b. any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as such Annex or amendment is at any given time effective for both Parties;
5. "Designated airline" means an airline designated and authorized in accordance with Article 3 of this Agreement;
6. "Full cost" means the cost of providing service plus a reasonable charge for administrative overhead;
7. "International air transportation" means air transportation that passes through the airspace over the territory of more than one State;
8. "Price" means any fare, rate or charge for the carriage of passengers (and their baggage) and/or cargo (excluding mail) in air transportation charged by airlines, including their agents, and the conditions governing the availability of such fare, rate or charge;
9. "Stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging passengers, baggage, cargo and/or mail in air transportation;
10. "Territory" means the land areas under the sovereignty, jurisdiction, protection, or trusteeship of a Party, and the territorial waters adjacent thereto; and
11. "User charge" means a charge imposed on airlines for the provision of airport, air navigation, or aviation security facilities or services including related services and facilities.

## Article 2

### Grant of Rights

1. Each Party grants to the other Party the following rights for the conduct of international air transportation by the airlines of the other Party:
  - 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. the rights otherwise specified in this Agreement.

2. Nothing in this Article shall be deemed to confer on the airline or airlines of one Party the rights to take on board, in the territory of the other Party, passengers, their baggage, cargo, or mail carried for compensation and destined for another point in the territory of that other Party.

### Article 3

#### Designation and Authorization

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, and shall identify whether the airline is authorized to conduct the type of air transportation specified in Annex I or in Annex II or both.

2. On receipt of such a designation, and of applications from the designated airline, in the form and manner prescribed for operating authorizations and technical permissions, the other Party shall grant appropriate authorizations and permissions with minimum procedural delay, provided:

- a. substantial ownership and effective control of that airline are vested in the Party designating the airline, nationals of that Party, or both;
- b. the designated airline is qualified to meet the conditions prescribed under the laws and regulations normally applied to the operation of international air transportation by the Party considering the application or applications; and
- c. the Party designating the airline is maintaining and administering the standards set forth in Article 6 (Safety) and Article 7 (Aviation Security).

### Article 4

#### Revocation of Authorization

1. Either Party may revoke, suspend or limit the operating authorizations or technical permissions of an airline designated by the other Party where:

- a. substantial ownership and effective control of that airline are not vested in the other Party, the Party's nationals, or both;
- b. that airline has failed to comply with the laws and regulations referred to in Article 5 (Application of Laws) of this Agreement; or
- c. the other Party is not maintaining and administering the standards as set forth in Article 6 (Safety).

2. Unless immediate action is essential to prevent further noncompliance with subparagraphs lb or lc of this Article, the rights established by this Article shall be exercised only after consultation with the other Party.

3. This Article does not limit the rights of either Party to withhold, revoke, limit or impose conditions on the operating authorization or technical permission of an airline or airlines of the other Party in accordance with the provisions of Article 7 (Aviation Security).

#### Article 5

##### Application of Laws

1. While entering, within, or leaving the territory of one Party, its laws and regulations relating to the operation and navigation of aircraft shall be complied with by the other Party's airlines.

2. While entering, within, or leaving the territory of one Party, its laws and regulations relating to the admission to or departure from its territory of passengers, crew or cargo on aircraft (including regulations relating to entry, clearance, aviation security, immigration, passports, customs and quarantine or, in the case of mail, postal regulations) shall be complied with by, or on behalf of, such passengers, crew or cargo of the other Party's airlines.

#### Article 6

##### Safety

1. Each Party shall recognize as valid, for the purpose of operating the air transportation provided for in this Agreement, certificates of airworthiness, certificates of competency, and licenses issued or validated by the other Party and still in force, provided that the requirements for such certificates or licenses at least equal the minimum standards that may be established pursuant to the Convention. Each Party may, however, refuse to recognize as valid for the purpose of flight above its own territory, certificates of competency and licenses granted to or validated for its own nationals by the other Party.

2. Either Party may request consultations concerning the safety standards maintained by the other Party relating to aeronautical facilities, aircrews, aircraft, and operation of the designated airlines. If, following such consultations, one Party finds that the other Party does not effectively maintain and administer safety standards and requirements in these areas that at least equal the minimum standards that may be established pursuant to the Convention, the other Party shall be notified of such findings and the steps considered necessary to conform with these minimum standards, and the other Party shall take appropriate corrective