

No. 7284

**JAPAN
and
KUWAIT**

**Agreement for air services (with schedule). Signed at
Tokyo, on 6 October 1962**

Official texts: English, Japanese and Arabic.

Registered by the International Civil Aviation Organization on 8 June 1964.

**JAPON
et
KOWEÏT**

**Accord relatif aux services aériens (avec tableau). Signé à
Tokyo, le 6 octobre 1962**

Textes officiels anglais, japonais et arabe.

Enregistré par l'Organisation de l'aviation civile internationale le 8 juin 1964.

No. 7284. AGREEMENT¹ BETWEEN THE GOVERNMENT OF JAPAN AND THE GOVERNMENT OF KUWAIT FOR AIR SERVICES. SIGNED AT TOKYO, ON 6 OCTOBER 1962

The Government of Japan and the Government of Kuwait,

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

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

Have agreed as follows :

Article 1

- (1) For the purpose of the present Agreement, unless the context otherwise requires :
- (a) the term "the Convention" means the Convention on International Civil Aviation opened for signature at Chicago on December 7, 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 ;
 - (b) the term "aeronautical authorities" means, in the case of Japan, the Minister of Transportation and any person or body authorised to perform any functions on civil aviation presently exercised by the said Minister or similar functions, and, in the case of Kuwait, the Director General of Civil Aviation and any person or body authorised to perform any functions presently exercised by the said Director General ;
 - (c) 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 4 of the present Agreement ;

¹ Came into force on 20 June 1963, the date of an exchange of diplomatic notes indicating approval by each contracting Party, in accordance with article 16.

² See footnote 2, p. 4 of this volume.

- (d) the terms "air service", "international air service", "airline" and "stop for non-traffic purposes" shall have the meanings respectively assigned to them in Article 96 of the Convention ;
 - (e) the term "territory" in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or trusteeship of that State ;
 - (f) the term "capacity" in relation to an aircraft means the pay load of that aircraft available on a route or section of a route ;
 - (g) the term "capacity" in relation to "agreed service" as defined in Article 2 means the capacity of the aircraft used on such service, multiplied by the frequency operated by such aircraft over a given period and route or section of a route ;
 - (h) the term "change of gauge" means the operation of an air service by a designated airline in such a way that one section of the route is flown by aircraft different in capacity from those used on another section ;
 - (i) the term "Schedule" means the schedule to the present Agreement¹ or as amended in accordance with the provisions of paragraph (2) of Article 12 of the present Agreement.
- (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 to enable its designated airline or airlines to establish and operate international air services on the routes specified in the Schedule (hereinafter called "agreed services" and "specified routes" respectively).

Article 3

(1) Subject to the provisions of the present Agreement, the designated airline or airlines of each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following privileges :

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

¹ See p. 296 of this volume.

(2) Nothing in paragraph (1) of this Article shall be deemed to confer on the airlines of one Contracting Party the privilege of taking up, 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 4

(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 the provisions of Article 2 of the present Agreement, but not before :

- (a) the Contracting Party to which the rights have been granted has designated an airline or airlines for that route, and
- (b) the Contracting Party granting the rights has given the appropriate operating permission in accordance with its laws and regulations to the airline concerned, which it shall be bound to grant without delay ;

provided that a tariff established in accordance with the provisions of Article 10 of the present Agreement is in force in respect of the agreed services.

(2) The airline or 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 5

(1) Each Contracting Party shall have the right to refuse to accept the designation of an airline, to withhold or revoke the grant to a designated airline of the privileges specified in Article 3 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by the designated airline of those privileges in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals.

(2) Each Contracting Party shall have the authority to suspend the exercise by a designated airline of the privileges specified in Article 3 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by that airline of those privileges where the airline fails to comply with the laws or 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 considered necessary to prevent further infringement of laws or regulations or is in the interest of aviation safety, this authority shall be exercised only after consultation with the other Contracting Party.

(3) In the event of action by one Contracting Party under this Article, the rights of the other Contracting Party under Article 13 of the present Agreement shall not be prejudiced.

Article 6

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

(2) In operating the agreed services, the designated airline or airlines of each Contracting Party shall take into account the interests of the designated airline or 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 route.

Article 7

(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.

(3) Provision for the carriage of passengers, cargo and mail both taken up 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 or airlines ;
- (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.

Article 8

A designated airline or airlines of one Contracting Party may make a change of gauge at a point in the territory of the other Contracting Party only on the following conditions :

- (a) that it is justified by reason of economy of operation ;