

1595

No. 7851

**DENMARK
and
MALAYSIA**

**Agreement for air services between and beyond their
respective territories (with schedule of routes and
exchange of notes). Signed at Kuala Lumpur, on
26 March 1965**

Official text : English.

Registered by Denmark on 5 July 1965.

**DANEMARK
et
MALAISIE**

**Accord relatif à la création de services aériens entre
les territoires des deux pays et au-delà (avec tableau
des routes et échange de notes). Signé à Kuala-
Lumpur, le 26 mars 1965**

Texte officiel anglais.

Enregistré par le Danemark le 5 juillet 1965.

No. 7851. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF DENMARK AND THE GOVERNMENT OF MALAYSIA FOR AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES. SIGNED AT KUALA LUMPUR, ON 26 MARCH 1965

The Government of the Kingdom of Denmark and the Government of Malaysia being parties to the Convention on International Civil Aviation,² and

Desiring to conclude an Agreement for the purpose of establishing air services between and beyond their respective territories,

Have agreed as follows :

Article 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 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 ;

(b) the term “ aeronautical authorities ” means, in the case of the Kingdom of Denmark, the Ministry of Public Works and any person or body authorised to perform any functions at present exercised by the said Ministry of Public Works or similar functions ; and, in the case of Malaysia, the Minister of Transport and any person or body authorised to perform any functions at present exercised by the said Minister or similar functions ;

(c) the term “ designated airline ” means an airline which one Contracting Party shall have designated, by written notification to the other Contracting Party, in accordance with Article 3 of the present Agreement, for the operation of air services on the routes specified in such notification ;

¹ Came into force on 26 March 1965, upon signature, in accordance with article 15.

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, and Vol. 514, p. 209.

(d) 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 ;

(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 ; and

(f) 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.

Article 2

(1) Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing air services on the routes specified in Annex I thereto (hereinafter called “ the agreed services ” and “ the specified routes ”).

(2) Subject to the provisions of the present Agreement, the airlines designated by 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 Annex I to the present Agreement for the purpose of putting down and taking on international traffic in passengers, cargo and mail.

(3) Nothing in paragraph (2) 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 3

(1) Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines for the purpose of operating the agreed services on the specified routes.

(2) On receipt of the designation, the other Contracting Party shall, subject to the provisions of paragraphs (3) and (4) of this Article, without delay grant to the airline or airlines designated the appropriate operating authorisation.

(3) The aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to satisfy them that it is

qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied by them in conformity with the provisions of the Convention to the operation of international commercial air services.

(4) Each Contracting Party shall have the right to refuse to accept the designation of an airline and to withhold or revoke the grant to an airline of the privileges specified in paragraph (2) of Article 2 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by an 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 nationals of the Contracting Party designating the airline.

(5) At any time after the provisions of paragraphs (1) and (2) of this Article have been complied with, an airline so designated and authorised may begin to operate the agreed services provided that a service shall not be operated unless a tariff established in accordance with the provisions of Article 7 of the present Agreement is in force in respect of that service.

(6) Each Contracting Party shall have the right to suspend the exercise by an airline of the privileges specified in paragraph (2) of Article 2 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those privileges in any case 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 essential to prevent further infringements of laws or regulations, this right shall be exercised only after consultation with the other Contracting Party.

Article 4

Fuel, lubricating oils, spare parts, regular aircraft equipment and aircraft stores introduced into the territory of one Contracting Party, or taken on board aircraft in that territory, by or on behalf of the other Contracting Party or its designated airline or airlines and intended solely for use by or in the aircraft of those airlines shall be accorded the following treatment by the first Contracting Party in respect of customs duties, inspection fees and other similar national or local duties and charges :

- (a) in the case of fuel and lubricating oils remaining on board aircraft at the last airport of call before departure from the said territory, exemption ; and

- (b) in the case of fuel and lubricating oils not included under (a) and spare parts, regular aircraft equipment and aircraft stores, treatment not less favourable than that accorded to similar supplies introduced into the said territory, or taken on board aircraft in that territory, and intended for use by or in the aircraft of a national airline of the first Contracting Party, or of the most favoured foreign airline, engaged in international air services. This treatment shall be in addition to and without prejudice to that which each Contracting Party is under obligation to accord under Article 24 of the Convention.

Article 5

(1) There shall be fair and equal opportunity for the 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 airlines of each Contracting Party shall take into account the interests of the airlines of the other Contracting Party so as not to affect unduly the services which the latter provides on the whole or part of the same routes.

(3) The agreed services provided by the designated airlines of the Contracting Parties shall bear 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, cargo and mail originating from or destined for the territory of the Contracting Party which has designated the airline. Provision for the carriage of passengers, cargo and mail both taken up and put down 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 ;
- (b) traffic requirements of the area through which the airline 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.

Article 6

A designated airline 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 :