

No. 552

**INDIA
and
AUSTRALIA**

Agreement relating to air services (with annex and exchange of notes). Signed at New Delhi, on 11 July 1949

English official text communicated by the Secretary-General of the International Civil Aviation Organization. The registration took place on 7 September 1949.

**INDE
et
AUSTRALIE**

Accord relatif aux services aériens (avec annexe et échange de notes). Signé à New-Delhi, le 11 juillet 1949

Texte officiel anglais communiqué par le Secrétaire général de l'Organisation de l'aviation civile internationale. L'enregistrement a eu lieu le 7 septembre 1949.

No. 552. AGREEMENT¹ BETWEEN THE GOVERNMENT OF
INDIA AND THE GOVERNMENT OF THE COMMON-
WEALTH OF AUSTRALIA RELATING TO AIR SERVICES.
SIGNED AT NEW DELHI, ON 11 JULY 1949

The Government of India and the Government of the Commonwealth of Australia,

Desiring to conclude an agreement for the operation of air services,

Agree as follows:

Article I

Each Contracting Party grants to the other Contracting Party the right to operate the air services specified in the Annex to this Agreement (hereinafter referred to as the "specified air services") on the routes specified in the said Annex (hereinafter referred to as the "specified air routes").

Article II

(A) Each of the specified air services may be inaugurated immediately or at a later date at the option of the Contracting Party to whom the rights under this Agreement are granted, on condition that—

(1) the Contracting Party to whom the rights have been granted shall have designated an airline (hereinafter referred to as the "designated airline") for the specified air route concerned, and

(2) the Contracting Party which grants the rights shall have given the appropriate operating permission to the airline concerned pursuant to paragraph (B) of this Article which it shall do with the least possible delay.

(B) A designated airline may be required to satisfy the aeronautical authorities of the Contracting Party granting the rights that it is qualified to fulfil the conditions prescribed by or under the laws and regulations normally applied by those authorities to the operation of international air services.

¹ Came into force on 11 July 1949, in accordance with article XII.

(C) The operation of each of the specified air services shall be subject to the agreement of the Contracting Party concerned that its route organisation available for civil aviation on the specified air route is adequate for the safe operation of air services.

Article III

The designated airlines of each Contracting Party operating the specified air services may, subject to the provisions of Article IV, set down or pick up in the territory of the other Contracting Party, at the points specified in the Annex, international traffic originating in or destined for the territory of the former Contracting Party or of a third country on the specified air route concerned.

Article IV

(A) The aeronautical authorities of the Contracting Parties shall jointly determine in respect of an agreed period the total capacity required for the carriage, at a reasonable load factor, of all traffic, that is to say passengers, cargo and mail, which may reasonably be expected to originate in the territory of each Contracting Party and to be disembarked in the territory of the other Contracting Party on the specified air services to be operated during that period on each of the specified air routes.

(B) Subject to the provisions of paragraph (C) of this Article each Contracting Party shall have the right to authorise its designated airlines to make available for the carriage of the traffic specified in paragraph (A) of this Article whether on services terminating in or on services passing through the territory of the other Contracting Party half the capacity for the specified air services determined in accordance with the provisions of the said paragraph (A).

(C) (i) If the designated airlines of either Contracting Party are not able or willing to provide the whole of the capacity to which that Contracting Party is entitled in accordance with paragraph (B) of this Article, the aeronautical authorities of the Contracting Parties shall authorise the designated airlines of the other Contracting Party to provide additional capacity equal to the difference between the capacity actually provided by the designated airlines of the first Contracting Party and the capacity to which that Contracting Party is entitled under the said paragraph (B) (hereinafter referred to as "the deficient capacity").

(ii) If the designated airlines of one Contracting Party which have been providing less than the capacity to which that Contracting Party is entitled become able and willing to provide the whole or part of the deficient capacity, they may serve a notice of not less than four months to this effect on the aeronautical authorities of both Contracting Parties and also on the airlines which have been providing the additional capacity. In such event, and unless both the said aeronautical authorities direct within 30 days of the receipt of the notice that the notice shall not take effect, the latter airlines shall on or before the expiry of the said notice accordingly withdraw the whole or part of the additional capacity which they had been providing and the former airlines shall then provide the deficient capacity or part thereof, as the case may be.

(D) The designated airlines of either Contracting Party may set down and pick up in the territory of the other Contracting Party traffic coming from or destined for third countries on any specified air route, only in accordance with the following provisions:

- (i) If such third country is situated between the territories of the Contracting Parties, any part of the capacity provided by those airlines in accordance with the provisions of paragraphs (A), (B) and (C) of this Article may be used for this purpose.
- (ii) If such third country is situated beyond the territory of the other Contracting Party, the capacity that may be used for this purpose shall be such as shall be agreed between the aeronautical authorities of both the Contracting Parties as being unlikely to prejudice unduly, during an agreed period, the interests of the airlines of the other Contracting Party operating between the latter's territory and the third country concerned.

(E) In order to meet seasonal fluctuations or unexpected demands of a temporary character the designated airlines may agree between them such temporary increases in the agreed capacities as are necessary to meet the traffic need. Any such increases shall be reported forthwith to the aeronautical authorities of the Contracting Parties either of whom may disapprove such increases. Upon such disapproval such increases shall cease to operate.

(F) (i) In this Article, "agreed period" means the first six months from the date this Agreement comes into force and, thereafter, every succeeding period of six months unless otherwise agreed between the aeronautical authorities.

(ii) The capacity to be provided shall be discussed in the first instance between the designated airlines of the Contracting Parties and, if possible, agreed between them. The aeronautical authorities of both Contracting Parties shall have the right to be represented at these discussions.

(iii) Any agreement so reached between the designated airlines of the Contracting Parties shall be subject to the approval of the aeronautical authorities of the Contracting Parties. Such approval by the aeronautical authorities shall constitute an agreement as required by paragraphs (A), (C) and (D) of this Article.

(iv) If the aeronautical authorities of the Contracting Parties fail to agree on any matter on which their agreement is required under the provisions of this Article the Contracting Parties themselves shall endeavour to reach agreement thereon. If the Contracting Parties fail to reach such agreement the provisions of Article XI of this Agreement shall apply.

(v) Pending the completion of any review of capacity in accordance with the provisions of this Article the designated airlines of the Contracting Parties shall be entitled to continue to make available the capacities provided on their existing air services.

Article V

The designated airlines of each Contracting Party may make a change of gauge at a point in the territory of the other Contracting Party on the following conditions:

- (i) that it is justified by reason of economy of operation;
- (ii) that the aircraft used on the section more distant from the terminal in the territory of the former Contracting Party are smaller in capacity than those used on the nearer section;
- (iii) that the aircraft of smaller capacity shall be scheduled to connect with the aircraft of larger capacity and shall arrive at the point of change for the primary purpose of carrying traffic transferred from, or to be transferred into, the aircraft of larger capacity; and
- (iv) that the provisions of Article IV shall govern all arrangements made with regard to change of gauge.