

No. 9477

**JAPAN
and
MALAYSIA**

**Agreement for air services (with schedule). Signed at
Kuala Lumpur on 11 February 1965**

Revision of the Schedule to the above Agreement

Authentic text : English.

*The above-mentioned Agreement and certified statement were registered by the
International Civil Aviation Organization on 24 March 1969.*

**JAPON
et
MALAISIE**

**Accord relatif au services aériens (avec tableau). Signé à
Kuala Lumpur le 11 février 1965**

Modification du tableau annexé à l'Accord ci-dessus

Texte authentique : anglais.

*L'Accord et la déclaration certifiée susmentionnés ont été enregistrés par l'Orga-
nisation de l'aviation civile internationale le 24 mars 1969.*

AGREEMENT ¹ BETWEEN THE GOVERNMENT OF JAPAN AND THE GOVERNMENT OF MALAYSIA FOR AIR SER- VICES

The Government of Japan and the Government of Malaysia,
Being parties to the Convention on International Civil Aviation, 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

(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, ² 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 at present exercised by the said Minister 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 paragraph (1) of Article 3 of the present Agreement, for the operation of air services on the routes specified in such notification ;

(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 ;

¹ Came into force on 4 November 1965 by the exchange of the instruments of ratification which took place at Tokyo, 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.

(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 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 ; and

(g) the term "Schedule" means the Schedule to the present Agreement or as amended in accordance with the provisions 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

(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 the Schedule (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 the agreed services on the specified routes, 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 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 to the operation of international 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 a designated 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 a 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 nationals of such Contracting Party.

(5) An airline designated and authorised in accordance with the provisions of paragraphs (1) and (2) of this Article 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 a designated 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 a designated airline of those privileges, in any case where that 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

In respect of customs duties, inspection fees and similar national or local duties or charges on 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 designated airline of the other Contracting Party and intended solely for use by or in the aircraft of that airline, the designated airline of the second Contracting Party shall, subject to compliance with normal customs regulations, be accorded, in addition to the treatment prescribed in Article 24 of the Convention, treatment not less favourable than that granted by the first Con-

tracting Party to the airlines of the most favoured nation or to its national airlines engaged in international air services.

Article 5

(1) There shall be fair and equal opportunity for the designated 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 airlines of each Contracting Party shall take into account the interests of the designated 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 routes.

(3) The agreed services provided by the designated airlines of the Contracting Parties shall bear a 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 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 :

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