

No. 9886

**FINLAND
and
AUSTRIA**

Agreement for |air services between and beyond their respective territories (with schedule). Signed at Vienna on 4 June 1969

Authentic text : English.

Registered by Finland on 16 September 1969.

**FINLANDE
et
AUTRICHE**

Accord relatif aux services aériens entre les territoires des deux pays et au-delà (avec annexe). Signé à Vienne le 4 juin 1969

Texte authentique : anglais.

Enregistré par la Finlande le 16 septembre 1969.

AGREEMENT¹ BETWEEN THE AUSTRIAN FEDERAL
GOVERNMENT AND THE GOVERNMENT OF THE
REPUBLIC OF FINLAND FOR AIR SERVICES BETWEEN
AND BEYOND THEIR RESPECTIVE TERRITORIES

The Austrian Federal Government and the Government of the Republic of Finland,

Being parties to the Convention on International Civil Aviation, opened for signature at Chicago on the seventh day of December, 1944,²

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

Have agreed as follows :

Article 1

DEFINITIONS

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 of the Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have been adopted by both Contracting Parties;

b) the term "aeronautical authorities" means, in the case of the Austrian Federal Government, the Federal Ministry of Communications and Nationalized Enterprises and, in the case of the Government of the Republic of Finland, the Ministry of Communications and Public Works and any person or body authorized to perform any functions at present exercised by the said authorities;

c) the term "designated airline" means an airline which has been designated and authorized in accordance with Article 3 of the present Agreement;

¹ Came into force on 4 July 1969, i.e., thirty days from the day of signature, in accordance with article 14.

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 "territory" in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty of that State;

e) the terms "air service", "international air service", "airline" and "stop for nontraffic purposes" have the meanings respectively assigned to them in Article 96 of the Convention.

Article 2

TRAFFIC RIGHTS

1. Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing scheduled international air services on the routes specified in accordance with the appropriate Section of the Schedule annexed to the present Agreement. Such services and routes are hereafter called "the agreed services" and "the specified routes" respectively. The airlines designated by the Contracting Parties shall enjoy, while operating an agreed service on a specified route, the following rights :

- 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 on the specified routes for the purpose of putting down and taking on international traffic in passengers, cargo and mail.

2. Nothing in paragraph 1 of this Article shall be deemed to confer on the airline of one Contracting Party the privilege of taking on, in the territory of the other Contracting Party, passengers, cargo and mail carrier for remuneration or hire and destined for another point in the territory of that other Contracting Party.

Article 3

NECESSARY AUTHORIZATIONS

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 such designation, the other Contracting Party shall, subject to the provisions of paragraphs 4 and 5 of this Article, without delay grant to the airline designated the appropriate operating authorizations.

3. Each Contracting Party shall have the right, by written notification to the other Contracting Party, to withdraw the designation of an airline and to designate an other one.

4. The aeronautical authorities of one Contracting Party may require the airline designated by the other Contracting Party to satisfy them that it is qualified to fulfill the conditions prescribed under the laws and regulations normally and reasonably applied to the operation of international air services by such authorities in conformity with the provision of the Convention.

5. Each Contracting Party shall have the right to refuse to grant the operating authorization referred to in paragraph 2 of this Article, or to impose such conditions as it may deem necessary on the exercise by a designated airline of the rights specified in Article 2 of the present Agreement, in any case where the said Contracting Party 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.

6. When an airline has been so designated and authorized, it may at any time begin to operate the agreed services, provided that a tariff established in accordance with the provisions of Article 8 of the present Agreement is in force in respect of that service.

Article 4

CAPACITY REGULATIONS

1. There shall be a 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. The capacity offered by the designated airlines of the Contracting Parties shall be in direct relationship to the traffic requirements on the specified routes.

3. In applying the principles established in paragraphs 1 and 2 of this Article :

- a) the air services operated by a designated airline shall have as their primary objective the provision, at a reasonable load factor, of capacity adequate to current and reasonably anticipated demand for the transport of international air traffic coming from or destined for the territory of the Contracting Party designating the airline;
- b) the capacity provided under the above sub-paragraph *a* may be increased by complementary capacity for the transport of international air traffic coming from or destined for points on the specified routes situated in States other than that of the Contracting Party designating the airline.

4. Both Contracting Parties agree to recognize that the fifth freedom is complementary to the traffic requirements on the routes between the terri-

tories of the Contracting Parties, and at the same time is subsidiary in relation to the traffic requirements of the third and fourth freedom between the territory of the other Contracting Party and a country on the route.

5. The capacity to be offered and the frequency of the services on the specified routes shall be discussed, agreed upon and reviewed from time to time between the aeronautical authorities of the two Contracting Parties.

6. The designated airline of each Contracting Party shall submit for approval to the aeronautical authorities of the other Contracting Party not later than thirty days prior to the inauguration of services on the specified routes the flight schedules and the types of aircraft to be used. This shall likewise apply to later changes. In special cases, this time limit may be reduced subject to the agreement of the said authorities.

7. In due time before the submission of the flight schedules by the designated airline of either Contracting Party to the aeronautical authorities of the other Contracting Party, the airlines of both Contracting Parties shall use their best efforts to agree on the matters of capacity to be provided and the frequency of the services to be operated as well as the timetables concerned. A summary of the discussions between the airlines, which shall be approved by both airlines concerned, shall be transmitted to the aeronautical authorities of both Contracting Parties.

Article 5

REVOCATION AND SUSPENSION

1. Each Contracting Party reserves the right to withhold, revoke or impose conditions on the permission provided for in Article 3 of this Agreement with respect to an airline designated by the other Contracting Party in the following circumstances :

- a) in the event of the failure by such airline to qualify before the aeronautical authorities of that Contracting Party under the laws and regulations normally and reasonably applied by these authorities;
- b) in the event of the failure by such airline to comply with the laws and regulations of the Contracting Party granting these rights;
- c) in any case where it is not satisfied that substantial ownership and effective control of such airline are vested in the Contracting Party designating the airline or in nationals of that Contracting Party;
- d) in case the airline otherwise fails to operate in accordance with the terms of the present Agreement.