

Agreement Relating to Air Services

August 10, 1960

AGREEMENT BETWEEN THE GOVERNMENT OF INDIA AND THE IMPERIAL GOVERNMENT OF IRAN FOR AIR SERVICES

Tehran

PRFAMBLE

The Government of India and the Imperial Government of Iran,

Being desirous to conclude an Agreement for the purpose of establishing and operating commercial air services between and beyond their respective territories, have appointed as their plenipotentiaries

The Government of India,

His Excellency Shri TRILOKI NATH KNUL, Ambassador of India in Iran.

The Imperial Government of Iran,

His Excellency Mr. ABBAS ARAM, Foreign Minister, Imperial Government of Iran.

who having communicated to each other their full powers and found them to be in good and due form have agreed as follows:

Article I

For the purpose of this Agreement, unless the context otherwise requires

1. The term "aeronautical authorities" means, in the case of * Iran, the Department General of Civil Aviation and any person or body authorised to perform the functions presently exercised by the said Department General for similar functions, and in the case of India, the Director General of Civil Aviation, India, and the person or body authorised to perform any functions presently exercised by the said Director General for similar functions.
2. The term "Convention" means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December nineteen hundred and forty-four.
3. The term "territory", "air service", "international air service". "airline" and "stop for non-traffic purposes" shall have the meanings respectively assigned to them in Articles 2 and 96 of the Convention.

Article II

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 III

1. 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 :

I. the Contracting Party to whom the rights have been granted shall have designated in writing one or more airlines (hereinafter referred to as the "designated airline or airlines") to operate on the specified air routes concerned and,

II. 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.

2. 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 applied by those authorities to the operation of international air services.

3. A designated airline may be required to obtain approval of the competent military authorities for operation of services to and through areas of hostilities or under military occupation or areas affected thereby.

Article IV

The designated airlines of each Contracting Party operating the specified air services may, subject to the provisions of Article V, fly in transit across the territory of the other Contracting Party, or make stops for non-traffic purposes, or set down or pick up in that territory 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 V

1. The aeronautical authorities of the Contracting Parties shall jointly determine in respect of an agreed period the total capacity and frequencies 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 all the specified air routes.

2. 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 determined in accordance with the provisions of the said paragraph (A).

3. 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) and (B) 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 not exceed the capacity provided in accordance with the provisions of paragraphs (A) and (B) of this Article and shall be such as may 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.

4. In order to meet seasonal fluctuations or unexpected demands of a temporary character the designated airlines may agree between themselves 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.

5.

.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.

I. The capacity and frequencies 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.

II. 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) and (C) of this Article.

III. 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 XIII of this Agreement shall apply.

IV. Pending the completion of any review of capacity and frequencies 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 VI

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 :

1. that it is justified by reason of economy of operation;
2. 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;
3. 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
4. that the provisions of Article V shall govern all arrangements made with regard to change of gauge.

Article VII

1. The tariffs to be charged for the carriage of passengers and cargo on any of the specified air services shall be fixed at reasonable levels, due regard being paid to all relevant factors, including economical operation, reasonable profit, difference of characteristics of services (including

standards of speed and accommodation) and the tariffs charged by other airlines on the route or section thereof concerned.

I. The tariffs in respect of each route and each section thereof shall be agreed between the designated airlines concerned in consultation, if possible, with other airlines operating on the same route or a section thereof and shall have regard to any relevant rates adopted by the International Air Transport Association. The tariffs so agreed in respect of routes operated by the designated airline of one Contracting Party and terminating in or passing through the territory of the other Contracting Party shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

II. The approval of the aeronautical authorities of a Contracting Party will not be required in respect of tariff for a route or section thereof on which no designated airline of that Contracting Party is operating or in respect - of tariffs relating to sections or routes of which one point is not situated in the territory of that Contracting Party.

III. In the event of disagreement between the designated airlines concerned or in case the aeronautical authorities do not approve the tariffs as required under this paragraph, the Contracting Parties shall endeavour to reach agreement between themselves failing which the dispute shall be dealt with in accordance with Article XIII. Pending determination of the tariffs in accordance with this Article, the tariff, already in force shall prevail.

Article VIII

1. Supplies of fuel, lubricating oils, spare parts, regular equipment and aircraft stores introduced into or taken on board aircraft of the designated airline of one Contracting Party in the territory of the other Contracting Party and intended solely for use by or in such aircraft, and remaining on board on departure from the last airport of call in that territory shall be accorded, with respect to customs duty, inspection fees or similar national or local duties and charges, treatment not less favourable than that granted by the second Contracting Party to the airlines of the most favoured nation engaged in international public transport.

Provided that neither Contracting Party shall be obliged to grant to the designated airlines of the other Contracting Party exemption or remission of customs duty, inspection fees or similar charges unless such other Contracting Party grants exemption or remission of such charges to the designated airlines of the first Contracting Party.

2. If, in the opinion of the aeronautical authorities of one of the Contracting Parties, the administration of regulations relating to customs, immigration, quarantine and similar matters in the territory of the other Contracting Party imposes an onerous burden on its designated airlines in the operation of the air services pursuant to this Agreement, the aeronautical authorities of such other Contracting Party shall, upon request, enter into consultation to examine the situation.

Article IX

The aeronautical authorities of each Contracting Party shall supply to the aeronautical authorities of the other Contracting party request :

1. I - information concerning the authorisations extended to its designated airlines to operate the specified air services;

I. such traffic statistics as may be appropriate for the purpose of reviewing the capacity of the specified air services;

II. such periodical statements as may reasonably be required relating to the traffic carried by the designated airlines on the specified air services including information concerning the origin and destination of such traffic.

2. Each Contracting Party shall cause its designated airlines to supply to the aeronautical authorities of the other Contracting Party, as long in advance as practicable, copies of time tables and tariff schedules and particulars concerning the types of aircraft to be operated on the specified air services.

Article X

1. Each Contracting Party reserves the right to withhold or revoke, or impose such appropriate conditions as it may deem necessary with respect to an operating permission to a designated airlines of the other Contracting Party, if

I. the first Contracting Party is not satisfied that substantial ownership and effective control of such designated airlines are vested in the other Contracting Party or its nationals;

II. such designated airlines fail to comply with the laws and regulations of the first Contracting Party, or

III. there is a failure to fulfil the conditions under which the rights are granted to the other Contracting Party in accordance with the Agreement.

2. Except in the case of failure to comply with laws and regulations, such action shall be taken only after due notice has been given to the designated airline concerned and after opportunity has been given for consultation between the Contracting Parties. In the event of action by one Contracting Party under this Article the rights of the other Contracting Party under Article XIII shall not be prejudiced.

Article XI

1. In a spirit of close collaboration, the aeronautical authorities of the two Contracting Parties will consult, if the need arises, with a view to assuring the observance of the principles and the implementation of the provisions contained in this Agreement.

2. Either Contracting Party may at any time request consultation with the other Contracting Party with a view to initiating any amendment of this Agreement which it may deem desirable. Such consultation shall begin within a period of sixty days from the date of the request. Any modification of this Agreement agreed as a result of such consultation shall come into effect when it has been confirmed by an exchange of diplomatic notes.

3. Changes made by either Contracting Party in the intermediate stopping points on the specified air routes authorised to its designated airlines except those which

I. change the points served by a designated airlines in the territory of the other Contracting Party, or

II. result in the route ceasing to be reasonably direct, shall not be considered as modifications of this Agreement and either Contracting Party may therefore make such changes unilaterally; provided that notice of any such changes shall be given without delay to the aeronautical authorities of the other Contracting Party. If the aeronautical authorities of such second Contracting Party find that the principles set forth in Article V of this Agreement are thereby infringed and such infringement effects the interests of any of their airlines because of the carriage by a designated airline of the first Contracting Party of traffic between the territory of the second Contracting Party and the new point

in the territory of a third country the aeronautical authorities of the second Contracting Party may request consultation in accordance with the provisions of paragraph (A) of this Article.

4. Points on any of the specified routes may at the option of the designated airline be omitted on any or all flights.

Article XII

Whether or not the procedure for consultation provided for in paragraph (B) of Article XI of this Agreement has been initiated, either Contracting Party may at any time give notice to the other Contracting Party of its desire to terminate this Agreement and such notice shall be simultaneously communicated to the Council of the International Civil Aviation Organisation. This Agreement shall terminate one year after the date of receipt by the other Contracting Party of the notice to terminate unless the notice is withdrawn by agreement before the expiration of such period. In the absence of acknowledgement of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen days after the receipt of the notice by the Council of International Civil Aviation Organisation.

Article XIII

1. If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement or its Annex, the Contracting Parties shall in the first place endeavour to settle it by negotiations between themselves.

2. If the Contracting Parties fail to reach a settlement by negotiation,

I. they may agree to refer the dispute for decision to an arbitral tribunal or some other person or body appointed by agreement between them; or

II. if they do not so agree or if, having agreed to refer the dispute to an arbitral tribunal they cannot reach agreement as to its composition, either Contracting Party may submit the dispute for decision to any tribunal competent to decide it, established with; n the International Civil Aviation Organisation.

3. The Contracting Parties undertake to comply with any decision given, including any interim recommendation made, under paragraph (B) of this Article.

4. If and so long as either Contracting Party or a designated airline of either Contracting Party fails to comply with the requirements of paragraph (C) of this Article, the other Contracting Party may limit, withhold or revoke any rights which it has granted by virtue of this Agreement and its Annex.

Article XIV

If a general multilateral agreement or traffic rights for scheduled international air services comes into force in respect of both Contracting Parties, this Agreement shall be amended so as to conform with the provisions of such agreement.

Article XV

Articles, 9, 10, 11, 12, 13, 14, 15, 16, 24, 29, 30, 31, 32, 33, 34, 35, and 36 of the Convention shall be binding in their present form on both Contracting Parties as between themselves for the duration of this Agreement, as if they were an integral part of this Agreement, unless both Contracting Parties, being parties to the Convention, ratify any amendments to these articles which shall have come into

force in accordance with Article 94 of the Convention; in which case the Articles so amended shall be similarly binding between the Contracting Parties for the duration of this Agreement.

Article XVI

This Agreement shall be subject to ratification by the Contracting Parties in accordance with their respective constitutional procedures and shall come into force on the date of exchange of the instruments of ratification which shall take place at New Delhi.

IN WITNESS WHEREOF the undersigned plenipotentiaries have signed the present Agreement and have affixed thereto their seats.

DONE at Tehran this Tenth day of August Nineteen Hundred and Sixty (Nineteenth Day of Mordad One Thousand Three Hundred and Thirty Nine) in duplicate in the Hindi, Persian and English languages, all the three texts being of equal authenticity except in the case of doubt when the English text shall prevail.

Sd/- (T.N. KAUL

For the Government of India.

Sd/- (ABBAS ARAM)

For the Imperial Government of Iran.

ANNEX

1. The airlines designated by the Imperial Government of Iran shall be entitled to operate air services in both directions on each of the following routes, and to pick up and set down international traffic in the territory of India at the points herein specified :

I.Points in Iran-Points in Afghanistan-Points in Pakistan- Delhi and points beyond.

II.Points in Iran-Points in Pakistan-Delhi and points beyond.

III.Points in Iran-Points in Pakistan-Bombay and points beyond.

2. The airlines designated by the Government of India shall be entitled to operate air services in both directions on each of the following routes, and pick up and set down international traffic in the territory of Iran at the points herein specified :

.Points in India-Points in Pakistan-Points in Afghanistan- Tehran and points beyond.

I.Points in India-Points in Pakistan-Tehran and points beyond.

II.Points in India-Points in Pakistan via intermediate points to Abadan and points beyond.

EMBASSY OF INDIA

TEHRAN

1 Oth August, 1960

Your EXCELLENCY,

With reference to the bilateral Air Agreement between India and Iran signed today, I have the honour to say that the interpretation of the Government of India of the phrase "substantial ownership and effective control" occurring in paragraph A(i) of Article X of the said Agreement, in

relation to a designated airline of either Contracting Party, is that in addition to the ownership of the major part of the assets of the designated airline, the Contracting Party or its nationals should also have effective control in the management of the designated airline and ownership and effective control of the major part of all the aircraft and equipment used in the operation of the air services.

I have further the honour to request Your Excellency to be good enough to confirm, on behalf of your Government, that this is also the understanding of the Government of Iran.

This letter and your confirmation will be treated by both the Governments as forming part of the Agreement.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

His Excellency Mr. ABBAS ARAM, Imperial Ministry of Foreign Affairs, Tehran.

SEAL MINISTERE IMPERIAL

DES AFFAIRES ETRAWGFRES

No. 1185/18/9036

EXCELLENCY,

Sd/- (T.N. KAUL) Ambassador of India.

August 10th, 1960

I have the honour to acknowledge the receipt of your letter, dated August 10, 1960, which reads as follows :

"With reference to the bilateral Air Agreement between India and Iran signed today, I have the honour to say that the interpretation of the Government of India of the phrase "substantial ownership and effective control" occurring in paragraph (A) (1) of Article 10 of the said Agreement, in relation to a designated airline of either High Contracting Party, is that in addition to the ownership of the major part of the assets of the designated airline, the Contracting Party or its nationals should also have effective control in the management of the designated airline and ownership and effective control of the major part of all the aircraft and equipment used in the operation of the air services.

I have further the honour to request Your Excellency to be good enough to confirm, on behalf of your Government, that this is also the understanding of the Government of Iran.

This letter and your confirmation will be ,treated by both the Governments as forming part of the Agreement and hereby confirm its contents assurances of my highest consideration.

Sd/-

(ABBAS ARAM)

I avail myself of this opportunity to renew to Your Excellency Mr. T.N. KAUL, Ambassador of India in Iran, Tehran.