

[ENGLISH TEXT — TEXTE ANGLAIS]

AGREEMENT BETWEEN THE GOVERNMENT OF HIS MAJESTY THE SULTAN AND YANG DI-PERTUAN OF BRUNEI DARUSSALAM AND THE GOVERNMENT OF THE SULTANATE OF OMAN FOR AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES

The Government of His Majesty The Sultan and Yang di-Pertuan of Brunei Darussalam and the Government of The Sultanate of Oman;

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

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 this 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 so far as those Annexes and amendments have become effective for or been ratified by both Contracting Parties;

(b) the term "aeronautical authorities" means in the case of the Government of the Sultanate of Oman, the Minister of Communications and any person or body authorized to perform any functions at present exercisable by the said Minister or similar functions; and in the case of the Government of His Majesty The Sultan and Yang di-Pertuan of Brunei Darussalam, the Minister of Communications and any person or body authorized to perform any functions at present exercisable by the said Minister or similar functions;

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

(d) the term "territory" in relation to a State has the meaning assigned to it in Article 2 of the Convention;

(e) 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;

(f) the term "capacity" in relation to an aircraft means the pay load of that aircraft available on a route or section of a route;

(g) the term "capacity" in relation to "agreed service" means the capacity of the aircraft used on such service, multiplied by the frequency operated by such aircraft over a given period and route or section of a route; and

(h) the term "Route Schedule" means the Schedule of routes annexed to this Agreement and any amendments thereto as agreed in accordance with the provisions of Article 16 of this Agreement. The Route Schedule shall form an integral part of this Agreement.

Article 2. Grant of Rights

(1) Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the purpose of establishing and operating scheduled international air services on the routes specified in the Route Schedules of this Agreement. Such services and routes are hereinafter called "the agreed services" and "the specified routes" respectively. The airline designated by each Contracting Party 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 take up and to put down passengers, cargo, and mail at any point on the specified routes subject to the provisions contained in the Route Schedules of this Agreement.

(2) Nothing in paragraph (1) of this Article shall be deemed to confer on the airline 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. Designation of Airlines

(1) Each Contracting Party shall have the right to designate in writing to the other Contracting Party one airline 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 paragraph (3) and (4) of this Article, without delay grant to the airline designated the appropriate operating authorizations.

(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 to the operation of international air services by such authorities in conformity with the provisions of the Convention.

(4) Each Contracting Party shall have the right to refuse to grant the operating authorizations 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 this 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.

(5) When an airline has been so designated and authorized it may begin at any time to operate the agreed services, provided that a tariff established in accordance with the provisions of Article 9 of this Agreement, is in force in respect of that service.

Article 4. Revocation or Suspension of Operating Authorization

(1) Each Contracting Party shall have the right to revoke an operating authorization or to suspend the exercise of the rights specified in Article 2 of this Agreement by an airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of these rights:

(a) 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 the nationals of such Contracting Party; or

(b) in the case of failure by that airline to comply with the laws or regulations of the Contracting Party granting these rights; or

(c) in case the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.

(2) Unless immediate revocation, suspension, or imposition of the conditions mentioned in paragraph (1) of this Article is essential to prevent further infringements of laws or regulations, such right shall be exercised only after consultation with the other Contracting Party.

(3) In the event of action by one Contracting Party under this Article, the rights of the other Contracting Party under Article 13 shall not be prejudiced.

Article 5. Exemption from Customs and Other Duties

(1) Aircraft operated on international air services by the designated airline of either Contracting Party as well as supplies of fuels, lubricating oils, spare parts, regular aircraft equipment and aircraft stores (including foods, beverages, and tobacco) introduced into the territory of the other Contracting Party, or taken on board an aircraft in that territory and intended solely for use by or in the aircraft of that airline shall be exempt in the territory of the other Contracting Party from customs duties, inspection fees or similar duties or charges, even though such supplies be used by such aircraft on flights in that territory.

(2) Supplies of fuels, lubricating oils, spare parts, regular aircraft equipment and aircraft stores (including foods, beverages, and tobacco) retained on board aircraft of the designated airline of one Contracting Party shall be exempt in the territory of the other Contracting Party from customs duties, inspection fees or similar duties or charges, even though such supplies be used by such aircraft on flights in that territory. Goods so exempted may only be unloaded with the approval of the customs authorities of the other Contracting Party. Those goods which are re-exported shall be kept in bond until re-exportation under customs supervision.

(3) The charges which either of the Contracting Parties may impose, or permit to be imposed on the designated airline of the other Contracting Party for the use of airports and other facilities under its control shall not be higher than would be paid for the use of such airports and facilities by the national airlines of the Contracting Party engaged in similar international air services.

Article 6. Applicability of Laws and Regulations

(1) The laws and regulations of each Contracting Party shall apply to the navigation and operation of the aircraft of the airline designated by one Contracting Party during entry into, stay in, departure from, and flight over the territory of the other Contracting Party.

(2) The laws and regulations of each Contracting Party relating to the arrival in, or departure from its territory of passengers, crews, and cargo and in particular regulations regarding passports, customs, currency and medical and quarantine formalities shall be applicable to passengers, crews, and cargo arriving in, or departing from the territory of one Contracting Party in aircraft of the airline designated by the other Contracting Party.

Article 7. Principles Governing Operation of Agreed Services

(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 designated airline of each Contracting Party shall take into account the interests of the airline 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 route.

(3) The agreed services provided by the designated airlines of the Contracting Parties shall bear close relationship to the requirements of the public 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 and cargo including mail originating from, or destined for the territory of the Contracting Party which has designated the airline. Provision for the carriage of passengers and cargo including mail both taken on board and discharged 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 agreed service 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 8. Approval of Time-Tables

The designated airline of each Contracting Party shall submit, for approval to the aeronautical authorities of the other Contracting Party not later than thirty (30) days prior to the inauguration of services on the specified routes the flight time-tables including 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 consent of the said authorities.

Article 9. Tariffs

(1) For the purposes of the following paragraphs, the term "tariff" means the prices to be paid for the carriage of passengers and cargo and the conditions under which those prices apply, including prices and conditions for agency and other auxiliary services but excluding remuneration and conditions for the carriage of mail.

(2) The tariffs to be charged by the airline of one Contracting Party for carriage to or from the territory of the other Contracting Party shall be established at reasonable levels, due regard being paid to all relevant factors, including cost of operation, reasonable profit, and the tariffs of other airlines.

(3) The tariffs referred to in paragraph (2) of this Article, shall, if possible, be agreed to by the designated airlines concerned of both Contracting Parties, after consultation with the other airlines operating over the whole or part of the route, and such agreement shall, wherever possible, be reached by the use of the procedures of the International Air Transport Association, or similar internationally recognized industry body.

(4) The tariffs so agreed shall be submitted for the approval of the aeronautical authorities of both Contracting Parties at least forty-five (45) days before the proposed date of their introduction. In special cases, this period may be reduced, subject to the agreement of the said authorities.

(5) This approval may be given expressly. If neither of the aeronautical authorities has expressed disapproval within thirty (30) days from the date of submission, in accordance with paragraph (4) of this Article, these tariffs shall be considered as approved. In the event of the period for submission being reduced, as provided for in paragraph (4), the aeronautical authorities may agree that the period within which any disapproval must be notified shall be less than thirty (30) days.

(6) If a tariff cannot be agreed in accordance with paragraph (3) of this Article, or if, during the period applicable in accordance with paragraph (5) of this Article, one aeronautical authority gives the other aeronautical authority notice of its disapproval of a tariff agreed in accordance with the provisions of paragraph (3) of this Article, the aeronautical authorities of the two Contracting Parties shall, endeavour to determine the tariff by mutual agreement.

(7) If the aeronautical authorities cannot agree on any tariff submitted to them under paragraph (4) of this Article, or on the determination of any tariff under paragraph (6) of this Article, the dispute shall be settled in accordance with the provisions of Article 13 of this Agreement.

(8) A tariff established in accordance with the provisions of this Article shall remain in force until a new tariff has been established. Nevertheless, a tariff shall not be prolonged by virtue of this paragraph for more than twelve (12) months after the date on which it would otherwise have expired.

Article 10. Exchange of Information

(1) The aeronautical authorities of both Contracting Parties shall exchange information, as promptly as possible, concerning the current authorization extended to their respec-

tive designated airline to render service to, through, and from the territory of the other Contracting Party. This will include copies of current certificates and authorizations for services on specified routes, together with amendments, exemption orders and authorized service patterns.

(2) Each Contracting Party shall cause its designated airline to provide to the aeronautical authorities of the other Contracting Party, as long in advance as practicable, copies of tariffs, schedules, including any modification thereof, and all other relevant information concerning the operation of the agreed services, including information about the capacity provided on each of the specified routes and any further information as may be required to satisfy the aeronautical authorities of the other Contracting Party that the requirements of this Agreement are being duly observed.

(3) Each Contracting Party shall cause its designated airline to provide to the aeronautical authorities of the other Contracting Party statistics relating to the traffic carried on the agreed services showing the points of embarkation and disembarkation.

Article 11. Transfer of Earnings

(1) Each Contracting Party shall grant to the designated airline of the other Contracting Party the right of free transfer of the excess of receipts over expenditure earned by the airline in the territory of the first Contracting Party in connection with the carriage of passengers, mail and cargo, on the basis of the prevailing Foreign Exchange market rates for current payments.

(2) If the Contracting Party imposes restrictions on the transfer of excess of receipts over expenditure by the designated airline of the other Contracting Party, the latter shall have a right to impose reciprocal restrictions on the designated airline of the first Contracting Party.

Article 12. Consultation

(1) In a spirit of close cooperation, the aeronautical authorities of the Contracting Parties shall consult each other from time to time with a view to ensuring the implementation of, and satisfactory compliance with, the provisions of this Agreement and the annexed Schedules and shall consult when necessary to provide for modification thereof.

(2) Either Contracting Party may request consultation in writing which shall begin within a period of sixty (60) days of the date of receipt of the request, unless both Contracting Parties agree to an extension of this period.

Article 13. Settlement of Disputes

(1) If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement, the Contracting Parties shall in the first place endeavour to settle it by negotiation.

(2) If the Contracting Parties fail to reach a settlement by negotiation, they may agree to refer the dispute for decision to some person or body; if they do not so agree, the dispute

shall at the request of either Contracting Party be submitted for decision to a tribunal of three (3) arbitrators, one to be nominated by each Contracting Party and the third to be appointed by the two so nominated. Each of the Contracting Parties shall nominate an arbitrator within a period of sixty (60) days from the date of receipt by either Contracting Party from the other of a notice through diplomatic channels requesting arbitration of the dispute by such a tribunal, and the third arbitrator shall be appointed within a further period of sixty (60) days. If either of the Contracting Parties fails to nominate an arbitrator within the period specified, or if the third arbitrator is not appointed within the period specified, the President of the Council of the International Civil Aviation Organization may at the request of either Contracting Party appoint an arbitrator or arbitrators as the case requires. In such cases, the third arbitrator shall be a national of a third State and shall act as President of the arbitral tribunal.

(3) The Contracting Parties shall comply with any decision given under paragraph (2) of this Article.

Article 14. Aviation Security

(1) The Contracting Parties shall take all necessary measures and, upon request, provide all necessary aid to each other in the event of the commission or threat of unlawful acts against passengers, crew, cargo, aircraft, airports or air navigation facilities, with a view to terminating or preventing such acts as rapidly and safely as possible.

(2) The Contracting Parties shall have regard to the security provisions established by the International Civil Aviation Organization.

(3) Each Contracting Party shall give sympathetic consideration to any request from the other Contracting Party for special security measures to be adopted for its passengers, crew, cargo or aircraft to meet a particular threat.

Article 15. Adaptation of Multilateral Conventions

In the event of the conclusion of a Multilateral Convention or Agreement concerning air transport to which both Contracting Parties adhere, this Agreement shall be modified to conform to the provisions of such Convention or Agreement.

Article 16. Amendment

(1) If either of the Contracting Parties considers it desirable to modify any provision of this Agreement including the Route Schedules, which shall be deemed to be a part of the Agreement, it shall request for consultations in accordance with Article 12 of this Agreement. Such consultations may take place by exchange of communications.

(2) If the amendment relates to the provisions of the Agreement other than of the Route Schedules, the amendment shall be approved by each Contracting Party in accordance with its constitutional procedure and shall come into effect when confirmed by an exchange of Notes through the Diplomatic channels.

(3) If the amendment relates only to the provisions of the Route Schedules, it shall be agreed upon between the aeronautical authorities of both the Contracting Parties.

Article 17. Registration with the International Civil Aviation Organization

This Agreement and any amendments thereto shall be registered with the International Civil Aviation Organization.

Article 18. Termination

Either Contracting Party may at any time give notice to the other Contracting Party of its decision to terminate this Agreement; such notice shall be simultaneously communicated to the International Civil Aviation Organization. In such case the Agreement shall terminate twelve (12) months after the date of receipt of notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry date of this period. In the absence of acknowledgement of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

Article 19. Coming into Force

The Agreement shall be approved according to the constitutional requirements in the country of each Contracting Party and shall come provisionally into force from the date of signature, and definitely on the day of an Exchange of Diplomatic Notes confirming that these requirements have been fulfilled.

In witness thereof the undersigned Plenipotentiaries being duly authorized thereto by their respective Governments, have signed this Agreement.

Done this 10th day of September 1988 at Muscat, The Sultanate of Oman in the Malay, Arabic and English languages, all three texts being equally authentic. In the event of any misinterpretation in any of the texts, the text in English shall prevail.

On behalf of the Government of His Majesty the Sultan and Yang di-Pertuan of Brunei Darussalam:

PEHIN-ORANG KAYA LAILA WIJAYA
(DATO HAJI ABDUL AZIZ UMAR)
Minister of Communications
Brunei Darussalam

On behalf of the Government of The Sultanate of Oman:

SHAIK/HAMOUD BIN ABDULLAH AL-HARTHI
Minister of Communications
Sultanate of Oman

ROUTE SCHEDULE 1

1. Routes to be operated by the designated airline of Brunei Darussalam:

From	To	Intermediate Points	Points Beyond
(1)	(2)	(3)	(4)
Bandar Seri Begawan	Muscat	One point	Two points

2. The designated airline of the Government of His Majesty the Sultan and Yang di-Pertuan of Brunei Darussalam may, on all or any flights, omit calling at any of the points in columns (3) and (4) above, provided that the agreed services on these routes begin at a point in column (1).

ROUTE SCHEDULE 2

1. Routes to be operated by the designated airline of The Sultanate of Oman:

From	To	Intermediate Points	Points Beyond
(1)	(2)	(3)	(4)
Muscat	Bandar Seri Begawan	One point	Two points

2. The designated airline of the Sultanate of Oman may, on all or any flights, omit calling at any of the points in columns (3) and (4) above, provided that the agreed services on these routes begin at a point in column (1).

ANNEX NO. 2

ANIMALS AND PLANTS QUARANTINE

Airlines designated by each Contracting State shall comply with the laws of the other State as to the admission to, or taking out from its lands of animals and plants, while its aircraft enter into, stay in, or depart from the territory of that Contracting State.