

No. 25973

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**MULTILATERAL**

**International Agreement on the procedure for the establishment of tariffs for intra-European scheduled air services (with annex). Concluded at Paris on 16 June 1987**

*Authentic texts: English, French and Spanish.*

*Registered by the International Civil Aviation Organization on 13 June 1988.*

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**MULTILATÉRAL**

**Accord international sur la procédure applicable à l'établissement des tarifs des services aériens réguliers intra-européens (avec annexe). Conclu à Paris le 16 juin 1987**

*Textes authentiques : anglais, français et espagnol.*

*Enregistré par l'Organisation de l'aviation civile internationale le 13 juin 1988.*

## INTERNATIONAL AGREEMENT<sup>1</sup> ON THE PROCEDURE FOR THE ESTABLISHMENT OF TARIFFS FOR INTRA-EUROPEAN SCHEDULED AIR SERVICES

The Governments signatory hereto,

Considering that the principles and procedures for the establishment of tariffs for intra-European scheduled air services should be uniform; and

Considering that for such services it is desirable to replace the International Agreement on the Procedure for the Establishment of Tariffs for Scheduled Air Services, signed at Paris on 10 July 1967<sup>2</sup> (hereinafter referred to as the 1967 Agreement) by a new Agreement,

Have agreed as follows:

### *Article 1*

(1) This Agreement:

- (a) Shall establish the tariff provisions applicable to intra-European scheduled air services between Parties to this Agreement;
- (b) Shall, without prejudice to paragraph 2 of this Article, replace the tariff provisions in any bilateral agreement already concluded between two Parties to this Agreement insofar as these tariff provisions are inconsistent with this Agreement;
- (c) Shall establish or, where appropriate, replace all existing provisions for the settlement of disputes in the field of tariffs for scheduled air services between two Parties to this Agreement.

(2) The Parties undertake not to enter into any obligations or understandings between them which would be more restrictive than this Agreement. However, Parties shall not be precluded by this Agreement from maintaining or developing, on a bilateral basis or amongst a group of States, arrangements leading to more flexibility than that contained herein.

<sup>1</sup> Came into force on 5 June 1988, i.e., the thirtieth day after five signatory States had deposited their instruments of ratification or notifications of approval or acceptance with the International Civil Aviation Organization, in accordance with article 11 (1):

<i>State</i>	<i>Date of deposit of the instrument of ratification or of the notification of approval (AA) or acceptance (A)</i>
Austria .....	24 November 1987 A
Finland .....	2 November 1987
France .....	20 November 1987 AA
Norway .....	6 May 1988
Yugoslavia .....	6 April 1988

Subsequently, the Agreement came into force for the following State on the thirtieth day after deposit of its instrument of ratification with the International Civil Aviation Organization, in accordance with article 11 (2):

<i>State</i>	<i>Date of deposit of the instrument of ratification</i>
Sweden .....	20 May 1988

(With effect from 19 June 1988.)

<sup>2</sup> United Nations, *Treaty Series*, vol. 696, p. 31.

## Article 2

In this Agreement:

(a) The term “intra-European” applies exclusively to the territories within Europe of Member States of the European Civil Aviation Conference.

(b) The term “tariff” means the prices to be charged for the carriage of passengers, baggage or cargo (excluding mail), including any significant additional benefits to be furnished or made available in conjunction with such carriage; and the commission to be paid on the sales of tickets for the carriage of persons, or on corresponding transactions for the carriage of cargo. It includes also the conditions that govern the applicability of the price for carriage or the payment of commission.

(c) The term “zone of flexibility” means a range in terms of price levels and conditions as defined in the Annex to this Agreement, within which passenger tariffs qualify for automatic approval.

## Article 3

(1) The tariffs to be charged by the airlines of Parties to this Agreement for carriage between their territories shall be established at reasonable levels, taking account of all relevant factors, including the following principles: the costs of the applicant airline — due regard being paid to the tariffs of the other third- and fourth-freedom airline or airlines operating the same routes or routes, the need for an adequate return on investment to the airline, the competitive environment and the requirements of users. Tariff conditions shall be rational, simple and enforceable.

(2) The importance of inter-airline multilateral tariff consultations and the role of the International Air Transport Association in these consultations are recognized by Parties to this Agreement. Nevertheless, inter-airline consultations, whether multilateral or bilateral, shall not be made a mandatory requirement for the filing and establishment of tariffs. The filing of tariffs by an airline shall be permitted on an individual basis or, at the option of that airline, following consultation with any other airline or airlines.

## Article 4

(1) Except as provided in paragraph 2 of this Article, tariffs shall be filed for the approval of the aeronautical authorities of the Parties concerned, in such form as the aeronautical authorities of each Party may require, at least sixty days prior to the proposed date of their entry into force. While the aeronautical authorities of both Parties may agree on a shorter filing period than sixty days, no aeronautical authority shall require a longer filing period.

(2) Passenger tariffs which, in terms of price level and conditions, fall within the zones of flexibility defined in the Annex to this Agreement, as well as those passenger tariffs described in paragraph 10 of that Annex, shall be filed, in such form as the aeronautical authorities of each Party may require, at least twenty-one days prior to the proposed date of their entry into force. While the aeronautical authorities of both Parties may agree on a shorter filing period than twenty-one days, no aeronautical authority shall require a longer filing period.

### Article 5

(1) Any tariff filed in accordance with paragraph 1 of Article 4 may be expressly approved by the aeronautical authorities of either Party. A tariff shall be considered as having been approved by the aeronautical authorities of a Party unless, not more than thirty days after the date of the filing, the aeronautical authorities of that Party have served on the aeronautical authorities of the other Party and on the airline or airlines concerned written notice of disapproval of the proposed tariff.

(2) Any tariff filed in accordance with paragraph 2 of Article 4 and which meets the requirements of the zonal scheme as specified in the Annex to this Agreement shall be automatically approved. If the aeronautical authorities of either Party decide that the requirements of the zonal scheme are not met, they shall notify the applicant airline or airlines to that effect within fourteen days of the date of the filing.

(3) Only third- and fourth-freedom airlines shall be permitted to act as price leaders. Third-, fourth- and fifth-freedom airlines, operating the same route as the price leader, shall be permitted to file and shall receive approval for tariffs which match the levels and conditions of tariffs approved under paragraphs 1 and 2 of this Article. Such tariffs may not enter into force on a date earlier than the date of entry into force of the tariffs being matched.

(4) In approving tariffs, the aeronautical authorities of a Party may attach to their approval such expiry dates as they consider appropriate. Such tariffs shall remain in force, unless withdrawn by the airline or airlines concerned with the approval of the aeronautical authorities concerned, until the due expiry date or until new tariffs have been approved. The aeronautical authorities may, however, agree to extend the original expiry date. Where a tariff has been approved without an expiry date being set by either of the aeronautical authorities and where no new tariff has been filed and approved, this tariff shall remain in force until either of the authorities gives notice terminating its approval on its own initiative or at the request of the airline or airlines concerned.

### Article 6

(1) A Party disapproving a tariff filed under paragraph 1 of Article 4 must agree to consultations taking place if the other Party does not also disapprove that tariff and requests such consultations. The consultations shall be conducted within thirty days from the date on which consultations are requested, although this period may be extended by agreement between the two Parties concerned. The same procedure shall apply in the case of a tariff not automatically approved under paragraph 2 of Article 5.

(2) If, at the end of this consultation period, agreement has not been reached, the matter shall be put to arbitration at the request of either Party.

(3) Arbitration shall normally be carried out by a panel of three arbitrators. Within fourteen days of receipt of the request for arbitration, each Party shall appoint one member of the panel and the two members so appointed shall agree on, and appoint, the third member. The third member shall be a national of a third State and shall act as panel chairman. The panel's decisions shall be reached by a majority of votes. Alternatively, when both Parties agree, arbitration may be carried out by a single arbitrator, chosen and agreed within the same time limit by both Parties concerned.

(4) In the event of failure by either Party to appoint a member of the panel or failure to appoint a third member (or alternatively failure by the two Parties to agree on the single arbitrator) within the fourteen-day period specified in paragraph 3 of this Article, the President of the European Civil Aviation Conference shall, within seven days of receiving a request from either Party, complete the panel (or alternatively appoint the single arbitrator, who shall be a national of a third State). Where the President is from a Member State party to a dispute, this function shall be taken over by the most senior Vice-President of the Conference from a Member State not party to the dispute.

(5) The arbitration shall be completed within a period of thirty days from completion of the panel or the appointment of the single arbitrator. This period may, however, be extended by agreement between the two Parties concerned. The arbitration decision shall be final and binding on both Parties.

(6) Unless the Parties have otherwise agreed, the panel (or single arbitrator) shall determine the arbitration procedure.

(7) Unless otherwise ordered in the arbitration award, each Party shall bear the costs of the member appointment by it, or appointed on its behalf, the other costs being borne by the Parties in equal shares.

(8) While all tariffs are subject to arbitration as provided for in paragraphs 1 to 7 of this Article, arbitration relating to those tariffs filed under paragraph 2 of Article 4 shall be confined to the application of the zonal scheme as specified in the Annex to this Agreement in relation to those tariffs and shall not extend to the parameters of the scheme. These parameters are: scope, number of flexibility zones, definition of zones and conditions, opt-out provisions, reference prices, zone sizes and provisions for additional flexibility.

#### *Article 7*

Each Party shall endeavour to ensure that only approved tariffs are sold and applied.

#### *Article 8*

(1) Without prejudice to Articles 1 and 6, any dispute between two or more Parties concerning the interpretation or application of this Agreement which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration.

(2) If, within six months from the date of the request for arbitration, the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

#### *Article 9*

This Agreement shall be open for signature on behalf of any Member State of the European Civil Aviation Conference.

#### *Article 10*

(1) This Agreement shall be subject to ratification, approval or acceptance by the signatory States.

(2) The instruments of ratification and notifications of approval or acceptance shall be deposited with the International Civil Aviation Organization.

#### *Article 11*

(1) This Agreement shall enter into force on the thirtieth day after five signatory States have deposited their instruments of ratification or notifications of approval or acceptance.

(2) Thereafter, it shall enter into force for each State on the thirtieth day after deposit of its instrument of ratification or of its notification of approval or acceptance.

(3) When this Agreement enters into force, the 1967 Agreement shall become inoperative between the Parties to this Agreement in respect of the procedures for the establishment of tariffs for intra-European scheduled air services.

#### *Article 12*

(1) After it has entered into force this Agreement shall be open for accession by any non-signatory Member State of the European Civil Aviation Conference.

(2) Accession shall be effected by the deposit of an instrument of accession with the International Civil Aviation Organization and shall take effect on the thirtieth day after the date of deposit.

#### *Article 13*

(1) Any Party may propose an amendment to this Agreement by notice in writing to the Secretary of the European Civil Aviation Conference who shall circulate the amendment forthwith to all other Parties. If not less than twenty-five per cent of the Parties (including the Party proposing the amendment) agree to a meeting of Parties to consider the amendment, the European Civil Aviation Conference shall convene such a meeting by giving not less than three months' notice to the Parties.

(2) Any proposed amendment that is approved by a majority of the Parties attending the meeting referred to in paragraph 1 of this Article and then agreed by two-thirds of the Parties shall be submitted to all Parties for ratification, approval or acceptance.

(3) Such an amendment shall enter into force, for those Parties which have ratified, approved or accepted it, thirty days after two Parties have deposited their instruments of ratification or their notifications of approval or acceptance with the International Civil Aviation Organization.

(4) The amendment shall enter into force, for each Party ratifying, approving or accepting it thereafter, on the thirtieth day after the deposit of its instrument of ratification or its notification of approval or acceptance.

#### *Article 14*

(1) Notwithstanding the provisions of Article 13, any amendment to the zonal scheme as specified in the Annex to this Agreement which is agreed by the aeronautical authorities of two-thirds of the Parties shall be submitted to the aeronautical authorities of all Parties for acceptance.

(2) Such amendment shall enter into force, for those Parties whose aeronautical authorities have accepted it, thirty days after the aeronautical authorities

of two Parties have notified their acceptance to the International Civil Aviation Organization.

(3) Thereafter, the amendment shall enter into force, for each Party whose aeronautical authority accepts it, thirty days after the receipt of notification to the International Civil Aviation Organization.

#### *Article 15*

This Agreement may be denounced by any Party by notification addressed to the International Civil Aviation Organization. Denunciation shall take effect one year from the receipt of the said notification.

#### *Article 16*

(1) Except as hereinafter provided, no reservations may be made to this Agreement.

(2) Any Party may, at the time of signature, ratification, approval or acceptance of this Agreement, or of accession thereto, declare that it does not consider itself bound by paragraph 2 of Article 8. The other Parties shall not be bound by that paragraph with respect to any Party which has made such a reservation.

(3) Any Party which has made a reservation in accordance with paragraph 2 of this Article may at any time withdraw it by notification to the International Civil Aviation Organization.

#### *Article 17*

(1) The International Civil Aviation Organization shall send a certified copy of this Agreement to all Member States of the European Civil Aviation Conference.

(2) As soon as this Agreement enters into force it shall be registered by the International Civil Aviation Organization with the United Nations.

(3) The International Civil Aviation Organization shall notify all States Parties to the 1967 Agreement or to this Agreement of:

- (a) Any signature of this Agreement;
- (b) The deposit of any instrument of ratification, of any notifications of approval or acceptance or of any instrument of accession, and the date thereof, within thirty days from the date of deposit;
- (c) The date on which this Agreement enters into force in accordance with Article 11;
- (d) Any notification of denunciation of this Agreement in accordance with Article 15, and the date thereof, within thirty days from the date of receipt;
- (e) Any reservation notified in accordance with Article 16 and any withdrawal of such a reservation;
- (f) The date of entry into force of any amendment to this Agreement in accordance with Article 13.

*[For the testimonium and signatures, see p. 143 of this volume.]*

IN WITNESS WHEREOF the undersigned, having been duly authorized, have signed this Agreement.

DONE at Paris, on the sixteenth day of June, one thousand nine hundred and eighty-seven in a single copy in the English, French and Spanish languages, the three texts being equally authoritative.

Austria:  
Autriche :  
Austria:

EN FOI DE QUOI les soussignés, dûment autorisés, ont signé le présent Accord.

FAIT à Paris, le seize juin de l'année mil neuf cent quatre-vingt-sept en un exemplaire unique en français, anglais et espagnol, les trois textes faisant également foi.

[ERIK NETTEL]<sup>1</sup>

Belgium:  
Belgique :  
Bélgica:

[LUC SMOLDEREN]  
1.XII.1987<sup>2</sup>

Cyprus:  
Chypre :  
Chipre:

Denmark:  
Danemark :  
Dinamarca:

[INGE GULDBORG-HENRIKSEN]<sup>2</sup>

Finland:  
Finlande :  
Finlandia:

[CARL-ERIC CALÀS]

<sup>1</sup> Names of signatories appearing between brackets were not legible and have been supplied by the International Civil Aviation Organization — Les noms des signataires donnés entre crochets étaient illisibles et ont été fournis par l'Organisation de l'aviation civile internationale.

<sup>2</sup> See p. 153 of this volume for the declaration made upon signature — Voir p. 154 du présent volume pour le texte de la déclaration faite lors de la signature.

France:  
France :  
Francia:

[DANIEL TENENBAUM]<sup>1</sup>

Federal Republic of Germany:  
République fédérale d'Allemagne :  
República Federal de Alemania:

[FRANZ JOACHIM SCHOELLER]<sup>1</sup>

[DETLEF WINTER]

Greece:  
Grèce :  
Grecia:

[E. SITARAS]<sup>1</sup>

Iceland:  
Islande :  
Islandia:

Ireland:  
Irlande :  
Irlanda:

Italy:  
Italie :  
Italia:

[FEDERICO QUARANTA]<sup>1</sup>

Luxembourg:  
Luxembourg :  
Luxemburgo:

Malta:  
Malte :  
Malta:

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<sup>1</sup> See p. 153 of this volume for the declaration made upon signature — Voir p. 154 du présent volume pour le texte de la déclaration faite lors de la signature.

The Netherlands:  
Pays-Bas :  
Holanda:

[ERIK WILLOCH]

Norway:  
Norvège :  
Noruega:

Portugal:  
Portugal :  
Portugal:

[FERNANDO MELO ANTUNES]<sup>1</sup>

Spain:  
Espagne :  
España:

*Ad Referendum*

[MANUEL MEDEROS CRUZ]<sup>1</sup>

Sweden:  
Suède :  
Suecia:

[BENGT JOHANSSON]

Switzerland:  
Suisse :  
Suiza:

[MAX NEUENSCHWANDER]  
22.10.1987

Turkey:  
Turquie :  
Turquía:

<sup>1</sup> See p. 153 of this volume for the declaration made upon signature — Voir p. 154 du présent volume pour le texte de la déclaration faite lors de la signature.

The United Kingdom of Great Britain and Northern Ireland:  
Royaume-Uni de Grande-Bretagne et d'Irlande du Nord :  
Reino Unido de Gran Bretaña e Irlanda del Norte:

Yugoslavia:  
Yougoslavie :  
Yugoslavia:

[BORIS SNUDERL]

## ANNEX

## ZONAL SCHEME

*Scope*

1. The scheme shall apply to all intra-European routes between Member States of the European Civil Aviation Conference which are Parties to this Agreement. Nevertheless, Parties shall have the option to agree bilaterally to exclude certain specified routes from the scope of the zonal scheme.

*Number of flexibility zones*

2. There shall be two zones of flexibility, one for Discount Fares and one for Deep Discount Fares.

*Definition of zones*

3. To qualify for the Discount Zone, fares must meet all of the following conditions:

- a) Round or circle trip travel;
- b) Minimum stay of not less than the "Sunday Rule" or six days;
- c) Maximum stay of not more than six months.

4. To qualify for the Deep Discount Zone, fares must meet at least one of the following conditions in addition to the conditions specified in paragraph 3:

- a) Reservation for the entire trip, ticketing and payment to be made at the same time; cancellation or change of reservation only permissible prior to departure of outbound travel and at a fee of at least twenty per cent of the price of the ticket;
- b) Mandatory advance purchase period of not less than fourteen days; reservation for the entire trip, ticketing and payment to be made at the same time; cancellation or change of reservation only permissible prior to departure of outbound travel and at a fee of at least twenty per cent of the price of the ticket;
- c) Purchase of the ticket permitted only on the day prior to departure of outbound travel; reservations to be made separately for both the outbound and inbound journeys and only in the country of departure on the day prior to travel on the respective journey;
- d) Limitation of eligibility to youths of any age up to and including twenty-five years and/or senior citizens aged sixty years or over;
- e) Availability to be confined to off-peak periods of the day or week and, in addition, limited as to capacity to be offered. These restrictions (timing and capacity) shall be subject to agreement between the Parties concerned and where agreed shall subsequently be clearly indicated in the tariff and in all offers to the public.

5. Meeting the requirements of either paragraph 3 or paragraph 4 shall not preclude any airline from applying additional conditions to the fare as sold for carriage on its own services.

*Opt-out provisions*

6. Any Party may declare that one of the conditions a), b), c) or d) in paragraph 4 shall not be applicable on a city-pair or country-pair basis for travel "to and from" or "from" its territory. Any Party may, in addition, make a similar declaration with regard to condition e) in paragraph 4. A declaration in the case of condition d) in paragraph 4 may apply to either or both parts of the condition. Initial declarations of opt-outs for the succeeding tariff season shall be made by Member States on signature of the Agreement. Subsequent declarations shall be made at least six months before the start of a season and may be made on a seasonal or year-round basis. The possibility of making a declaration shall not be applicable to fares which qualify for additional flexibility under paragraph 10.

### *Reference prices*

7. Initially, reference prices shall be established at the same level as the normal economy class round trip fares in force when the scheme comes into effect. If more than one such fare exists for a city pair, the average level shall be used, unless otherwise agreed between the Parties concerned. In cases where there is no normal economy fare, the lowest fully flexible fare shall be used. Reference prices shall be expressed in the currency of the country of origin of travel.

8. Thereafter, reference prices shall be adjusted so that they reflect percentage changes in the normal economy class round trip fares (or, where appropriate, the alternatives described in paragraph 7). Any two Parties may, however, by mutual agreement, adjust reference prices in other ways.

### *Zone sizes*

9. The Discount Zone shall extend from ninety per cent to sixty-five per cent of the reference price and the Deep Discount Zone shall extend from sixty-five per cent to forty-five per cent of the reference price.

### *Additional flexibility*

10. If a fare, which has been or is approved under the bilateral tariff approval regime and which as far as the conditions in paragraphs 3 to 5 are concerned qualifies for automatic approval in the Deep Discount Zone, is below the floor of that zone, there shall be additional flexibility as to the level of that fare. Such additional flexibility shall extend from ten per cent below the bilaterally approved level<sup>(\*)</sup> of that fare to the ceiling of the Deep Discount Zone and shall remain in effect during the period of validity of the fare. Any changes to the conditions of the fare during that period of effectiveness, including those in application of paragraph 5, shall be in accordance with the bilateral approval regime.

### *Amendments to the scheme*

11. The scheme shall be established for a trial period of three years from the date the Agreement comes into force. Two years after the latter date an appraisal of the scheme shall be launched under the auspices of the European Civil Aviation Conference. In conjunction with this appraisal, proposals for amendment may be submitted by any Member State of the European Civil Aviation Conference. Amendments to the scheme shall be subject to the procedure of Article 14 of the Agreement. Before the end of the third year, a decision shall be taken by Parties as to whether the scheme shall be continued.

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<sup>(\*)</sup> As distinct from fares that qualify for automatic approval.

## DECLARATION MADE UPON SIGNATURE

DECLARATION BY MEMBER STATES OF THE EUROPEAN COMMUNITIES ON SIGNATURE OF THE INTERNATIONAL AGREEMENT ON THE PROCEDURE FOR THE ESTABLISHMENT OF TARIFFS FOR INTRA-EUROPEAN SCHEDULED AIR SERVICES, DATED 16 JUNE 1987

“While signing the present Agreement, the Member States of the European Communities declare that the provisions of this Agreement cannot prevail over Community law as regards relations between them.”

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