

# SENATO DELLA REPUBBLICA

V LEGISLATURA

(N. 885)

## DISEGNO DI LEGGE

*approvato dalla Camera dei deputati nella seduta del 16 ottobre 1969*  
(V. Stampato n. 691)

presentato dal **Ministro degli Affari Esteri**  
(MEDICI)

di concerto col **Ministro delle Finanze**  
(FERRARI-AGGRADI)

e col **Ministro dei Trasporti e dell'Aviazione civile**  
(SCALFARO)

*Trasmesso dal Presidente della Camera dei deputati alla Presidenza*  
*il 21 ottobre 1969*

Ratifica ed esecuzione dell'Accordo tra l'Italia e l'Indonesia  
sui servizi aerei concluso a Djakarta il 7 dicembre 1966

## DISEGNO DI LEGGE

Art. 1.

Il Presidente della Repubblica è autorizzato a ratificare l'Accordo tra l'Italia e l'Indonesia sui servizi aerei, concluso a Djakarta il 7 dicembre 1966.

Art. 2.

Piena ed intera esecuzione è data all'Accordo di cui all'articolo precedente a decorrere dalla sua entrata in vigore in conformità all'articolo 13 dell'Accordo stesso.

ALLEGATO

**AGREEMENT BETWEEN THE GOVERNMENT OF THE ITALIAN  
REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF  
INDONESIA FOR AIR SERVICES BETWEEN AND BEYOND THEIR  
RESPECTIVE TERRITORIES**

The Government of the Italian Republic and the Government of the Republic of Indonesia,

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

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

Have agreed as follows:

Article 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 and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or Convention under Article 90 or 94 thereof;
- (b) the term « aeronautical authority », means, in the case of the Italian Republic, the Ministry of Transport and Civil Aviation, Inspectorate General of Civil Aviation and any person or body authorised to perform any functions at present exercised by the said authorities or similar functions, in the case of the Republic of Indonesia the Minister of Communications and any person or body authorised to perform 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 Article 3 of the present Agreement, for the operation of air services on the routes specified in such notification;
- (d) the term « territory » in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty, protection or trusteeship of that State; and
- (e) the term « air service », « international air service », « air-line » and « stop for non-traffic purposes » have the meanings respectively assigned to them in Article 96 of the Convention.

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 appropriate Section of the Sched-

## LEGISLATURA V — DISEGNI DI LEGGE E RELAZIONI - DOCUMENTI

ule thereto (hereinafter called « the agreed services » and « the specified routes »).

The agreed services may be inaugurated immediately or at a later date subject to the provisions of Article 3 of the present Agreement.

(2) Subject to the provisions of the present Agreement, the designated airline of each Contracting Party shall enjoy the following privileges:

- (a) to fly without landing across the territory of the other Contracting Party;
- (b) to land in the territory of the other Contracting Party for non-traffic purposes; and
- (c) while operating an agreed service on a specified route to make stops in the territory of the other Contracting Party, on the points specified for that route in the Annex to the present Agreement, for the purpose of putting down and taking on international traffic in passengers, cargo and mail coming from or destined to the territory of the other Contracting Party or of a third Country.

(3) Nothing in paragraph (2) 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.

(4) The laws, regulations and instructions of one Contracting Party relating to the entry into or departure from its territory of aircraft or air services operated in international air navigation or to the operation of such aircraft or air services while within its territory shall be applied to the aircraft and agreed services of the designated airline of the other Contracting Party.

(5) Notwithstanding the provisions of paragraph (1) and (2) of this Article, the operation of agreed services in areas of hostilities or military occupation, or in areas affected thereby, shall, in accordance with Article 9 of the Convention, be subject to the approval of the competent military authorities.

## Article 3

(1) Each Contracting Party shall designate in writing to the other Contracting Party an airline 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 designated the appropriate operating authorization.

(3) The aeronautical authorities of one Contracting Party may request the airline so 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 in conformity with the provisions of the Convention to the operation of international commercial 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 an 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 an 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 the Contracting Party designating the airline.

## LEGISLATURA V — DISEGNI DI LEGGE E RELAZIONI - DOCUMENTI

(5) At any time after the provisions of paragraphs (1) and (2) of this Article have been complied with, the airline so designated and authorised may begin to operate the agreed services, provided that a service shall not be operated unless a tariff is in force in respect of it, established in accordance with the provisions of Article 6 of the present Agreement.

(6) Each Contracting Party shall have the right to suspend the exercise by the airline of the privileges specified in paragraph (2) of Article 2 of the Agreement or to impose such conditions as it may deem necessary on the exercise by the airline of those privileges in any case where the airline fails to comply with the laws and 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. This consultation shall commence within the period of 60 days from the date of request.

## Article 4

In order to prevent discriminatory practices and to assure equality of treatment for both Contracting Parties in respect of customs duties and fiscal treatment, it is agreed that:

- (a) the aircraft of the designated airline of one Contracting Party, engaged in the agreed services, shall be admitted into the territory of the other Contracting Party free from customs duties and fiscal charges;
- (b) fuel, lubricating oils, spare parts, aircraft stores and regular airborne equipment on board aircraft of the designated airline of one Contracting Party to operate the agreed services shall be admitted into the territory of the other Contracting Party exempted from customs duties and other fiscal charges, even when such supplies are to be used or consumed by such aircraft during flights over the said territory.

They may not be unloaded except with the approval of the customs authorities of the other Contracting Party;

- (c) fuel, lubricating oils, spare parts and regular airborne equipment introduced into the territory of one Contracting Party and intended solely for use by aircraft of the designated airline of the other Contracting Party operating the agreed services, shall be exempted from customs duties and other fiscal charges, subject to the customs regulations normally applied in the said territory;
- (d) fuel and lubricating oils taken on board aircraft in the territory of one Contracting Party by the other Contracting Party shall be exempted from customs duties and any other fiscal charges, in compliance with the customs regulations in force in the said territory;
- (e) the materials enjoying the exemptions from any customs duties and any other fiscal charges, under the provisions of the above paragraphs, cannot be used for purposes other than the operation of air services and they shall be re-exported failing their use or consumption, unless they are nationalized under the provisions in force in the territory of the Contracting Party concerned. Waiting for their use and disposal, they shall be kept under customs supervision and control.

## Article 5

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

(3) The agreed services provided by the designated airlines of both Contracting Parties shall bear 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 carry the current and reasonably anticipated requirements for the carriage of passengers, cargo and mail between the territories of the Contracting Party which has designated the airline and the territory of the other Contracting Party. 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:

- (i) traffic requirements to and from the territory of the Contracting Party which has designated the airline;
- (ii) traffic requirements of the area through which the airline passes, after taking account of other transport services established by the airlines of the States comprising the area; and
- (iii) the requirements of through airline operation.

(4) Before inauguration of the agreed services and for the subsequent changes of capacity the aeronautical authorities of the Contracting Parties shall agree to the practical application of the principles contained in the previous paragraphs of this Article for the operation of the agreed services by the designated airlines.

(5) It is agreed that the designated airline by each Contracting Party shall have in any case the right to operate a « minimum » of 2 (two) services per week on the specified routes.

## Article 6

(1) The tariffs on any agreed service shall be established at reasonable levels, due regard being paid to all relevant factors including cost of operation, reasonable profit, characteristics of service (such as standards of speed and accommodation) and, where it is deemed suitable, the tariffs of other airlines for any part of the specified route. These tariffs shall be fixed in accordance with the following provisions of this Article.

(2) The tariffs referred to in paragraph (1) of this Article, together with the rates of agency commission used in relation with them shall, if possible, be agreed in respect of each of the specified routes between the designated airlines concerned, in consultation with other airlines operating over the whole or part of that route, and such agreement shall, where possible, be reached through the ratefixing machinery of the International Air Transport Association.

The tariffs so agreed shall be subject to the approval of the aeronautical authorities of both Contracting Parties and submitted at least 30 (thirty)

## LEGISLATURA V — DISEGNI DI LEGGE E RELAZIONI - DOCUMENTI

days prior to the proposed date of their introduction. This period may be reduced in special cases if the aeronautical authorities so agree.

(3) If the designated airlines cannot agree on any of these tariffs, or if for some other reason a tariff cannot be agreed in accordance with the provisions of paragraph (2) of this Article, the aeronautical authorities of the Contracting Parties shall try to determine the tariff by agreement between themselves.

(4) If the aeronautical authorities cannot agree on the approval of any tariff submitted to them under paragraph (2) of this Article or on the determination of any tariff under paragraph (3), the dispute shall be settled in accordance with the provisions of Article 9 of the present Agreement.

- (5) (a) No tariff shall come into force if the aeronautical authorities of either Contracting Party are dissatisfied with it except under the provisions of paragraph (3) of Article 9 of the present Agreement;
- (b) when tariffs have been established in accordance with the provisions of this Article, these tariffs shall remain in force until new tariffs have been established in accordance with the provision of this Article.

#### Article 7

The aeronautical authorities of either Contracting Party shall supply to the aeronautical authorities of the other Contracting Party at their request such periodic or other statements of statistics as may be reasonably required for the purpose of reviewing the capacity provided on the agreed services by the designated airline of the first Contracting Party. Such statements shall include all information required to determine the amount of traffic carried by those airlines on the agreed services.

#### Article 8

There shall be regular and frequent consultation between the aeronautical authorities of the Contracting Parties to ensure close collaboration in all matters affecting the fulfilment of the present Agreement.

Such consultation shall take place within 60 (sixty) days from the date of the request.

#### Article 9

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

(2) If the Contracting Parties fail to reach a settlement by negotiations, the dispute may at the request of either Contracting Party be submitted for decision to a tribunal of three 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 the diplomatic channels requesting arbitration of the dispute, 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 Organisation may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires.

## LEGISLATURA V — DISEGNI DI LEGGE E RELAZIONI - DOCUMENTI

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

(4) If and so long as either Contracting Party or the designated airline of either Contracting Party fails to comply with a decision given under paragraph (2) of this Article, the other Contracting Party may limit, withhold or revoke any rights or privileges which it has granted by virtue of the present Agreement to the Contracting Party in default or to the designated airline of that Contracting Party or to the designated airline in default.

## Article 10

(1) If either of the Contracting Parties considers it desirable to modify any provision of the present Agreement including the Schedule hereto, such modification, if agreed between the Contracting Parties, shall come into effect when confirmed by an Exchange of Notes.

(2) In the event of the conclusion of any general multilateral convention concerning air transport by which both Contracting Parties become bound, the present Agreement shall be amended so as to conform with the provisions of such convention.

## Article 11

Either Contracting Party may at any time give notice to the other Contracting Party if it desires to terminate the present Agreement.

Such notice shall be simultaneously communicated to the International Civil Aviation Organisation.

If such notice is given, the present Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry 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 Organisation.

## Article 12

The present Agreement and any Exchange of Notes in accordance with Article 10 shall be registered with the International Civil Aviation Organisation.

## Article 13

The present Agreement shall be subject to approval according to the procedures of each Contracting Party and shall enter into force on the date of the Exchange of Notes informing such approval.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed the present Agreement.

Done this Seventh day of December, nineteen hundred and sixty six, in duplicate in the English language at Djakarta.

*For the Government  
of the Italian Republic*

FELICE SANTINI

*For the Government  
of the Republic of Indonesia*

MOH. EFFENDI SALEH

## ANNEX

## ROUTE SCHEDULE

*Routes to be operated by the designated airline of the Republic of Indonesia*

Djakarta - Singapore or Kuala Lumpur - Bangkok - Bombay - Karachi - Cairo or Beirut - Rome - Paris or Frankfurt - Amsterdam - London and v. v.

*Note:* — The designated airline of the Republic of Indonesia may on any or all flights omit calling at any of the abovementioned points, provided that the agreed services on these routes begin at a point in Indonesian territory.

## ROUTE SCHEDULE

*Routes to be operated by the designated airline of the Italian Republic*

Points in Italy - one point in Middle East - Karachi - one point in India - Ceylon - Bangkok - Kuala Lumpur or Singapore - Djakarta - Surabaya (Technical landing) - Darwin (Technical landing) - two points in Australia - New Zealand and v. v.

*Note:* — The designated airline of the Italian Republic may on any or all flights omit calling at any of the abovementioned points, provided that the agreed services on these routes begin at a point in Italian territory.