

K oznámeniu č. 24/2005 Z. z.

**AIR SERVICES AGREEMENT BETWEEN
THE GOVERNMENT OF THE SLOVAK REPUBLIC AND THE GOVERNMENT
OF THE STATE OF KUWAIT**

The Government of the Slovak Republic and the Government of the State of Kuwait, hereinafter called the Contracting Parties,

Desiring to foster the development of Air Services between the Slovak Republic and the State of Kuwait to promote in the greatest possible measure international co-operation in this field,

Desiring to apply to these services the principles and provisions of the Convention on International Civil Aviation and of the International Air Services Transit Agreement, both opened for signature at Chicago on the seventh day of December 1944,

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 these Annexes and amendments have been adopted by both Contracting Parties;
- b) the term "AERONAUTICAL AUTHORITIES" means, in the case of the Slovak Republic the Ministry of Transport, Posts and Telecommunications - Department of Civil Aviation and, in the case of the State of Kuwait the Directorate General of Civil Aviation or, in both cases any other person or body authorized to perform the functions exercised by the said authorities;
- c) the term "DESIGNATED AIRLINE" means each airline that one Contracting Party has designated in writing to the other Contracting Party in accordance with Article 3 of this Agreement as being an airline which is to operate the agreed air services on the routes specified in conformity with Article 2 paragraph (2) of this Agreement;
- d) the terms "TERRITORY", "AIR SERVICE", "INTERNATIONAL AIR SERVICE", "AIRLINE" and "STOP FOR NON-TRAFFIC PURPOSES" shall, for the purpose of this Agreement, have the meaning laid down in Articles 2 and 96 of the Convention;
- e) the term "CAPACITY" means:
 - i) in relation to an aircraft, the payload of that aircraft available on a route or section of a route;
 - ii) in relation to agreed services, the capacity of the

aircraft used on such services, multiplied by the frequency operated by such aircraft over a given period on a route or section of a route;

- f) the term "AGREED SERVICES" means scheduled air services on the routes specified in the Annex to this Agreement for the transport of passengers, cargo and mail separately or in combination;
- g) the term "SCHEDULE" means the route schedule annexed to this Agreement or as amended in accordance with the provisions of paragraph (3) of Article 17 of this Agreement. The Schedule forms an integral part of this Agreement and all references to the Agreement shall include to the Schedule except when otherwise provided;
- h) the term "SPECIFIED ROUTE" means a route specified in Schedule in the Annex to this Agreement;
- i) the term "TARIFF" means the prices to be paid for the carriage of passengers, baggage and freight and the conditions under which those prices apply, including prices and conditions for agency and other auxiliary services, but excluding remuneration or conditions for the carriage of mail.

Article 2
Granting 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 international air services by a designated airline over the routes specified in the appropriate section of the Schedule. Such services and routes are hereinafter called "AGREED SERVICES" and "SPECIFIED ROUTES" respectively.

2) Subject to the provisions of this Agreement, the designated airline of each Contracting Party shall enjoy, while operating the agreed service on the specified routes, the following rights:

- a) the right to fly without landing across the territory of the other Contracting Party;
- b) the right to make stops in the said territory for non-traffic purposes;
- c) the right to embark and disembark in the said territory at points specified in the Schedule passengers, baggage and cargo including mail, separately or in combination, destined for or coming from point (s) in the territory of the other Contracting Party; and
- d) the right to embark and disembark in the territory of third countries at the points specified in the Schedule passengers, baggage and cargo including mail, separately or in combination, destined for or

coming from points in the territory of the other Contracting Party, specified in the Schedule.

3) Nothing in paragraph 2 of this Article shall be deemed to confer on the designated airline of one Contracting Party the right of taking up, in the territory of the other Contracting Party, passengers, baggage and cargo including mail carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

Article 3

Designation and authorization

1) The agreed air services on the routes specified in accordance with paragraph (1) of Article 2 of this Agreement may be started at any time, provided:

- a) the Contracting Party to whom the rights specified in paragraph (2) of Article 2 have been granted, has designated airlines in writing, and;
- b) the Contracting Party granting these rights has authorized the designated airline to initiate the air services.

2) The Contracting Party granting these rights shall, subject to the provisions of paragraphs (3) and (4) of this Article, give without undue delay the said authorization to operate the agreed air services, provided that a tariff in respect of the agreed services shall have been established in accordance with the provisions of Article 12 of this Agreement.

3) The airline designated by either Contracting Party may be required to satisfy the other Contracting Party that it is qualified to fulfil the conditions prescribed by the laws and regulations normally and reasonably applied by this Contracting Party to the operation of international air services in conformity with the provisions of the Convention.

4) Each Contracting Party may withhold the exercise of the privileges provided for in Article 2 of this Agreement from an airline designated by the other Contracting Party if such airline is not able to prove upon request that substantial ownership and effective control of such airline are vested in the Contracting Party designating the airline or in its nationals or corporations.

Article 4

Revocation, suspension of operations

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 the designated airline of the other Contracting Party or to impose such conditions, temporary or permanent as it may deem necessary on the exercise of such rights, if

- a) the said airline fails to prove before the Aeronautical Authorities of that Contracting Party its ability to fulfil the conditions under the laws and regulations normally and reasonably applied by these authorities in conformity with the provisions of the Convention; or

- b) the designated airline cannot prove that preponderant part of its ownership and effective control are vested in the Contracting Party designating the airline or in its nationals; or
- c) the designated airline fails to comply with or has infringed the laws and regulations of the Contracting Party granting these rights; or
- d) the designated airline fails to operate the agreed services in accordance with the conditions prescribed by this Agreement.

2) Unless immediate action is essential to prevent further infringement of the laws and regulation referred to above, the rights enumerated in paragraph (1) of this Article or in the interest of aviation safety shall be exercised only after consultations with the Aeronautical Authorities of the other Contracting Party.

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

Article 5

Application of laws, regulations and procedures

1) The laws and regulations of one Contracting Party relating to the admission to, remaining in, or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of the airline designated by the other Contracting Party and shall be complied with by such aircraft upon entrance into, departure from and while within the territory of the first Contracting Party.

2) The laws, regulations and procedures of one Contracting Party relating to admission to, stay in, transit through, or departure from its territory of passengers, crews, baggage and cargo including mail, such as laws, regulations and procedures relating to entry, exit, immigration and emigration, passports, customs, currency and health or sanitary measures, shall apply to passengers, crew, baggage, cargo and mail carried by the aircraft of the designated airline of the other Contracting Party upon entry into or departure from or while within the territory of the said Contracting Party.

3) Passengers in direct transit across the territory of a Contracting Party, not leaving the area of the airport reserved for such purpose shall be subject, except in respect of security provisions referred to in Article 6 of this Agreement, to no more than a simplified control. Baggage and freight in direct transit shall be exempt from customs duties and other charges.

4) In the application of its customs, immigration, quarantine and similar regulations, neither Contracting Party shall give preference to its own or any other airline over an airline of the other Contracting Party engaged in similar international air services.

Article 6

Aviation security

1) Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference form an integral part of this Agreement.

2) Without limiting the generality of their rights and obligations under international law, the Contracting Parties shall in particular act in conformity with the provisions of the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970 and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, the Protocol for the Suppression of Unlawful Acts against the Safety of International Airports, signed at Montreal on 24 February 1988 when it becomes ratified by both Contracting Parties and all other international instruments in the same field which may be ratified in the future by the Contracting Parties.

3) The Contracting Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, their passengers and crew, airports and air navigation facilities, and any other threat to the security of civil aviation.

4) The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention; to the extent that such security provisions are applicable to the Contracting Parties; they shall require that operators of aircraft of their registry, or operators of aircraft who have their principal place of business or permanent residence in their territory, and the operators of airports in their territory, act in conformity with such aviation security provisions.

5) Each Contracting Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in paragraph (4) above required by the other Contracting Party for entry into, departure from, or while within the territory of that other Contracting Party.

6) Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading.

7) Each Contracting Party shall also give a sympathetic consideration to any request from the other Contracting Party for reasonable security measures to meet a particular threat.

8) When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts

against the safety of such aircraft, their passengers and crew, airports or air navigation facilities occur, the Contracting Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

9) When a Contracting Party has reasonable grounds to believe that the other Contracting Party has departed from the aviation security provisions of this Article, the Aeronautical Authorities of that Contracting Party may request immediate consultations with the Aeronautical Authorities of the other Contracting Party. These consultations will be aimed to reach an agreement upon the measures suitable to eliminate the more immediate reasons of worry and to adopt in the framework of the ICAO security standards, the actions necessary to establish the appropriate conditions of security.

Article 7

Recognition of certificates
and licences

1) Certificate of airworthiness, certificates of competency and licences issued or rendered valid by one of the Contracting Parties shall, during the period of their validity, be recognized as valid by the other Contracting Party, provided that the requirements under which such certificates or licences were issued or rendered valid are equal to or above the minimum standards which may be established pursuant to the Convention.

2) Each Contracting Party reserves the right, however, to refuse to recognize as valid, for the purpose of flights over its own territory, certificate of competency and licences granted to or rendered valid for its own nationals by the other Contracting Party or by any other State.

Article 8

Customs duties and other charges

1) Each Contracting Party shall on the basis of reciprocity exempt the designated airline of the other Contracting Party from customs duties, excise taxes, inspection fees and other national duties and charges on aircraft, fuel, lubrication oils, consumable technical supplies, spare parts including engines, regular aircraft equipment, aircraft stores and food (including tobacco, beverages, and other products destined for sale to passengers in limited quantities during the flight) and other items intended for use solely in connection with the operation or servicing of aircraft of the designated airline of such Contracting Party operating the agreed services, and to the fullest extent possible under its national law, movable properties, printed tickets stock, airway bills, any printed material which bears the insignia of the company printed thereon and usual publicity material distributed free of charge by that designated airline.

2) The exemptions granted by this Article shall apply to the items referred to in paragraph 1 of this Article:

- a) introduced into the territory of one Contracting Party by or on behalf of the designated airline of the other Contracting Party;
- b) retained on board aircraft of the designated airline of one Contracting Party upon arriving in and until leaving the territory of the other Contracting Party; and
- c) taken on board aircraft of the designated airline of one Contracting Party in the territory of the other Contracting Party and intended for use in operating the agreed services; whether or not such items are used or consumed wholly or partly within the territory of the Contracting Party granting the exemption, provided such items are not alienated in the territory of the said Contracting Party.

3) The regular airborne equipment, spare parts, supplies of fuel and lubricants of either Contracting Party may be unloaded in the territory of the other Contracting Party only with the approval of the customs authorities of that territory, who may require that those materials be placed under their supervision up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.

Article 9

User charges for airports and aviation facilities

1) The charges levied in the territory of either Contracting Party for the use of airports and other aviation facilities by the aircraft of each designated airline of the other Contracting Party shall not be higher than those levied on aircraft of a national airline engaged in similar international air services.

2) In the use of airports, airways, air traffic services and associated facilities under its control, neither Contracting Party shall give preference to its own or any other airline over an airline of the other Contracting Party engaged in similar international air services.

Article 10

Sales and transfer of funds

1) Subject to the respective national laws and regulations and on the basis of reciprocity, the designated airline of one Contracting Party shall be free to sell its air transport services in the territory of the other Contracting Party either directly or at its discretion through its agents.

2) Either Contracting Party undertakes to grant the other Contracting Party free transfer at the official rate of exchange of the excess of receipts over expenditures achieved in its territory in connection with the carriage of passengers, baggage, mail shipments and freight by the designated airline of the other Contracting Party. When transfer procedures require approval of the competent authorities, the designated airline shall receive the approval for such transfer within utmost

thirty (30) days of application. Whenever the payment system between the Contracting Parties is governed by a special agreement, that agreement shall apply.

Article 11

Financial provisions

1) Each Contracting Party shall, on a basis of reciprocity, exempt the designated airline of the other Contracting Party from all taxes on profits or incomes derived from the performance of the agreed services.

2) Each Contracting Party shall take such action as may be necessary in terms of its laws to enable the provisions of this Article to take effect.

Article 12

Tariffs

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 on the various routes (such as standards of speed and accommodation) and the tariffs of other airlines for any part of the specified routes. 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 shall, if possible, be agreed in respect of each of the specified routes between the designated airlines concerned in consultation when necessary with other airlines operating over the whole or part of that route, and such agreement shall, whenever possible, be reached through the rate-fixing 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 shall be submitted to these authorities at least sixty (60) days prior to the proposed date of introduction of these tariffs.

3) If the designated airlines cannot agree on any of these tariffs, or if for some 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 matter shall be referred to the Contracting Parties for settlement in accordance with the provisions of Article 19 of this Agreement.

5) Pending determination of the tariffs in accordance with the provisions of this Article, the tariffs already in force shall prevail. Nevertheless a tariff shall not be prolonged by virtue of this paragraph for more than 12 months after the date on which it otherwise would have expired.

Article 13

Capacity

1) The capacity to be provided on the agreed services by the designated airlines shall be approved by the Aeronautical Authorities of both Contracting Parties on the basis of the principle of fair and equal opportunity for the designated airlines of both Contracting Parties.

2) In operating the agreed services the designated airlines of each Contracting Party shall take into account the interests of the designated airlines 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 the Contracting Parties shall bear a close relationship to the requirements of the market for transportation on the specified routes and shall retain 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/or cargo, including mail, coming from or destined for the territory of the Contracting Party designating the airline. The right of the designated airline of either Contracting Party to embark or disembark at the point in the territory of the other Contracting Party international traffic coming from or destined for third countries shall be of a supplementary character and capacity shall be related to:

- a) traffic requirements between the territory of the Contracting Party designating the airline and the points on the specified route;
- b) traffic requirements of the area through which the airline 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 14

Approval of flight schedule

1) The designated airlines shall communicate to the Aeronautical Authorities of the Contracting Parties not later than sixty (60) days prior to the initiation of air services on the routes specified in accordance with paragraph (1) of Article 2 of this Agreement, the type of service, the types of aircraft to be used and the flight schedules. This shall likewise apply to later changes as well as before each summer and winter schedule.

2) The Aeronautical Authorities received such flight schedules shall normally approve the schedule or suggest modifications thereto. In any case the designated airlines shall not commence their services before the schedules are approved by the Aeronautical Authorities concerned. This provision shall likewise apply to later changes.

Article 15

Commercial activities

1) Each Contracting Party shall, on reciprocal basis,

grant to any designated airline of the other Contracting Party the right to maintain in its territory such offices and administrative, commercial and technical personnel as are needed reasonably for the operation of the agreed services by the designated airline.

2) The representatives and staff shall be subject to the laws and regulations in force in the territory of the other Contracting Party. Consistent with such laws and regulations, both Contracting Parties shall dispense with the requirement of employment authorizations or work permits for personnel performing certain temporary duties not exceeding ninety (90) days.

3) Each Contracting Party grants to any airline designated by the other Contracting Party the right to sell its transport services on its own transport documents directly in its own sales offices and through its agents in the territory of the other Contracting Party to any customer in any currency.

4) Each Contracting Party shall, on the basis of reciprocity, and with the minimum delay, grant the necessary employment authorization, visas or other similar documents to the representative referred to in paragraph (1) and (2) of this Article in order to facilitate his functions.

Article 16

Communication of operating information and statistics

The Aeronautical Authorities of either Contracting Party shall furnish to the Aeronautical Authorities of the other Contracting Party at their request such periodic or other statistical data of each designated airline as may be reasonably required for the purpose of reviewing the capacity provided by any designated airline of the first Contracting Party on the specified routes. Such data shall include all information required to determine the amount of traffic carried and the origins and destinations of such traffic.

Article 17

Consultations and modifications

1) In the spirit of close co-operation, the Aeronautical Authorities of the Contracting Parties shall have from time to time communication, which may be through discussion or by correspondence, to ensure close collaboration in all matters affecting the implementation of this Agreement.

2) Each Contracting Party may at any time request consultations with the other Contracting Party for the purpose of amending this Agreement or the Schedule. Such consultations shall begin within a period of sixty (60) days from the date of receipt of such request. Any amendment to this Agreement agreed to as a result of such consultations shall be approved by each Contracting Party in accordance with its constitutional procedures and shall enter into force on the date of exchange of diplomatic notes indicating such approval.

3) If the amendment relates only to the Schedule, the

consultation shall be between the Aeronautical Authorities of both Contracting Parties. When these authorities agree on a new or revised Schedule, the agreed amendments shall be applied provisionally until it comes into force when confirmed by exchange of diplomatic notes.

Article 18

Conformity with multilateral conventions

In the event of a general multilateral air transport convention accepted by the Contracting Parties entering into force, the provisions of such convention shall prevail. Any discussions with a view to determining the extent to which this Agreement is terminated, superseded, amended or supplemented by the provisions of the multilateral convention, shall take place in accordance with paragraph (2) of Article 17 of this Agreement.

Article 19

Settlement of disputes

1) Any dispute relating to the interpretation or application of this Agreement or of the Schedule shall be settled in the first place by direct negotiations between the Aeronautical Authorities of the Contracting Parties. If the Aeronautical Authorities fail to reach an agreement, the dispute shall be settled through diplomatic channels.

2) If the dispute cannot be settled in accordance with paragraph (1) above, it shall be submitted to an arbitral tribunal at the request of either Contracting Party.

3) The arbitral tribunal shall be composed as follows:

- a) Each Contracting Party shall nominate an arbitrator, if one Contracting Party fails to nominate its arbitrator within sixty (60) days, such arbitrator shall be nominated by the President of the Council of the International Civil Aviation Organization at the request of the other Contracting Party.
- b) The third arbitrator, who shall be a national of a third state and who shall preside the arbitral tribunal, shall be nominated either,
 - i) by agreement between the Contracting Parties; or
 - ii) if within sixty (60) days the Contracting Parties do not so agree, by appointment of the President of the Council of the International Civil Aviation Organization by the request of either Contracting Party.

4) The arbitral tribunal shall reach its decisions by a majority of votes. Such decisions shall be binding on the Contracting Parties.

5) Each Contracting Party shall bear the cost of its

own member as well as of its representation in the arbitral proceedings; the cost of the Chairman and any other costs shall be born in equal parts by the Contracting Parties. In all other respects, the arbitral tribunal shall determine its own procedure.

Article 20

Registration with icao

This Agreement and any modification to it according to the Article 17 of this Agreement shall be registered with the International Civil Aviation Organization (ICAO).

Article 21

Termination

1) The validity of this Agreement is for an unlimited period.

2) Each Contracting Party may at any time give notice in writing through diplomatic channels to the other Contracting Party of its decision to terminate this Agreement. A copy of the notice shall be sent simultaneously to the Secretary General of the International Civil Aviation Organization. If such notice is given, this Agreement shall terminate twelve months after the date of receipt by the other Contracting Party of the notice to terminate, unless by agreement between the Contracting Parties the notice under reference is withdrawn before the expiry of that period. If the other Contracting Party fails to acknowledge receipt, notice shall be deemed as having been received fourteen days after the date of receipt by the Secretary General of the International Civil Aviation Organization of his copy.

Article 22

Entry into force

This Agreement shall enter into force as soon as the Contracting Parties have notified one another by exchange of notes of the completion of their respective constitutional formalities. This Agreement shall be provisionally applied from the date of its signature.

Upon entry into force this Agreement shall replace the Air Transport Agreement between the Government of the Czechoslovak Socialist Republic and the Government of the State of Kuwait signed on 29th January 1978 at Kuwait.

In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed in Bratislava at this day of 22nd April 1998 this Agreement. Done in two originals in the English language; both texts being equally authentic.

For the Government of
the Slovak Republic:

Ján Jasovský

For the Government of
the State of Kuwait:

Jaber Mubarak Al-sabah

SCHEDULE

1. Route to be operated by the designated airline of the Slovak Republic with full traffic rights in both directions:
**Points in the Slovak Republic – one intermediate point – Kuwait
– points beyond the Indian Subcontinent.**
2. Route to be operated by the designated airline of the State of Kuwait with full traffic rights in both directions:
Kuwait – one intermediate point – points in the Slovak Republic – points beyond.

NOTES:

1. The Indian Subcontinent comprises Pakistan, India, Bangladesh and Sri Lanka.
2. The designated airlines may operate through intermediate points or to points beyond other than those mentioned in sections (1) and (2) above, provided that no traffic rights shall be exercised between these points and points in the territory of the other Contracting Party.