

SENATO DELLA REPUBBLICA

III LEGISLATURA

(N. 2235)

DISEGNO DI LEGGE

presentato dal **Ministro degli Affari Esteri**

(PICCIONI)

di concerto col **Ministro delle Finanze**

(TRABUCCHI)

col **Ministro del Tesoro**

(TREMELLONI)

col **Ministro della Difesa**

(ANDREOTTI)

e col **Ministro del Bilancio**

(LA MALFA)

COMUNICATO ALLA PRESIDENZA IL 16 OTTOBRE 1962

Ratifica ed esecuzione dell'Accordo tra l'Italia ed il Giappone
per i servizi aerei, concluso a Tokio il 31 gennaio 1962

ONOREVOLI SENATORI. — L'Accordo tra l'Italia ed il Giappone per i servizi aerei, concluso a Tokio il 31 gennaio 1962, ripete nella sostanza gli analoghi accordi precedentemente conclusi con altri Paesi.

La designazione da parte di ciascuno Stato contraente è limitata ad una sola impresa, ciò che evita l'inserimento di più imprese di uno stesso Stato nell'attività reciproca.

L'Accordo contiene clausole di garanzia sull'eventuale prova che la proprietà sostanziale e l'effettivo controllo dell'impresa designata da ciascuno Stato sono nelle mani della Parte contraente che ha designato la

impresa stessa o dei suoi cittadini, nonché sull'eventuale dimostrazione che l'impresa designata dall'altra Parte è in grado di adempiere alle condizioni prescritte dalle leggi e dai regolamenti normalmente e ragionevolmente applicati all'esercizio del traffico aereo.

È previsto che le imprese designate da entrambe le Parti contraenti godano di eque e pari possibilità nell'esercizio dei servizi convenuti tra i loro rispettivi territori e che ciascuna impresa designata tenga presente nella sua attività gli interessi dell'impresa designata dell'altra Parte, allo scopo

di non danneggiare indebitamente i servizi che quest'ultima offre sulla totalità o su una parte delle rotte specificate.

Le altre clausole (capacità, tariffe, consultazioni, soluzione delle controversie, denuncia dell'Accordo, eccetera) ripetono le norme contenute in Atti internazionali del genere.

L'Annesso comprende le tabelle delle rispettive rotte che potranno essere esercitate.

In particolare, all'impresa italiana è consentito di operare in entrambe le direzioni, con diritti di traffico, sulla seguente rotta:

Punti in Italia-Atene-Cairo o Beirut o Tel-Aviv o Damasco-Teheran-Karachi-Bombay o Nuova Delhi o Calcutta-Colombo o Rangoon-Bangkok-Manila-Hong Kong-Tokio (con facoltà di omissione di scali).

L'Accordo si inquadra perfettamente nel sistema degli Atti bilaterali di traffico aereo conclusi dall'Italia specie per quanto concerne le esigenze di attività o di sviluppo della rete italiana nel Medio ed Estremo Oriente. Esso risponde alle necessità del traffico e all'incremento delle relazioni aeree che deriveranno dall'espansione futura della nostra aviazione civile su quell'importante settore geografico.

DISEGNO DI LEGGE

Art. 1.

Il Presidente della Repubblica è autorizzato a ratificare l'Accordo tra l'Italia ed il Giappone per i servizi aerei, concluso a Tokio il 31 gennaio 1962.

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 18 dell'Accordo stesso.

Art. 3.

La presente legge entra in vigore il giorno successivo a quello della sua pubblicazione nella *Gazzetta Ufficiale*.

AGREEMENT BETWEEN ITALY AND JAPAN FOR AIR SERVICES

The Government of Italy and the Government of Japan,

Desiring to conclude an agreement for the purpose of establishing and operating air services between their respective territories,

Being parties to the Convention on International Civil Aviation signed at Chicago on December 7, 1944 (hereinafter called "the Convention"),

Have agreed as follows:

Article 1.

1) For the purpose of the present Agreement, unless the context otherwise requires:

a) the term "aeronautical authorities" means, in the case of Italy, the Ministry of Defense - Air (General Direction of Civil Aviation and Air Traffic) and any person or body authorized to perform any functions on civil aviation exercised by the said authorities or similar functions; and, in the case of Japan, the Ministry of Transportation and any person or body authorized to perform any functions on civil aviation exercised by the said Ministry or similar functions;

b) the term « designated airline » means an airline which one Contracting Party has designated by written notification to the other Contracting Party for the operation of air services on the routes specified in such notification, and to which the appropriate operating permission has been given by that other Contracting Party, in accordance with the provisions of Article 3 of the present Agreement;

c) the term "territory" in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or trusteeship of that State;

d) the term "air service" means any scheduled air service performed by aircraft for the public transport of passengers, cargo or mail;

e) the term "international air service" means an air service which passes through the air space over the territory of more than one State;

f) the term "airline" means any air transport enterprise offering or operating an international air service;

g) the term "stop for non-traffic purposes" means landing for any purpose other than taking on or discharging passengers, cargo or mail;

h) the term "Schedule" means the Schedule to the present Agreement or as amended in accordance with the provisions of Article 14 of the present Agreement.

2) The Schedule forms an integral part of the present Agreement, and all reference to the "Agreement" shall include reference to the Schedule except where otherwise provided.

Article 2.

Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement to enable its designated airline to establish and operate international air services on the routes specified in the Schedule (hereinafter called "agreed services" and "specified routes" respectively).

Article 3.

1) The agreed services on any specified route may be inaugurated immediately after the coming into force of the present Agreement or at a later date at the option of the Contracting Party to which the rights are granted under Article 2 of the present Agreement, subject to the provisions of Article 10 of the present Agreement, and not before:

a) the Contracting Party to which the rights have been granted has designated an airline for that route, and

b) the Contracting Party granting the rights has given the appropriate operating permission in accordance with its laws and regulations to the airline concerned; which it shall, subject to the provisions of paragraph (2) of this Article and of paragraph (1) of Article 6, be bound to grant without delay.

2) An airline designated by either Contracting Party may be required to satisfy the aeronautical authorities of the other Contracting Party that it is qualified to fulfil the conditions prescribed by the laws and regulations normally and reasonably applied by those authorities to the operation of international air services.

Article 4.

1) Subject to the provisions of the present Agreement, the designated airline of each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following privileges:

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 make stops in the said territory at the points specified for that route in the Schedule for the purposes of discharging and of taking on international traffic in passengers, cargo and mail.

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 5.

1) Fuels, lubricating oils, aircraft stores, spare parts and normal aircraft equipment introduced into the territory of a Contracting Party for the exclusive use of aircraft of the designated airline of the other Contracting Party, operating the agreed air services, are exempt from customs duties, inspection fees and other similar charges, subject to the customs regulations normally applied in the said territory;

2) The aircraft of the designated airline of a Contracting Party engaged in the agreed services are admitted into the territory of the other Contracting Party, free from customs duties, inspection fees and other similar charges;

3) Fuels, lubricating oils, aircraft stores, spare parts and normal aircraft equipment retained on board aircraft of the designated airline of a Contracting Party to operate the agreed services, are admitted on the territory of the other Contracting Party exempt from customs duties, inspection fees and other similar charges, even when they are consumed or used by the said aircraft during flights over the said territory;

4) Fuels, lubricating oils, aircraft stores, spare parts and normal aircraft equipment on board aircraft of the designated airline of a Contracting Party in the territory of the other Contracting Party for the exclusive use of that aircraft are exempt from customs duties, inspection fees and other similar charges, provided that customs regulations of the said territory are observed;

5) Fuels, lubricating oils, normal aircraft equipment, spare parts and aircraft stores, which are exempt from any duties and charges under the provisions of the above paragraphs, cannot be unloaded without the permission of the customs authorities of the other Contracting Party.

When they cannot be used or consumed they shall be re-exported. Waiting for their use or re-exportation they shall be kept under the control of the customs authorities.

Article 6.

1) Each Contracting Party reserves the right to withhold or revoke the privileges specified in paragraph (1) of Article 4 of the present Agreement enjoyed or to be enjoyed by an airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise by the airline of those privileges, in any case where it is not satisfied that substantial ownership and effective control of such airline are vested in the Contracting Party designating the airline or in nationals of such Contracting Party.

2) Each Contracting Party reserves the right to suspend the exercise by a designated airline of the other Contracting Party of the privileges referred to in paragraph (1) above, or to impose such conditions as it may deem necessary on the exercise by the airline of those privileges, in any case where such 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 such laws and regulations, or for reasons of safety of air navigation, this right shall be exercised only after consultation with the other Contracting Party.

Article 7.

There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to operate the agreed services on the specified routes between their respective territories.

Article 8.

In the operation by the designated airline of either Contracting Party of the agreed services, the interests of the designated airline of the other Contracting Party shall be taken into consideration so as not to affect unduly the services which the latter provides on all or part of the same routes.

Article 9.

1) The agreed services provided by the designated airlines of the Contracting Parties shall bear a close relationship to the requirements of the public for such services.

2) The agreed services provided by a designated airline shall retain as their primary objective the provision at a reasonable load factor of capacity adequate to current and reasonably anticipated requirements for the carriage of passengers, cargo and mail originating from or destined for the territory of the Contracting Party which has designated the airline. Provision for the carriage of passengers, cargo and mail both taken up 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) the requirements of through airline operation; and
- c) traffic requirements of the aerea through which the airline passes, after taking account of local and regional services.

Article 10.

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 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) Agreement on the tariffs shall, wherever possible, be reached by the designated airlines concerned through the rate-fixing machinery of the International Air Transport Association. When this is not possible, tariffs in respect of each of the specified routes and sectors thereof shall be agreed between the designated airlines concerned. In any case the tariffs shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

3) If the designated airlines concerned cannot agree on the tariffs, or if the aeronautical authorities of either Contracting Party do not approve the tariffs submitted to them, in accordance with the provisions of paragraph (2) of this Article, the aeronautical authorities of the Contracting Parties shall endeavour to reach agreement on the appropriate tariffs.

4) If the agreement under paragraph (3) of this Article cannot be reached, the dispute shall be settled in accordance with the provisions of Article 13 of the present Agreement.

5) No new tariff shall come into effect if the aeronautical authorities of either Contracting Party are dissatisfied with it except under the terms of paragraph (3) of Article 13 of the present Agreement. Pending determination of the tariffs in accordance with the provisions of this Article, the tariffs already in force shall prevail.

Article 11.

The aeronautical authorities of either Contracting Party shall supply to the aeronautical authorities of the other Contracting Party at the latter's request such periodic or other statements of statistics as may be reasonably required for the purpose of surveying the capacity provided on the agreed services by the designated airline of the first Contracting Party. Such statements shall include all information required to ascertain the amount of traffic carried by that airline on the agreed services.

Article 12.

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.

Article 13.

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 negotiation, the dispute may at the request of either Contracting Party be submitted for decision to a tribunal of three arbitrators, one to be named by each Contracting Party and the third to be agreed upon by the two arbitrators so chosen, provided that such third arbitrator shall not be a national of either Contracting Party. Each of the Contracting Parties shall designate an arbitrator within a period of sixty days from the date of receipt by either Contracting Party from the other Contracting Party of a diplomatic note requesting arbitration of the dispute and the third arbitrator shall be agreed upon within a further period of sixty days. If either of the Contracting Parties fails to designate its own arbitrator within the period of sixty days or if the third arbitrator is not agreed upon within the period indicated, the President of International Court of Justice may be requested by either Contracting Party to appoint an arbitrator or arbitrators.

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

Article 14.

Either Contracting Party may at any time request consultation with the other Contracting Party for the purpose of amending the present Agreement, such consultation to begin within a period of sixty days from the date of receipt of such request. 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, their recommendations on the matter will come into effect after they have been confirmed by an exchange of diplomatic notes.

Article 15.

If a general multilateral convention concerning air transport comes into force in respect of both Contracting Parties, the present Agreement shall be amended so as to conform with the provisions of such convention.

Article 16.

Either of the Contracting Parties may at any time notify the other of its intention to terminate the present Agreement. A copy of the notice shall be sent simultaneously to the International Civil Aviation Organization formed by the Convention. If such notice is given, the present Agreement shall terminate one year 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 expiration of that period. If the other Contracting Party fails to acknowledge receipt, notice shall be deemed to have been received fourteen days after the date of receipt by the International Civil Aviation Organization of its copy.

Article 17.

The present Agreement, any amendment to it and the diplomatic notes exchanged in accordance with Article 14 shall be registered with the International Civil Aviation Organization.

Article 18.

1) The present Agreement shall be ratified. The instruments of ratification shall be exchanged as soon as possible at Rome.

2) The present Agreement shall enter into force on the date of the exchange of the instruments of ratification.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed the present Agreement.

DONE in duplicate, in the English language, at Tokyo, this thirty-first day of January, 1962.

FOR ITALY:
Maurilio COPPINI

FOR JAPAN:
Zentaro KOSAKA

SCHEDULE

1. Route to be operated in both directions by the designated airline of Japan:

Points in Japan — Hong Kong or Manila — Saigon — Bangkok — Rangoon or Dacca — Calcutta or New Delhi — Karachi — Teheran — or Kuwait or Dhahran or Bahrain — Cairo or Damascus — Beirut or Athens — Rome — one point in Switzerland* — one point in the Federal Republic of Germany — Paris* — London*.

Note: * without traffic right to and from Rome.

2. Route to be operated in both directions by the designated airline of Italy:

Points in Italy — Athens — Cairo or Beirut or Tel Aviv or Damascus — Teheran — Karachi — Bombay or New Delhi or Calcutta — Colombo or Rangoon — Bangkok — Manila — Hong Kong — Tokyo.

3. The agreed services provided by the designated airline of either Contracting Party shall begin at a point in the territory of that Contracting Party, but other points on the specified routes may at the option of the designated airline be omitted on any or all flights.