

AIR TRANSPORT AGREEMENT
BETWEEN
THE KINGDOM OF SPAIN
AND
THE REPUBLIC OF AZERBAIJAN
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**AIR TRANSPORT AGREEMENT BETWEEN THE KINGDOM OF SPAIN AND THE
REPUBLIC OF AZERBAIJAN**

PREAMBLE

The Government of the Kingdom of Spain and the Government of the Republic of Azerbaijan hereinafter referred to as the Contracting Parties;

Desiring to promote an international aviation system which offers fair and equal opportunities to their respective airlines for the operation of the services and which allows them to compete in accordance with the laws and regulations of each Contracting Party;

Desiring to facilitate the expansion of international air transport opportunities;

Desiring to ensure the highest degree of safety and security in international air transport and reaffirming their grave concern about acts or threats against the security of aircraft, which jeopardize the safety of persons or property; and

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

Have agreed as follows:

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ARTICLE 1

DEFINITIONS

For the purpose of the interpretation and application of this Agreement, except as otherwise provided herein:

- a) the term **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, any amendment of the Annexes or the Convention under Article 90 and 94 thereof so far as those Annexes and amendments have become effective for or have been ratified by both Contracting Parties;
- b) the term **Aeronautical Authorities** means in the case of the Kingdom of Spain, on the civil level, the Ministry of Fomento (General Directorate of Civil Aviation), and in the case of the Republic of Azerbaijan, the State Concern "Azerbaijan Hava Yollari" or, in both cases, any person or body duly authorized to perform any function related to this Agreement exercised by the said Authorities;
- c) the term **designated airline** means the airline providing essentially international air services that each Contracting Party has designated to operate the agreed services on the specified routes as established in the Annex to this Agreement and in accordance with Article III of this Agreement;
- d) the term **territory** in relation to Contracting Parties has the meaning assigned to it in Article 2 of the Convention; the terms **air service**, **international air service**, and **stop for non traffic purposes** have the meanings respectively assigned to them in Article 96 of the Convention;
- e) the term **Agreement** means this Agreement, its Annex and any amendments thereto;
- f) the term **specified routes** means the routes established or to be established in the Annex to this Agreement;
- g) the term **agreed services** means the international air services which can be operated, according to the provisions of this Agreement, on the specified routes;

- h) the term **tariff** means the prices established for the carriage of passengers, baggage and freight (except mail) including any significant additional benefit granted or provided together with the said transport as well as the commission to be paid in connection with the sale of tickets and with the corresponding transactions for the carriage of goods. It also includes the conditions for the application of the transport price and the payment of the appropriate commission.
- i) the term **capacity** means, in relation to an aircraft, the availability of seats and/or cargo of the said aircraft and, in relation to the agreed services, it means the capacity of the aircraft used on the said services, multiplied by the number of frequencies operated by the said aircraft during each season on one route or on one sector of a route.
- j) the term **user charges** means a charge made to airlines by the competent authorities or permitted by them to be made for the provision of airport property or facilities or of air navigation facilities, including related services, for aircraft, their crew, passengers and cargo.
- k) the term **nationals**, in the case of Spain, shall be understood as referring to nationals of European Community Member States.

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ARTICLE 2

OPERATING RIGHTS

1. Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement, for the purpose of establishing scheduled international air services on the routes specified in the Annex hereto.
2. The airlines designated by each Contracting Party, shall enjoy, while operating an agreed service on a specified route, the following rights:
 - a) to fly over the territory of the other Contracting Party without landing;
 - b) to make stops in the said territory for non-traffic purposes;
 - c) to make stops in the said territory at points specified in the Route Schedule in the Annex to this Agreement for the purpose of taking on or putting down international traffic of passengers, cargo and mail, jointly or separately, in accordance with the provisions of the Annex to this Agreement, to or from the territory of the other Contracting Party.
3. Airlines of either Contracting Party other than the designated airlines shall be ensured the rights specified in paragraphs a) and b) above.
4. Nothing in this Agreement shall be deemed to confer on the designated airlines of one Contracting Party rights of cabotage in the territory of the other Contracting Party.
5. If because of armed conflict, political disturbances or developments, or special and unusual circumstances, a designated airline of one Contracting Party is unable to operate a service on its normal routing, the other Contracting Party shall use its best efforts to facilitate the continued operation of such service through appropriate temporary rearrangements of routes.

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ARTICLE 3

DESIGNATION OF AIRLINES

1. Each Contracting Party shall have the right to designate by written notification through diplomatic channels to the other Contracting Party as many airlines as it wishes for the purpose of operating the agreed services on the specified routes and to substitute another airline for an airline previously designated. Such designation shall specify the scope of the authorization granted to each airline in relation to the operation of the agreed services.

2. On receipt of such designation, and on application from the designated airline, in the form and manner prescribed, the other Contracting Party shall grant without delay the appropriate operating authorizations, subject to the provisions of paragraphs 3) and 4) of this Article.

3. The Aeronautical Authorities of one Contracting Party may require any airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied to the operation of international air services by such authorities in conformity with the provisions of the Convention.

4. The granting of the operating authorizations referred to in paragraph 2 of this Article shall require:

4.1. in the case of an airline designated by the Kingdom of Spain:

4.1.1. it is established in the territory of the Kingdom of Spain under the Treaty establishing the European Community and has received an Operating Licence in accordance with European Community law;

4.1.2. effective regulatory control of the airline is exercised and maintained by the European Community Member State responsible for issuing its Air Operators Certificate and the relevant Aeronautical Authority is clearly identified in the designation; and

4.1.3. the airline is owned and shall continue to be owned directly or through majority ownership by Member States and/or nationals or Member States, and/or by other states listed in Annex 2 and/or nationals of such other States, and shall at all times be effectively controlled by such States and/or such nationals.

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4.2. in the case of an airline designated by the Republic of Azerbaijan

4.2.1. it is established in the territory of the Republic of Azerbaijan and is licensed in accordance with the applicable law of the Republic of Azerbaijan; and

4.2.2. the Republic of Azerbaijan has and maintains effective regulatory control of the airline.

5. When an airline has been so designated and authorized, it may begin at any time to operate the agreed services in accordance with the provisions established in this Agreement.

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ARTICLE 4
REVOCATIONS

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 given to the airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary for the exercise of these rights:

a) 1. in the case of an airline designated by the Kingdom of Spain:

i) it is not established in the territory of the Kingdom of Spain under the Treaty establishing the European Community and has not received an Operating Licence in accordance with European Community law;

ii) effective regulatory control of the airline is not exercised or not maintained by the European Community Member State responsible for issuing its Air Operators Certificate or the relevant Aeronautical Authority is not clearly identified in the designation; or

iii) the airline is not owned directly or through majority ownership or it is not effectively controlled by European Community Member States and/or nationals of European Community Member States, and/or by other States listed in Annex 2 and/or nationals of such other States.

In exercising its right under this paragraph, the Republic of Azerbaijan shall not discriminate between Community airlines on the grounds of nationality.

2. in the case of an airline designated by the Republic of Azerbaijan:

i) it is not established in the territory of the Republic of Azerbaijan or is not licensed in accordance with the applicable law of the Republic of Azerbaijan; or

ii) the Republic of Azerbaijan is not maintaining effective regulatory control of the airline; or

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

c) in any case in which that airline otherwise fails to operate the agreed services in accordance with the conditions prescribed under this Agreement.

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- d) in the case of failure by the other Contracting Party to comply with or apply the Safety and Security standards in accordance with Articles 11 and 12 of this Agreement.

2. Without prejudice to the provisions under Articles 11 and 12 and unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph 1) of this Article are essential to prevent further infringement of the laws and regulations, such a right shall be exercised only after consultations with the other Contracting Party.

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ARTICLE 5
EXEMPTIONS

1. Aircraft operated in international air services by the designated airlines of either Contracting Party, as well as their regular equipment, supplies of fuels and lubricants, and aircraft stores (including food, beverages and tobacco) which are on board such aircraft shall be exempt from all customs duties and other duties or taxes on arriving in the territory of the other Contracting Party, provided that such equipment and supplies remain on board the aircraft up to such time as they are reexported.

2. There shall also be exempt from the same duties and taxes, with the exception of charges corresponding to the service performed:

- a) aircraft stores taken on board in the territory of either Contracting Party, within the limits fixed by the Authorities of the said Contracting Party, and for use on board the aircraft engaged in international air services of the other Contracting Party;
- b) spare parts, brought into the territory of either Contracting Party for the maintenance or repair of aircraft used on international air services by the designated airlines of the other Contracting Party; and
- c) fuels and lubricants destined to supply aircraft operated on international air services by the designated airlines of the other Contracting Party, even when these supplies are to be used on the part of the journey performed over the territory of the Contracting Party in which they are taken on board, notwithstanding any other provision to the contrary.

Items referred to in sub-paragraphs a), b), and c) above may be required to be kept under Customs supervision or control.

3. Regular airborne equipment, as well as materials and supplies on board the aircraft of either Contracting Party may be unloaded in the territory of the other Contracting Party only with the permission of the Customs Authorities of such territory. In such case, they may be placed under the supervision of the said Authorities up to such time as they are re-exported or arranged under other regime in accordance with the Customs regulations.

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4. The exemptions provided for by this Article shall also be available in situations where the designated airlines of either Contracting Party have entered into arrangements with other airlines, for the loan or transfer in the territory of the other Contracting Party, of the regular equipment and the other items referred to in this Article provided that the other airline or airlines enjoy the same exemptions from that other Contracting Party.

5. Unless otherwise required for security reasons and other reasons such as patent and trademark protection measures or protection against drug trafficking, passengers in transit across the territory of either Contracting Party as well as their baggage shall be subject to no more than a very simplified control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes levied on imports.

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ARTICLE 6
AIRPORT CHARGES

Fees and other charges for the use of each airport including its installations, technical and other facilities and services as well as any charges for the use of air navigation facilities, communication facilities and services shall be made in accordance with the rates and tariffs established by each Contracting Party on the territory of its State, in accordance with Article 15 of the Convention provided that the said fees may not exceed the fees imposed on the aircraft of its designated airlines used on similar international services for the use of the said airport and services.

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ARTICLE 7

TARIFFS

1. The tariffs to be charged by the designated airlines of each Contracting Party for the international carriage in the services provided under this Agreement shall be freely established at reasonable levels, due regard being paid to all relevant factors, including the cost of operation, the characteristics of the service, the interests of users, a reasonable profit and other market considerations.

2. Each Contracting Party may require notification to or filing with its aeronautical authorities of tariffs to be charged to or from its territory by airlines of the other Contracting Party. Notification or filing by the airlines of both Contracting Parties may be required no more than thirty (30) days before the proposed date of effectiveness. In individual cases, notification or filing may be permitted on shorter notice than normally required. Neither Contracting Party shall require the notification or filing by airlines of the other Contracting Party of tariffs charged by charterers to the public, except as may be required on a non-discriminatory basis for information purposes.

3. Without prejudice of the applicable competition and consumer protection laws prevailing in each Contracting Party, neither Contracting Party shall take unilateral action to prevent the inauguration or continuation of an effective tariff proposed to be charged or charged by a designated airline of the other Contracting Party for international air transportation in the services provided under this Agreement. Intervention by the Contracting Parties shall be limited to:

- a) prevention of unreasonably discriminatory prices or practices;
- b) protection of consumers from prices that are unreasonably high or restrictive due to the abuse of a dominant position.
- c) protection of airlines from prices that are artificially low due to direct or indirect subsidy or support;
- d) protection of airlines from prices that are artificially low, where evidence exists as to an intent to eliminate competition.

4. Without prejudice to the provisions of paragraph 3 of this Article, the Aeronautical Authorities of either Contracting Party may expressly approve those tariffs submitted by the designated airlines. Where such Aeronautical Authorities find that a certain tariff falls within the categories set forth in paragraph 3.a, 3.b, 3.c and 3.d they shall send reasoned notification of its dissatisfaction to the Aeronautical Authorities of the other Contracting Party and to the airline involved as soon as possible, and in no event later than thirty (30) days after the date of notification or filing of the tariff in question; and it may request consultations in accordance with the procedures established under paragraph 5 of this Article. Unless both Aeronautical Authorities have agreed to disapprove tariffs in writing in accordance with the procedures above, the tariffs shall be treated as having been approved.

5. The Aeronautical Authorities of each Contracting Party may request the Aeronautical Authorities of the other Contracting Party consultations on any tariff charged by an airline of the other Contracting Party for the international carriage to or from the territory of the first Contracting Party, including those tariffs for which a notice of dissatisfaction has been given. These consultations shall be held not later than thirty (30) days after receipt of the request. The Contracting Parties shall cooperate in securing the necessary information for a reasoned resolution of the issue. If an agreement is reached with respect to a tariff for which a notice of dissatisfaction has been given, the Aeronautical Authorities of each Contracting Party shall use their best efforts to put that agreement into effect. If such mutual agreement is not reached, the tariff shall go into effect or continue in effect.

6. For the air transportation in the services provided under this Agreement, each Contracting Party shall allow the designated airlines of the other Contracting Party to hold out tariffs similar to those charged by any airline for a comparable air service provided between the same points.

7. A tariff established in accordance with the provisions of this Article shall remain in force until a new tariff has been established. Any tariff approved without an expiry date shall remain in force if no other tariff has been filed or approved until its withdrawal by the airline concerned, or until both Contracting Parties agree that such tariff shall no longer be in effect.

8. The tariffs to be charged by the designated airlines for carriage wholly within the European Community will be subject to European Community law.

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ARTICLE 8

COMMERCIAL OPPORTUNITIES

1. The designated airlines of each Contracting Party shall be allowed, on the basis of reciprocity, to maintain in the territory of the other Contracting Party, their offices and representatives, as well as their commercial, operational and technical staff as required in connection with the operation of the agreed services.
2. The request for staff may, at the option of the designated airlines of each Contracting Party, be satisfied either by their own personnel or by using the services of any other organization, company or airlines operating in the territory of the other Contracting Party, and authorized to perform such services in the territory of that Contracting Party.
3. The representatives and staff shall be subject to the laws and regulations in force of the other Contracting Party, and, according to such laws and regulations, each Contracting Party shall, on the basis of reciprocity and with the minimum delay, grant the necessary employment authorizations, visitor visas or other similar documents to the representatives and staff referred to in paragraph 1) of this Article.
4. Should special circumstances require the entry or permanence of staff on an emergency and temporary basis, the permits, visas and documents required by the laws and regulations of each Contracting Party shall be issued promptly so as not to delay the entry of such personnel into the state concerned.
5. On a reciprocal and non discriminatory basis with respect to any other airline operating in international traffic, the airlines designated by the Contracting Parties shall be free to sell air transport services in the territories of both Contracting Parties, either directly or through an agent, in national currency of the Contracting Party in whose territory the sale is made or in free convertible currency in accordance with the laws in force in each Contracting Party. Each Contracting Party shall refrain from the restricting the right of a designated airline of the other Contracting Party to sell, and of any person to purchase such transportation.
6. The airlines of each Contracting Party shall be free to transfer from the territory of sale to their home territory the excess, in the territory of sale, of receipts over expenditure. Included in such net transfer shall be revenues from sales, made directly or through an agent of air transport services, and ancillary or supplementary services, and normal commercial interest earned on such revenues while on deposit awaiting transfer.
7. Such transfers shall be effected in a freely convertible currency at the official rate of exchange and shall not, with the exception of normal banking charges and procedures, be subject to any charge, limitation, imposition or delay.

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8. Such remittances shall be made without prejudice to any fiscal obligations in force in the territory of either Contracting Party.

9. If a Contracting Party imposes restrictions on the transfer of excess of receipts over expenditure by the designated airlines of the other Contracting Party, the latter shall have the right to impose on equal grounds reciprocal restrictions on the designated airlines of the first Contracting Party.

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ARTICLE 9

LAWS AND REGULATIONS

1. Each Contracting Party laws and regulations controlling the admission to or departure from its own territory of aircraft engaged in international air services or related to the operation of aircraft while within its territory, shall be applied to the aircraft of the designated airlines of the other Contracting Party.
2. The laws and regulations controlling the entry, stay and departure of passengers, crew, baggage, mail and cargo, over the territory of each Contracting Party, and also the regulations related to the requirements of entry and departure from the country, immigration, customs and sanitary rules, shall be applied in such territory to the operations of the designated airlines of the other Contracting Party.

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ARTICLE 10

CERTIFICATES AND LICENCES

1. Certificates of airworthiness, certificates of competence and licences issued or rendered valid in accordance with the rules and procedures of one Contracting Party and still in force shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services on the specified routes in the Annex to this Agreement, provided that the requirements under which such certificates and 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, of refusing to recognize the validity of the certificates of competency and the licences granted to its own nationals by the other Contracting Party, for the purpose of overflying and/or landing in its own territory.

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ARTICLE 11

AVIATION SAFETY

1. Each Contracting Party may request consultations at any time concerning safety standards in any area relating to aircrew, aircraft or their operation adopted by the other Contracting Party. Such consultations shall take place within 30 days of that request.

2. If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards in any such area that are at least equal to the minimum standards established at that time pursuant to the Convention, the first Contracting Party shall notify the other Contracting Party of those findings and the steps considered necessary to conform with those minimum standards, and that other Contracting Party shall take appropriate corrective action. Failure by the other Contracting Party to take appropriate action within 15 days or such longer period as may be agreed, shall be grounds for the application of Article 4 of this Agreement (Revocations).

3. Notwithstanding the obligations mentioned in Article 33 of the Convention, it is agreed that any aircraft operated by the airline or airlines of one Contracting Party on services to or from the territory of another Contracting Party may, while within the territory of the other Contracting Party, be made the subject of an examination by the authorised representatives of the other Contracting Party, on board and around the aircraft to check both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment (in this Article called "ramp inspection"), provided this does not lead to unreasonable delay.

4. If any such ramp inspection or series of ramp inspections gives rise to:
- a) serious concerns that an aircraft or the operation of an aircraft does not comply with the minimum standards established at that time pursuant to the Convention, or
 - b) serious concerns that there is a lack of effective maintenance and administration of safety standards established at that time pursuant to the Convention,

the Contracting Party carrying out the inspection shall, for the purposes of Article 33 of the Convention, be free to conclude that the requirements under which the certificate or licences in respect of that aircraft or in respect of the crew of that aircraft had been issued or rendered valid, or that the requirements under which that aircraft is operated, are not equal to or above the minimum standards established pursuant to the Convention.

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5. In the event that access for the purpose of undertaking a ramp inspection of an aircraft operated by the airline or airlines of one Contracting Party in accordance with paragraph 3 above is denied by the representative of that airline or airlines, the other Contracting Party shall be free to infer that serious concerns of the type referred to in paragraph 4 above arise and draw the conclusions referred in that paragraph.

6. Each Contracting Party reserves the right to suspend or vary the operating authorisation of an airline or airlines of the other Contracting Party immediately in the event the first Contracting Party concludes, whether as a result of a ramp inspection, a series of ramp inspections, a denial of access for ramp inspection, consultation or otherwise, that immediate action is essential to the safety of an airline operation.

7. Any action by one Contracting Party in accordance with paragraphs 2 or 6 above shall be discontinued once the basis for the taking of that action ceases to exist.

8. Where the Kingdom of Spain has designated an airline whose regulatory control is exercised and maintained by another Member State of the European Union, the rights of the Republic of Azerbaijan under this Article shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other Member State of the European Union and in respect of the operating authorization of that airline.

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ARTICLE 12

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 forms an integral part of this Agreement. 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 Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14th September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16th December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23rd September 1971, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24th February 1988 which is supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23rd September 1971, and the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1st March 1991.
2. The Contracting Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of 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.
3. 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, or in the case of the Kingdom of Spain operators of aircraft who are established in its territory under the Treaty establishing the European Community and have valid Operating Licences in accordance with European Community law and the operators of airports in their territory act in conformity with such aviation security provisions.
4. Each Contracting Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in the paragraph above required by the other Contracting Party for entry into, departure from, or while within the territory of that Contracting Party. For departure from, or while within, the territory of the Republic of Azerbaijan, operators of aircraft shall be required to observe aviation security provisions in conformity with the law in force in that country. For departure from, or while within, the territory of the Kingdom of Spain, operators of aircraft shall be required to observe aviation security provisions in conformity with European Community law. Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers,

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crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give sympathetic consideration to any request from the other Contracting Party for reasonable special security measures to meet a particular threat.

5. 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.

6. When a Contracting Party has reasonable grounds to believe that the other Contracting Party has departed from the aviation security provisions of this Article, that Contracting Party may request immediate consultations with the other Contracting Party.

7. Without prejudice to Article 4 (Revocations) of this Agreement, failure to reach a satisfactory agreement within fifteen (15) days from the date of such request will constitute grounds to withhold, revoke, limit or impose conditions on the operating authorization or technical permission of the airlines of both Contracting Parties.

8. When required by an immediate and extraordinary threat, a Contracting Party may take interim action prior to the expiry of fifteen (15) days.

9. Any action taken in accordance with the paragraph 7 above shall be discontinued upon compliance by the other Contracting Party with the provisions of this Article.

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ARTICLE 13

TAXATION

1. Profits and earnings of the designated airlines of a Contracting Party derived from the performance of international traffic shall be taxable only in the territory of that Contracting Party, without prejudice to compliance with the formal obligations legally laid down by each Contracting Party.
2. Where a special Agreement for avoidance of double taxation with respect to taxes on income and capital exists between the Contracting Parties, the provisions of the latter shall prevail.

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ARTICLE 14

CAPACITY

1. There shall be a fair and equal opportunity for the designated airlines of the Contracting Parties to operate the agreed services on the routes specified in this Agreement.
2. The agreed services on any of the routes specified in the Annex to this Agreement shall have as their primary objective the provision of capacity adequate for transportation of traffic between both countries.
3. The frequencies to be used for the agreed services shall be established by mutual agreement between the Aeronautical Authorities of both Contracting Parties. Capacity to be offered and type of aircraft to be used for such services shall be freely established by the designated airlines of each Contracting Party.
4. The frequencies and time schedules established for the operation of the agreed services shall be notified when so required to the Aeronautical Authorities of the other Contracting Party at least thirty (30) days prior to the start of the operation or such shorter period as the Aeronautical Authorities of the other Contracting Party may agree.
5. In instances where any of the Contracting Parties considers that the services provided by one or more airlines of the other Contracting Party do not comply with the requirements and principles provided by this Article, it may ask for consultations in accordance with Article 17 of this Agreement in order to examine the operations in question and determine on a mutual basis any action which may be deemed necessary.

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ARTICLE 15

STATISTICS

The Aeronautical Authorities of either Contracting Party shall supply to the Aeronautical Authorities of the other Contracting Party, at their request, the information and statistics related to the traffic carried by the airlines designated by one Contracting Party on the agreed services to or from the territory of the other Contracting Party in the same form as they have been prepared and submitted by the designated airlines to their national Aeronautical Authorities. Any additional statistical data related to traffic which the Aeronautical Authorities of one Contracting Party may request from the Aeronautical Authorities of the other Contracting Party shall be subject to discussions between the Aeronautical Authorities of both Contracting parties, at the request of either Contracting Party.

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ARTICLE 16
CONSULTATIONS

Either Contracting Party may at any time request consultations on the implementation, interpretation, application or amendment of this Agreement or compliance with this Agreement. Such consultations, which may be between Aeronautical Authorities, shall begin within a period of 60 days from the date the other Contracting Party receives a written request, unless otherwise agreed by the Contracting Parties.

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ARTICLE 17
MODIFICATIONS

1. If either Contracting Party considers it desirable to modify any of the provisions of this Agreement, it may request consultation with the other Contracting Party. Such consultation may be between the Aeronautical Authorities and may be conducted by discussion or correspondence and shall begin within a period of sixty (60) days from the date of the request. Any modifications so agreed shall come into force in accordance with the provisions of Article 22 of this Agreement.

2. Modifications to the Annex to this Agreement may be made by direct agreement between the competent Aeronautical Authorities of the Contracting Parties and confirmed by exchange of diplomatic notes. Consultations to this effect may be conducted by discussion or correspondence and shall begin within a period of sixty (60) days from the date of the request.

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ARTICLE 18

SETTLEMENT OF DISPUTES

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

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 nominated by each Contracting Party and a third to be appointed by the two so nominated. Each Contracting Party shall nominate an arbitrator within a period of sixty (60) days from the date of receipt by either Contracting Party from the other of a notice through diplomatic channels requesting arbitration on the dispute. The third arbitrator shall be appointed within a further period of sixty (60) days as from the designation of the second arbitrator. This third arbitrator shall be a national of another State, shall act as the President of the Tribunal and shall determine the venue where the Arbitration shall be held. If either of the Contracting Parties fails to nominate an arbitrator within the period specified, the President of the Council of the International Civil Aviation Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators, as the case requires. In such a case, the third arbitrator shall be a national of a third State and shall act as the President of the Tribunal.

3. The Contracting Parties undertake to comply with any decision made by the President of the Tribunal under paragraph 2) of this Article.

If and so long as either Contracting Party fails to comply with such decision, the other Contracting Party may limit, suspend or revoke any rights or privileges which it has granted by virtue of this Agreement to the Contracting Party in default.

4. Each Contracting Party shall bear the expenses and remuneration necessary for its arbitrator; the fee for the third arbitrator and the expenses necessary for this one as well as those due to the activity of the arbitration shall be equally shared by the Contracting Parties.

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ARTICLE 19
REGISTRATION

The Agreement, including any amendments thereto, shall be registered with the International Civil Aviation Organization.

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ARTICLE 20

MULTILATERAL CONVENTIONS

In the event of the conclusion by both Contracting Parties of a Multilateral Convention or Agreement concerning matters regulated by this Agreement after the latter has come into force, the said Contracting Parties shall hold consultations in order to determine the advisability of revising the Agreement to conform to the provisions of such Multilateral Convention or Agreement.

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F. G.

ARTICLE 21

TERMINATION

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

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F. G.

ARTICLE 22
ENTRY INTO FORCE

This Agreement shall enter into force as soon as both Contracting Parties give written notification to each other by exchange of diplomatic notes that their respective internal requirements have been fulfilled.

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

Done in duplicate at..... thisday of.....in the Spanish, Azerbaijani and English languages, all texts being equally authentic. In case of any divergence of interpretation of the Agreement the English text shall prevail.

FOR THE KINGDOM OF SPAIN

FOR THE REPUBLIC OF AZERBAIJAN

9

F. B.

ANNEX 1

1. ROUTE SCHEDULE

- A. Route which may be operated by the airlines designated by the Kingdom of Spain:

Points in Spain – intermediate points – Baku and Gyanja or other point in the Republic of Azerbaijan to be freely chosen by the designated airlines - points beyond and vv.

- B. Route which may be operated by the airlines designated by the Republic of Azerbaijan:

Points in Azerbaijan – intermediate points – Madrid and Barcelona or other point in Spain to be freely chosen by the designated airlines - points beyond and vv.

2. The airlines designated by a Contracting Party may only stop on the same service in one single point located in the territory of the other Contracting Party.
3. The intermediate points and the points beyond of routes indicated in paragraphs I. A and I. B shall be freely chosen by the designated airlines.
4. The possibility of exercising fifth freedom traffic rights on the intermediate points and points beyond established in paragraphs I. A and I. B of this Annex shall be determined by agreement between the Aeronautical Authorities of both Contracting Parties.
5. The designated airlines may change the order or omit one or more points on the routes indicated in paragraphs I. A and I. B of this Annex, in whole or part of its services, provided that the departure point on the route is located in the territory of the Contracting Party which has designated such airlines.
6. When operating or holding out (i.e., selling transportation under its own code on flights operated by another airline) the agreed services on the specified routes or on any sector of the routes, the airlines of each Contracting Party designated as the operating airline and/or the non-operating (hereinafter referred to as the "marketing") airline, may enter into co-operative marketing arrangements such as blocked space or code sharing with:
 - an airline or airlines of the same Contracting Party; and
 - an airline or airlines of the other Contracting Party.

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F. B.

- 6.1. Capacity offered by a designated airline as the marketing airline on the services operated by other airlines, shall not be counted against the capacity entitlements of the Contracting Party designating the said marketing airline.
- 6.2. Where a designated airline operates services as the operating airline under code-share arrangements, the total capacity shall be counted against the capacity entitlements of the Contracting Party designating the said operating airline.
- 6.3. No fifth freedom rights shall be exercised on code-share services by the designated airlines acting as marketing airlines.
- 6.4. Code-share services shall meet the regulatory requirements normally applied to such operations by the Contracting Parties, such as protection of and information to passengers, security, liability and any other requirements generally applied to other airlines operating international traffic.
- 6.5. Where the provision of code share services implies a change of aircraft (change of gauge) the designated airline marketing the service shall have the right to transfer its traffic from one aircraft to another single aircraft destined for the territory of the other Contracting Party, regardless of the type of aircraft and provided that the service is scheduled as a direct connection flight.
- 6.6. Where selling facilities are available, the marketing airline shall clearly inform passengers at the point of sale of the services of the airline that will operate each sector of the services.
- 6.7. The designated airlines of each Contracting Party shall notify the route, frequencies, flight code and reference of the airlines operating the services to the Aeronautical Authority of the other Contracting Party within a period of at least thirty (30) days before the start of the operation.

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F. B.

ANNEX 2

List of other states referred to in Article 3 of this Agreement

- (a) **The Republic of Iceland** (under the Agreement on the European Economic Area);
- (b) **The Principality of Liechtenstein** (under the Agreement on the European Economic Area);
- (c) **The Kingdom of Norway** (under the Agreement on the European Economic Area);
- (d) **The Swiss Confederation** (under the Agreement between the European Community and the Swiss Confederation on Air Transport)

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F. B.