



8. März 1989

411

Vereinbarung über den Verkauf von Beförderungsdokumenten
 für Flugreisen mit Jugoslawien

Aufgrund des Antrages des EVED vom 20. Februar 1989,

Aufgrund der Ergebnisse des Mitberichtsverfahrens wird

b e s c h l o s s e n

1. Der Bundesrat nimmt in zustimmendem Sinn Kenntnis vom "Memorandum of Understanding between the Federal Executive Council of the Assembly of the Socialist Federal Republic of Yugoslavia and the Swiss Federal Council relating to the sale of transportation documents in connection with the Air Services Agreement between the Socialist Federal Republic of Yugoslavia and the Swiss Confederation signed on 26 October 1977".
2. Das Departement für auswärtige Angelegenheiten wird beauftragt, das Memorandum durch Herrn Pierre-Yves Simonin, ausserordentlicher und bevollmächtigter Botschafter in Belgrad, bzw. seinen Stellvertreter unterzeichnen zu lassen.
3. Die Bundeskanzlei wird beauftragt, eine auf den Namen des schweizerischen Botschafters in Jugoslawien lautende Unterzeichnungsvollmacht auszustellen.

Für getreten Auszug,
 der Protokollführer:

Protokollauszug an:			
ohne / <input type="checkbox"/> mit Beilage			
z.V. z.K.	Dep.	Anz.	Akten
X	EDA	8	-
	EDI		
	EJPD		
	EMD		
	EFD		
	EVD		
X	EVED	8	-
X	BK	1	-
	EFK		
	Fin.Del.		



EIDGENÖSSISCHES VERKEHRS- UND ENERGIEWIRTSCHAFTSDEPARTEMENT
 DEPARTEMENT FEDERAL DES TRANSPORTS, DES COMMUNICATIONS ET DE L'ENERGIE
 DIPARTIMENTO FEDERALE DEI TRASPORTI, DELLE COMUNICAZIONI E DELLE ENERGIE
 DEPARTAMENT FEDERAL DA TRAFFIC ED ENERGIA

3003 Bern, den 20. Februar 1989

An den Bundesrat

Vereinbarung über den Verkauf von Beförderungsdokumenten
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Während längerer Zeit hatte die Swissair in der Vergangenheit mit Yugoslav Airlines (JAT) Verhandlungen geführt mit dem Ziel, eine Vereinbarung abzuschliessen, welche ihr für ihre Geschäftstätigkeiten in Jugoslawien gleiche Möglichkeiten sichern sollte, wie sie die JAT seit jeher in der Schweiz geniesst. Bisher war die Swissair - wie übrigens in allen anderen osteuropäischen Staaten - beim Verkauf von Flugscheinen wesentlichen Beschränkungen unterworfen. Verkäufe konnten nur in frei konvertierbaren Währungen erfolgen, Zwischenverkäufe über Agenten waren nicht zulässig, in Lokalwährung durften nur Passagen im Direktverkehr nach der Schweiz verkauft werden und schliesslich waren dafür Flugscheine der JAT auszustellen. Die unterschiedlichen Verkaufsmöglichkeiten bewirkten eine künstliche Verzerrung der tatsächlichen Wettbewerbsverhältnisse und beeinflussen die Konkurrenzsituation der Swissair in erheblichem Mass.

1988 einigten sich Swissair und JAT dem Grundsatz nach auf eine gemeinsame Verkaufsregelung. Es bestand die Absicht, dass die getroffenen Absprachen - wie allgemein üblich - Gegenstand einer kommerziellen Vereinbarung zwischen den beiden Luftverkehrsunternehmen bilden sollten. Wider Erwarten schlug dann Jugoslawien am 6. Oktober 1988 die Aufnahme von Verhandlungen in Belgrad vor, um die zwischen den beiden Unternehmen ausgehandelten Abmachungen zu überprüfen und behördlicherseits zu formalisieren. Die entsprechenden Gespräche, auf Seiten der Schweiz vom BAZL geleitet, fanden am 17./18. Januar 1989 statt. Sie führten zur Paraphierung des Vereinbarungsentwurfes, der im Verhältnis zur ursprünglichen Fassung in gewissen Punkten materiell noch verbessert werden konnte. So erhält die Swissair - zumindest vorübergehend - namentlich das Recht, in Lokalwährung auch nach solchen Bestimmungsorten Flugscheine zu verkaufen, welche von der JAT nicht angefliegen werden.

Abmachungen der vorliegenden Art werden in aller Regel, wie erwähnt, durch die Luftverkehrsunternehmen direkt getroffen. Die schweizerischen Luftfahrtbehörden können aber auch solche Vereinbarungen, die Ausfluss des im Luftverkehrsabkommen vom 27. Oktober 1977 verankerten Gleichbehandlungsgrundsatzes sind, in eigener Zuständigkeit abschliessen. Da Jugoslawien jedoch für die vorgesehene Regelung eines ratifikationsbedürftigen Staatsvertrages bedarf, ist aus Gründen der Stufengleichheit der Bundesrat als Vertragspartei bezeichnet worden.

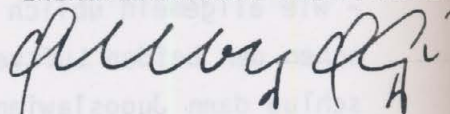
Die Swissair hat ein grosses Interesse, von den ihr zugestandenen Rechten Gebrauch zu machen. Die Vereinbarung ist deshalb möglichst bald zu unterzeichnen; von diesem Zeitpunkt an sind die Bestimmungen "vorläufig anwendbar".

Weil es sich bei der vertraglichen Abmachung materiell weder um rechtsetzende Bestimmungen handelt noch durch sie die Pflicht zur Rechtsetzung begründet wird und auch anderweitig kein besonderes Interesse an deren Veröffentlichung in der amtlichen Sammlung besteht, wird davon abgesehen.

Das Departement für auswärtige Angelegenheiten (Direktion für Völkerrecht) stimmt dem Antrag zu.

Wir beantragen Ihnen, dem beiliegenden Beschlussesentwurf zuzustimmen.

EIDGENÖSSISCHES VERKEHRS- UND
ENERGIEWIRTSCHAFTSDEPARTEMENT



Adolf Ogi

Beilage: Beschlussdispositiv
Memorandum of Understanding

Zum Mitbericht an: EDA

Protokollauszug an:

- Bundeskanzlei (3 Expl.)
- EDA-DV (5 Expl.)
- EVED, BAZL (8 Expl.)

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3. Die Bundeskanzlei wird beauftragt, eine auf den Namen des schweizerischen Botschafters in Jugoslawien lautende Unterzeichnungsvollmacht auszustellen.

Für getreuen Auszug,
der Protokollführer:

MEMORANDUM OF UNDERSTANDING

BETWEEN THE FEDERAL EXECUTIVE COUNCIL OF THE ASSEMBLY OF THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA AND THE SWISS FEDERAL COUNCIL RELATING TO THE SALE OF TRANSPORTATION DOCUMENTS IN CONNECTION WITH THE AIR SERVICES AGREEMENT BETWEEN THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA AND THE SWISS CONFEDERATION SIGNED ON 26 OCTOBER 1977

The Federal Executive Council of the Assembly of the Socialist Federal Republic of Yugoslavia and the Swiss Federal Council /hereinafter referred to as the "Contracting Parties"/;

Having in view further developments of scheduled air services between the two countries and endeavouring to enable the designated airlines of each Contracting Party to engage in the sale of air transportation in the territory of the country of the other Contracting Party, have agreed as follows:

Article 1

RIGHTS OF THE SWISS DESIGNATED AIRLINE

This Memorandum of Understanding will be applied in order to assure that the Air Services Agreement reflects an equitable exchange of opportunities for the designated airlines of each Contracting Party as follows:

The Federal Executive Council of the Assembly of the Socialist Federal Republic of Yugoslavia grants to the designated airline of Switzerland the following rights in respect of the sale of scheduled air transportation in Yugoslavia:

a/ The right to sell scheduled air transportation on all of its worldwide services directly, through its own Representative Office/s/ and, at its discretion, through Yugoslav agencies to any person, organization or

association, freely, in convertible currency other than the national currency of Yugoslavia using its own transportation documents and to convert and remit receipts from such sales to its home country;

b/ The right to sell its own transportation documents on the services of third carriers between third countries provided that such transportation constitutes a part of transportation on the services of the designated airline of Switzerland, in convertible currency other than the national currency of Yugoslavia. Such sales may be made directly through its own Representative Office /s/ and, at its discretion, through Yugoslav agencies to any person, organization or association in Yugoslavia;

c/ The right to sell scheduled air transportation directly through its own Representative Office /s/ and, at its discretion, through Yugoslav agencies to any person, organization or association in Yugoslav currency using its own transportation documents for the following carriage:

- scheduled air transportation on its international services for all its destinations;
- scheduled air transportation on the international services of the designated Yugoslav airline;
- scheduled air transportation on any services of the Swiss designated airline and the Yugoslav designated airline between Yugoslavia and Switzerland and vice versa as well as on the domestic services of the Swiss designated airline within Switzerland and on any services of the Yugoslav designated airline within Yugoslavia when such transportation constitutes a part of the journey between the two countries.

d/ All other sales of scheduled air transportation by the Swiss designated airline in Yugoslavia shall be made through the Yugoslav designated airline and Yugoslav agencies using the transportation documents of its appointed General Sales Agent.

Article 2

SALES OF THE SWISS DESIGNATED AIRLINE'S TRANSPORTATION DOCUMENTS IN CURRENCIES OTHER THAN THE NATIONAL CURRENCY OF YUGOSLAVIA

1. Sales by agents of the Swiss designated airline

a/ Sales reports and audit coupons relating to the above sales will be submitted by the agents to the authorized Representative Office/s/ of the Swiss designated airline in Yugoslavia.

b/ Receipts from the above sales will be remitted to the account of the Swiss designated airline with the authorized bank in Yugoslavia.

c/ The Swiss designated airline may pay from its account with the authorized bank in Yugoslavia all of its expenses or any part thereof in connection with its operations in Yugoslavia.

d/ The Swiss designated airline will be permitted to remit freely and promptly all or any part of the receipts from the sales referred to above to its home country.

2. Sales by the Swiss designated airline from its own Representative Office/s/

Receipts from such sales will be treated in the same manner and the Swiss designated airline shall enjoy the

same rights in relation to the use and remittance of such receipts as stipulated in paragraph 1. /b/, /c/ and /d/ above.

Article 3.

SALES OF THE SWISS DESIGNATED AIRLINE'S TRANSPORTATION DOCUMENTS IN YUGOSLAV NATIONAL CURRENCY

1. Sales reports and audit coupons relating to agent sales will be submitted by agents directly to the authorized Representative Office/s/ of the Swiss designated airline in Yugoslavia.

2. Receipts from sales of the Swiss designated airline and agents will be remitted to the non-resident account of the Swiss designated airline in Yugoslav national currency, with the authorized bank in Yugoslavia accompanied by copies of the respective sales reports and photostatic copies of audit coupons.

3. The Swiss designated airline may pay from its non-resident account in Yugoslav currency with the authorized bank in Yugoslavia all of its expenses or any part thereof in connection with its operations in Yugoslavia.

4. The Swiss designated airline shall exercise its right to remit revenues in excess of expenses earned by the Swiss designated airline in connection with its operations in Yugoslavia as promptly as possible and with minimum restrictions through the following procedures:

a/ Once a week or in such intervals as may otherwise be agreed between the two designated airlines the Swiss designated airline will:

- submit to the Yugoslav designated airline a copy of the sales report which will specify in respect of transportation transactions in Yugoslav currency ticket numbers, ticket itinerary and currency amount;

- authorize a bank transfer to the account of the Yugoslav designated airline for the amounts in Yugoslav currency in connection with the above sales reduced for local payments undertaken by the Swiss designated airline and submit to the Yugoslav designated airline a deposit slip verifying the transfer of Yugoslav currency to the bank's account of the Yugoslav designated airline;

- submit a statement to the Yugoslav designated airline that the amount covered by the remittance in Yugoslav currency originates solely from the sales of transportation in Yugoslavia on the Swiss designated airline's transportation documents to any person, organization or association on the approved sectors.

b/ It is understood that the following conversion procedure shall apply:

- conversion into convertible currency of receipts from sales performed by the Swiss designated airline in Yugoslavia in Yugoslav national currency on the approved sectors shall be made by the Yugoslav designated airline at the commercial bank's selling rate in effect on the day of conversion of such receipts from sales and remitted to the account of the Swiss designated airline with the Yugoslav commercial bank;

- conversion shall be made using the rate of exchange of the date of remittance of the amount of such sales by the designated airline of Switzerland to the account of the designated airline of Yugoslavia.

c/ The designated airlines of both Contracting Parties shall work out the procedures for the implementation of currency conversion and remittance in accordance with the terms of this paragraph and in conformity with the Yugoslav law, regulations and standard IATA agency procedures.

Article 4.

RIGHTS OF THE YUGOSLAV DESIGNATED AIRLINE

The Swiss Federal Council grants to the designated airline of the Socialist Federal Republic of Yugoslavia the following rights in relation to the sale of scheduled air transportation in its territory:

1. The right to sell scheduled air transportation on all of its worldwide services directly, through its own Representative Office /s/ and, at its discretion, through Swiss agencies to any person, organization or association in Swiss currency, using its own transportation documents and/or the Bank Settlement Plan.

2. Conversion and remittance of receipts from sales performed by the Yugoslav designated airline in accordance with paragraph 1/ above will be made freely and in conformity with the existing bank procedures in Switzerland.

Article 5.

MODIFICATION

This Memorandum of Understanding can be modified at the request of either Contracting Party. Consultations to this effect shall take place within sixty (60) days after such a request has been made. Any modification shall be

effective when it has been approved in accordance with the national legislation and confirmed by the exchange of Diplomatic Notes.

Article 6.

TERMINATION

This Memorandum of Understanding can be terminated at any time by either Contracting Party. It shall cease to be applicable six (6) months after the date of receipt of such a written notification.

Article 7.

ENTRY INTO FORCE

This Memorandum of Understanding shall enter into force on the date of the latest notification that it has been approved in accordance with the national legislation of the two countries. It shall be provisionally applicable from the date of its signature.

Done at Belgrade in two originals in the English language this..... day of 1989.

For the Federal Executive Council
of the Assembly of the Socialist
Federal Republic of Yugoslavia

For the Swiss
Federal Council