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SCANDINAVIAN AIRLINES SYSTEM CONSORTIUM AGREEMENT AND RELATED AGREEMENTS

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FOREWORD

1. Among the aims and objectives of ICAO is to foster the planning and development of international air transport so as to meet the needs of the peoples of the world for safe, regular, efficient and economical air transport, to prevent economic waste caused by unreasonable competition, and to avoid discrimination between Contracting States. To that end the Council is authorized to conduct research into all aspects of air transport which are of international importance and to study any matters affecting the organization and operation of international air transport, including the international ownership and operation of international air services on trunk routes. The Convention specifically authorizes Member States to participate in joint operating organizations or in pooling arrangements, and the Council is even authorized to suggest to Contracting States the formation of such organizations.

2. The introduction of a new generation of aircraft, namely, high capacity and supersonic aircraft, is going to increase the problems of competition in international air transport, particularly with regard to small airlines. Some of these airlines might wish to participate in various forms of co-operative arrangements as a means of solving their present and future competition problems. The availability of information on the various forms of co-operation in international air transport that exist might be of assistance to States interested in forming international operating organizations or participating in other co-operative arrangements.

3. This Circular publishes the Consortium Agreement of the SAS and related Agreements.

Note: This Circular has been translated into French and Spanish by ICAO.

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CONSORTIUM AGREEMENT

(As amended December 16, 1958, resp. March 26, 1962).

For the purpose of continuing and widening their co-operation, the undersigned:

AKTIEBOLAGET AEROTRANSPORT (below called ABA)
DET DANSKE LUFTFARTSELSKAB A/S (below called DDL)
DET NORSKE LUFTFARTSELSKAP A/S (below called DNL)

have agreed that their present Agreements of the 31st of July 1946, with Amending Agreement of the 4th of July 1947, and the 25th of June 1949, known respectively as the OSAS and ESAS Agreements, shall cease to be valid as of September 30th 1950 and from and including the 1st of October 1950 the following new Consortium Agreement shall apply between them.

§ 1

NAME AND ACTIVITY OF THE CONSORTIUM

1. The parties hereby form a Consortium, which under the name of

SCANDINAVIAN AIRLINES SYSTEM

Denmark - Norway - Sweden

and for their joint account, and as an entity, shall carry on commercial air traffic and other business in connection therewith, in accordance with the provisions of this Agreement, and otherwise to the extent and in a way the Board of the Consortium deems appropriate.

2. The activity of the Consortium shall be governed by sound business considerations, practice and policy.
3. None of the parties may directly or indirectly carry on, or support, or take any interest in any activity of the kind carried on by the Consortium, unless the other parties agree thereto.
4. Should the competent Governmental authorities so request, each of the parties shall have the right to require that the Consortium shall perform, on conditions to be agreed, domestic traffic which is not considered acceptable from a sound business viewpoint.

§ 2

LIABILITIES OF THE PARTIES

1. As against third parties, the parties are jointly and severally liable for due fulfilment of any obligation which might arise for the Consortium in connection with its activity.
2. The internal relation in the Consortium between the parties shall be as follows:

ABA's share in the Consortium shall be 3/7 (three sevenths)
DDL's share in the Consortium shall be 2/7 (two sevenths)
DNL's share in the Consortium shall be 2/7 (two sevenths)

In accordance herewith the parties shall jointly own all the properties and rights of the Consortium in these proportions, while they in the same proportions shall share any profit or any loss which arises as a result of the activity of the Consortium and between themselves shall be responsible for the obligations of the Consortium.

§ 3

GENERAL PRINCIPLES OF ALLOCATION

Subject to the provision contained in § 1, sub-paragraph 2, the Consortium shall make every effort towards allocating in a reasonable way, the business activities of the Consortium between the three countries.

§ 4

THE CAPITAL OF THE CONSORTIUM

1. The initial capital of the Consortium shall be 157 1/2 million Swedish Kronor, corresponding to approximately 210 million Danish Kroner, and approximately 217 million Norwegian Kroner respectively, to be contributed by the parties causing the following assets and liabilities to be assigned to and taken over by the Consortium:
 - a) All properties and rights jointly owned by and liabilities jointly incurred by the parties under the aforementioned Agreements of the 31st of July 1946 and the 25th of June 1949 as from time to time amended.
 - b) All aircraft and other physical assets which the parties own individually, except real estate located in the three countries and except such items as the parties may specifically agree upon.
 - c) Such liabilities, as the parties may specifically agree upon, for which any of the three parties is responsible.
 - d) Cash funds to the extent required for reaching a net initial capital as set out above.
2. Between the parties a clearing shall thereafter be effected through necessary cash payments, so that the contributions made by the parties

valued as agreed upon between the parties, will become adjusted to correspond with the proportions set out in § 2, sub-paragraph 2.

3. It is agreed that, notwithstanding the provisions in sub-paragraph 1.b) of this § 4, the ownership of each aircraft is retained by the party registered and recorded as owner thereof in accordance with the provisions of § 6, but all aircraft shall internally between the parties be regarded as owned by the Consortium, which latter shall, with regard to third parties, exercise any and all powers appertaining to ownership of the aircraft, including - without limiting the generality hereof - the power to control, use, charter, and lease such aircraft as well as to dispose of same by sale or otherwise.

§ 5

REAL ESTATE AND LEASES

1. Real estate in the three countries, owned by any of the parties, shall be placed at the disposal of the Consortium to the extent and on conditions of lease, as specifically agreed.
2. Current leases in the three countries between a third person and any of the parties, shall be taken over by the Consortium on existing conditions.

§ 6

REGISTRATION OF AIRCRAFT

Aircraft contributed by the parties to the Consortium as capital, in connection with its formation, as well as aircraft later acquired by the Consortium, shall be registered, within each type of aircraft, by approximately 3/7 of each type of aircraft in ABA's name in Sweden, by approximately 2/7 in DDL's name in Denmark, and by approximately 2/7 in DNL's name in Norway, without this having any other effects on rights and liabilities under this Agreement. Deviation from this allocation principle can be made should practical reasons so require, as for instance, if certain types are solely or mainly used within one party's national area. At the time of the formation of the Consortium, the allocation between the parties for registration purposes shall be as specified in the appendix hereto. (*)

§ 7

MANAGEMENT OF THE CONSORTIUM

(Amended March 26, 1962)

1. The affairs of the Consortium shall be managed by an Assembly of Representatives, a Board of Directors and a General Manager (President) assisted by one or several Managers.

(*) This appendix has been excluded in this printed edition, as being obsolete.

2. The Assembly of Representatives shall consist of the persons, who, on each occasion, are members of the Boards of ABA, DDL and DNL. At the Assembly Meetings, however, no more than eight representatives from each party may take part as voting members. These representatives are appointed by the parties for each meeting of the Assembly.
3. The Assembly shall, for one year at a time, elect one of its members to serve as Chairman, as well as one First Vice Chairman and one Second Vice Chairman, and each one shall alternate between the parties unless the Assembly unanimously decides otherwise. In case of intervening inability, the Assembly shall elect a successor to serve for the remaining part of the year.
4. The Board of Directors of the Consortium shall be elected yearly and shall consist of six members with six deputies who shall be appointed by the Assembly on proposal by each party. Each party shall propose two members and two deputies. The Board shall elect one of its members to serve as Chairman, as well as one First Vice Chairman and one Second Vice Chairman, and each one shall alternate between the parties unless the Board unanimously decides otherwise.
5. At the Meetings of the Assembly of Representatives or of the Board of Directors the members present and entitled to vote shall each have one vote. A decision by the Assembly or the Board shall, unless otherwise provided in this Agreement, be considered to be the opinion agreed upon by a majority of those voting, or if the voting is equal, the opinion supported by the Chairman (cfr. § 9, sub-paragraph 6).
6. A representative or Board member may not act in their capacity in connection with any matter wherein they are challengeable.
7. The members of the Board shall receive a reasonable remuneration as well as compensation for travelling and living expenses, as may be decided by the Assembly. The same shall also apply to deputies.

§ 8

THE ASSEMBLY OF REPRESENTATIVES

(Amended March 26, 1962)

1. Meetings of the Assembly of Representatives shall be held twice a year, one in January or February and one in August or September. The place of the meetings shall normally alternate between the three countries. A special Meeting of the Assembly shall be held, when the Board of Directors so decides or when the Auditors or four members of the Assembly so desire.
2. Notice of Assembly Meetings shall, if possible, be given at least two weeks in advance. If special circumstances so require, the time of notice may be shortened. The Notice shall specify the business to be dealt with at the meeting. If any of the Assembly Members present objects thereto, a decision cannot be reached on a matter which has not been specified in the Notice.