

No. 2695

**BRAZIL
and
PORTUGAL**

Air Transport Agreement (with annex and Protocol of Signature). Signed at Lisbon, on 10 December 1946

Exchange of notes constituting an agreement modifying the annex to the above-mentioned Agreement. Lisbon, 19 July 1954

Official text: Portuguese.

Registered by the International Civil Aviation Organization on 18 October 1954.

**BRÉSIL
et
PORTUGAL**

Accord (avec annexe et Protocole de signature) relatif aux transports aériens. Signé à Lisbonne, le 10 décembre 1946

Échange de notes constituant un accord modifiant l'annexe de l'Accord susmentionné. Lisbonne, 19 juillet 1954

Texte officiel portugais.

Enregistrés par l'Organisation de l'aviation civile internationale le 18 octobre 1954.

[TRANSLATION — TRADUCTION]

No. 2695. AIR TRANSPORT AGREEMENT¹ BETWEEN THE UNITED STATES OF BRAZIL AND PORTUGAL. SIGNED AT LISBON, ON 10 DECEMBER 1946

The Government of the United States of Brazil and the Government of Portugal, considering :

That the possibilities of commercial aviation as a means of transport have greatly increased ;

That this means of transport, because of its essential characteristics, permitting rapid connexions, contributes to bringing nations together ;

That it is desirable to organize the regular international air services in a safe and orderly manner and to develop international co-operation in this field without prejudice to national and regional interests ;

That it is necessary to conclude an agreement for the purpose of ensuring regular air communications between the two countries ;

Have appointed for this purpose their representatives who, being duly authorized, have agreed as follows :

Article 1

The Contracting Parties grant each other the rights specified in the annex² to this Agreement, in order that there may be established the regular air services described therein (hereinafter referred to as "agreed services").

Article 2

1. Each of the agreed services may be inaugurated immediately or at a later date, at the option of the Contracting Party to which the rights have been granted, but not before :

(a) The Contracting Party to which the rights have been granted has designated one or more airlines for the specified route or routes ;

(b) The Contracting Party granting the rights has issued the necessary operating permit to the airline or airlines concerned (which, subject to the provisions of paragraph 2 of this article and of article 4, it shall do without delay).

¹ Came into force on 7 July 1954, in accordance with article 13.

² See p. 84 of this volume.

2. The designated airlines may be required to satisfy the aeronautical authorities of the Contracting Party granting the rights that they are qualified to fulfil the conditions prescribed under the laws and regulations normally applied by the said authorities to the operation of commercial airlines.

Article 3

In order to prevent discriminatory practices and to ensure equality of treatment :

1. The charges which either Contracting Party may impose or permit to be imposed on the designated airline or airlines of the other Contracting Party for the use of airports and other facilities shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services.

2. Fuel, lubricating oils and spare parts introduced into or placed on board aircraft in the territory of one Contracting Party by the other Contracting Party directly or by or on behalf of the airlines designated by the other Contracting Party, and intended for use by the aircraft of such designated airlines, shall enjoy national or most-favoured-nation treatment with respect to customs duties, inspection fees and other national duties or charges.

3. Aircraft of one Contracting Party operated on the agreed services, and the fuel, lubricating oils, spare parts, normal equipment and aircraft stores of such aircraft, shall be exempt in the territory of the other Contracting Party from customs duties, inspection fees and similar duties or charges, even though such supplies be used or consumed by such aircraft on flights in that territory.

Article 4

Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Contracting Party and still valid shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services. Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flight above its own territory, certificates and licences issued to its own nationals by the other Contracting Party or by any other State.

Article 5

1. The laws and regulations of one Contracting Party concerning the admission to or departure from its territory of aircraft engaged in international air naviga-

tion, or the operation and navigation of such aircraft within its territory, shall apply to aircraft of the designated airline or airlines of the other Contracting Party.

2. The laws and regulations of one Contracting Party concerning the admission to or departure from its territory of passengers, crew or cargo of aircraft (such as regulations concerning entry, clearance, immigration, passports, customs and quarantine) shall apply to the passengers, crew or cargo of the aircraft of the designated airline or airlines of the other Contracting Party while within the territory of the first Contracting Party.

Article 6

Each Contracting Party reserves the right to withhold permission to exercise the rights specified in the annex to this Agreement from an airline designated by the other Contracting Party, or to revoke such permission, in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in nationals of the other Contracting Party, or in case of failure by that airline to comply with the laws and regulations referred to in article 5 of this Agreement or to fulfil the conditions under which the rights were granted in accordance with this Agreement and its annex, or when aircraft operated by such airline are not manned by nationals of the other Contracting Party, except in cases where air crews are being trained.

Article 7

If either Contracting Party considers it desirable to modify any provision or provisions of the annex to this Agreement, or to exercise the right referred to in article 6, it may request consultations between the aeronautical authorities of the two Contracting Parties, such consultations to begin within a period of sixty days from the date of the request.

Any modification of the annex agreed upon between the said authorities shall come into effect when it has been confirmed by an exchange of notes through the diplomatic channel.

Article 8

Any dispute between the Contracting Parties relating to the interpretation or application of this Agreement or of its annex which cannot be settled through consultation shall, unless the Contracting Parties agree to refer it to an arbitral tribunal for decision, be referred for advisory report to the Interim Council of the Provisional International Civil Aviation Organization in accordance with the provisions of article III, section 6 (8), of the Interim Agreement on International Civil Aviation signed at Chicago on 7 December 1944,¹ or to its successor.

¹ United Nations, *Treaty Series*, Vol. 171, p. 345.

Article 9

Either Contracting Party may at any time give notice to the other of its desire to terminate this Agreement. Such notice shall be simultaneously communicated to the Provisional International Civil Aviation Organization or its successor. If such notice is given, this Agreement shall terminate six (6) months after the date of receipt of the notice by the other Contracting Party, unless the notice is withdrawn by agreement before the expiry of this period. In the absence of acknowledgment of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the Provisional International Civil Aviation Organization or its successor.

Article 10

In the event of the entry into force of a multilateral air convention to which both Contracting Parties subscribe, this Agreement shall be amended to conform with the provisions of the said convention.

Article 11

This Agreement supersedes any documents, licences, privileges or concessions previously granted for any reason by either Contracting Party to airlines of the other Contracting Party.

Article 12

This Agreement shall be registered with the Provisional Civil Aviation Organization established by the Interim Agreement on International Civil Aviation signed at Chicago on 7 December 1944 or with its successor.

Article 13

This Agreement shall come into force when the constitutional requirements of both Contracting Parties have been fulfilled.

DONE at Lisbon, this 10th day of December 1946.

For the Government of Portugal :

(Signed) A. O. SALAZAR

For the Government of the United States of Brazil:

(Signed) Cunha MACHADO

(Signed) Alberto DE MELLO FLORES

ANNEX

1. The Government of the United States of Brazil grants to the Government of Portugal the right to operate air transport services by one or more airlines designated by the Government of Portugal on the routes specified in schedule I¹ attached.

2. The Government of Portugal grants to the Government of the United States of Brazil the right to operate air transport services by one or more airlines designated by the Government of the United States of Brazil on the routes specified in schedule II² attached.

3. The airline or airlines designated by each Contracting Party as provided in the Agreement and this annex shall enjoy, in the territory of the other Contracting Party, rights of transit and of stops for non-traffic purposes at all airports designated for international traffic, as well as the right to pick up and set down international traffic in passengers, cargo and mail at the points enumerated in the attached schedules.

4. (a) The transport capacity provided by the airlines of both Contracting Parties shall bear a close relationship to traffic requirements ;

b) There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to operate air transport services on the routes specified in the attached schedules ;

(c) Where the airlines designated by the two Contracting Parties operate on the whole or part of the same route, they shall take into account their reciprocal interests so as not to affect unduly their respective services ;

(d) The services operated by an airline designated under the Agreement and this annex shall have as their primary objective the provision of capacity adequate to meet traffic demands between the country to which the airline belongs and the country of ultimate destination of the traffic ;

(e) The right of an airline designated by a Contracting Party to pick up and set down, at specified points and on specified routes, international traffic destined for or coming from third countries shall be exercised in accordance with the general principles of orderly development to which both Contracting Parties subscribe and in conditions such that capacity shall be related to :

(1) Traffic requirements between the country of origin and the countries of destination ;

(2) The requirements of the economic operation of the services in question ;

(3) The traffic requirements of the area through which the airline passes, after taking account of local and regional services ;

(f) In relations with third States the provisions of paragraph (e) (3) of this section concerning regional traffic shall apply to Portuguese-Brazilian traffic.

5. The aeronautical authorities of the Contracting Parties shall consult together, at the request of either of them, to determine whether the principles set forth in section 4

¹ See p. 88 of this volume.

² See p. 88 of this volume.

above are being complied with by the airlines designated by the Contracting Parties, and in particular to prevent an unfair proportion of traffic being diverted from any designated airline.

6. If, owing to any technical or material deficiency which can be remedied by the other Contracting Party, an airline or airlines designated by one Contracting Party is temporarily prevented from enjoying fair and equal opportunity to operate the air transport services in question, the situation shall be reviewed by the two Contracting Parties with the object of extending the necessary assistance to the said airline or airlines.

7. Where the onward carriage of traffic by aircraft of different size from that employed on the earlier stage of the same route (hereinafter referred to as "change of gauge") is justified by reason of economy of operation, and where such change of gauge is to be made at a point in the territory of Portugal or the United States of Brazil, the smaller aircraft shall operate only in connexion with the larger aircraft arriving at the point of change, so as to provide a connexion service which shall normally await the arrival of the larger aircraft, for the primary purpose of carrying onward to their ultimate destination in the smaller aircraft passengers who have travelled to Portugal or the United States of Brazil in the larger aircraft.

It is likewise understood that the capacity of the smaller aircraft shall be determined with primary reference to the traffic travelling in the larger aircraft and normally requiring to be carried onward. Where there are vacancies in the smaller aircraft, such vacancies may be filled with passengers from Portugal or the United States of Brazil respectively without prejudice to the local traffic, exclusive of cabotage. The same principles shall apply to change of gauge in the reverse direction.

8. (a) Rates shall be fixed at reasonable levels, in accordance with the provisions of the following paragraphs and due regard being paid to all relevant factors such as economy of operation, reasonable profit, the rates charged by other airlines and the characteristics of each service.

(b) The rates to be charged by the designated airlines of either Contracting Party, between the points in the territory of Portugal and the points in the territory of the United States of Brazil referred to in the attached schedules, shall be subject to approval by the aeronautical authorities of both Contracting Parties.

(c) Any rate proposed by the designated airline or airlines shall be submitted to the aeronautical authorities of both Contracting Parties not less than thirty (30) days before it comes into force, it being understood that the said period of thirty (30) days may be reduced in special cases with the consent of the said aeronautical authorities.

(d) In fixing such rates, the recommendations of the International Air Transport Association shall be taken into consideration.

(e) In the absence of recommendations from the said Association, the Portuguese and Brazilian airlines shall agree on the passenger and goods rates to be applied on the common sections of their routes, after consultation where necessary with the airlines of third countries operating all or part of the same routes.

(f) Should the airlines fail to agree on the rates to be fixed, the aeronautical authorities of the two Contracting Parties shall endeavour to reach a satisfactory solution.

If the aeronautical authorities of the two Contracting Parties are unable to agree on a suitable rate, the procedure laid down in article 8 shall be followed.

9. So long as this Agreement remains in force, the aeronautical authorities of the two Contracting Parties shall exchange information as promptly as possible concerning the authorizations extended to their respective designated airlines to operate air transport services on the routes referred to in the annexed schedules or on sections of the said routes. Such exchange of information shall include copies of the authorizations granted and any modifications thereof.

(Signed) A. O. SALAZAR

(Signed) Cunha MACHADO

(Signed) Alberto DE MELLO FLORES

Schedule I

PORTUGUESE ROUTES TO BRAZIL AND ACROSS BRAZILIAN TERRITORY

(1) From Portugal, via intermediate points in Africa and Ilha do Sal, to Natal or Recife, Rio de Janeiro and São Paulo, in both directions.

(2) From Portugal, via intermediate points in Africa and Ilha do Sal, to Natal or Recife, Rio de Janeiro and São Paulo and/or Montevideo to Buenos Aires and beyond, in both directions, by a reasonably direct route.

Schedule II

BRAZILIAN ROUTES TO PORTUGAL AND ACROSS THE TERRITORY OF PORTUGAL AND ITS COLONIES

(1) From Brazil, via Ilha do Sal and/or other intermediate points in Africa, to Lisbon, in both directions.

(2) From Brazil, via Ilha do Sal and/or other intermediate points in Africa, to Lisbon, and thence to :

(a) Paris and beyond, in both directions, by reasonably direct routes ;

(b) London and beyond, in both directions, by reasonably direct routes ;

(c) Madrid and intermediate points to Rome and beyond, in both directions, by reasonably direct routes.

(Signed) A. O. SALAZAR

(Signed) Cunha MACHADO

(Signed) Alberto DE MELLO FLORES

PROTOCOL OF SIGNATURE

In the course of the negotiations which led to the signature of the Air Transport Agreement between the United States of Brazil and Portugal, signed at Lisbon this day, the representatives of the two Contracting Parties agreed as follows :

1. The concessions provided for in articles 3 and 5 of the Agreement shall be effected as expeditiously and simply as possible in order to avoid undue delay to aircraft employed in international air transport. The customs authorities of both Contracting Parties shall diligently comply with the relevant formalities and regulations.

2. It is understood that the exception provided in the final clause of article 6 of the Agreement applies to the special as well as the general training of air crews. With regard to general training this understanding shall cover only such periods as may be suggested for such training by the Provisional International Civil Aviation Organization or its successor. If the Provisional International Civil Aviation Organization or its successor makes no such suggestion or reaches no conclusion in the matter within one year from the inauguration of the Portuguese air service, the two Contracting Parties shall enter into consultation on the subject.

3. It is recognized that the determination of rates to be applied by an airline of one Contracting Party between the territory of the other Contracting Party and a third country is a complex problem, the overall solution of which cannot be arrived at through consultation between only two countries. It is noted, furthermore, that the method of determining such rates is now being studied by the Provisional International Civil Aviation Organization. It is understood under these circumstances :

- (a) That, pending the acceptance by both Contracting Parties of any recommendations which the Provisional International Civil Aviation Organization may make on this matter, such rates shall be subject to consideration under the provisions of section 4 (c) of the annex to the Agreement ;
- (b) That in case the Provisional International Civil Aviation Organization fails to establish a means of determining such rates satisfactory to both Contracting Parties, the consultation provided for in article 7 of the Agreement shall be in order.

4. Sums received by the designated airlines of the Contracting Parties shall be remitted in accordance with the exchange formalities of the two Contracting Parties, which shall grant ample facilities for the necessary transfers.

(Signed) A. O. SALAZAR

(Signed) Cunha MACHADO

(Signed) Alberto DE MELLO FLORES

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ MODIFYING THE ANNEX TO THE AIR TRANSPORT AGREEMENT OF 10 DECEMBER 1946² BETWEEN THE UNITED STATES OF BRAZIL AND PORTUGAL. LISBON, 19 JULY 1954

ÉCHANGE DE NOTES CONSTITUANT UN ACCORD¹ MODIFIANT L'ANNEXE DE L'ACCORD RELATIF AUX TRANSPORTS AÉRIENS DU 10 DÉCEMBRE 1946² ENTRE LES ÉTATS-UNIS DU BRÉSIL ET LE PORTUGAL. LISBONNE, 19 JUILLET 1954

I

[PORTUGUESE TEXT — TEXTE PORTUGAIS]

Nº 149

Lisboa, em 19 de julho de 1954

Senhor Ministro,

Tenho a honra de propôr a Vossa Excelência, de harmonia com as conversações havidas nesta Capital entre as autoridades aeronáuticas portuguesas e brasileiras, que o Quadro II do Anexo ao Acordo sobre transportes aéreos entre os Estados Unidos do Brasil e Portugal, assinado em Lisboa, em 10 de dezembro de 1946, passe a ter a seguinte redação :

« *Quadro II*

« ROTAS BRASILEIRAS PARA PORTUGAL E ATRAVÉS DO TERRITÓRIO METROPOLITANO E DO DAS PROVINCIAS ULTRAMARINAS PORTUGUESAS

« 1) Do Brasil, via ilha do Sal, e/ou outros pontos intermediários em África, para Lisboa, em ambos os sentidos.

« 2) Do Brasil, via ilha do Sal e/ou outros pontos intermediários em África, para Lisboa, e daí para :

- « a) Paris e além, em rotas razoavelmente directas, em ambos os sentidos ;
- « b) Londres e além, via pontos intermediários na Europa, em rotas razoavelmente directas, em ambos os sentidos ;
- « c) Madrid e pontos intermediários para Roma e além, em rotas razoavelmente directas, em ambos os sentidos ;
- « d) Milão e além, com escala facultativa em Madrid, em rotas razoavelmente directas, em ambos os sentidos ;

¹ Came into force on 19 July 1954, by the exchange of the said notes.

² See p. 67 of this volume.

¹ Entré en vigueur le 19 juillet 1954 par l'échange desdites notes.

² Voir p. 67 de ce volume.

« e) Genebra ou Basileia, Zurique e além, em rotas razoavelmente directas, em ambos os sentidos. »

2. No caso de o Governo Português concordar com estas modificações, proponho que esta Nota e a Nota de resposta de Vossa Excelência sobre o assunto sejam consideradas como constituindo um Acordo formal entre os nossos dois Governos nesta matéria.

3. Nada mais se modifica em relação ao existente, além desta nova enunciação de rotas, válida a partir da presente data.

Aproveito a oportunidade para renovar a Vossa Excelência os protestos da minha mais alta consideração.

a) Olegário MARIANNO

A Sua Excelência o Senhor Professor Doutor Paulo Arsénio Viríssimo Cunha
Ministro dos Negócios Estrangeiros

[TRANSLATION — TRADUCTION]

[TRADUCTION² — TRANSLATION³]

Lisbon, 19 July 1954

Lisbonne, le 19 juillet 1954

No. 149

Nº 149

Your Excellency,

Monsieur le Ministre,

I have the honour to propose to you, in conformity with the conversations held at Lisbon between the Portuguese and Brazilian aeronautical authorities, that schedule II¹ of the annex to the Air Transport Agreement between the United States of Brazil and Portugal signed at Lisbon on 10 December 1946 should be modified to read as follows :

J'ai l'honneur de proposer à Votre Excellence, conformément aux conversations poursuivies à Lisbonne entre les autorités aéronautiques portugaises et brésiliennes, que le tableau II⁴ de l'annexe à l'Accord relatif aux transports aériens entre les États-Unis du Brésil et le Portugal, signé à Lisbonne le 10 décembre 1946, soit maintenant rédigé de la façon suivante :

« *Schedule II*

« *Tableau II*

« BRAZILIAN ROUTES TO PORTUGAL AND ACROSS THE TERRITORY OF PORTUGAL AND PORTUGUESE OVERSEAS PROVINCES

« ROUTES BRÉSILIENNES VERS LE PORTUGAL ET À TRAVERS LE TERRITOIRE MÉTROPOLITAIN ET CELUI DES PROVINCES PORTUGAISES D'OUTRE-MER

« (1) From Brazil, via Ilha do Sal and/or other intermediate points in Africa, to Lisbon, in both directions.

« (1) Du Brésil via l'île du Sel et/ou d'autres points intermédiaires en Afrique vers Lisbonne, dans les deux sens.

¹ See p. 88 of this volume.

² Traduction transmise par l'Organisation de l'aviation civile internationale.

³ Translation transmitted by the International Civil Aviation Organization.

⁴ Voir p. 89 de ce volume.

" (2) From Brazil, via Ilha do Sal and/or other intermediate points in Africa, to Lisbon, and thence to :

- " (a) Paris and beyond, in both directions, by reasonably direct routes ;
- " (b) London and beyond, via intermediate points in Europe, in both directions, by reasonably direct routes ;
- " (c) Madrid and intermediate points to Rome and beyond, in both directions, by reasonably direct routes ;
- " (d) Milan and beyond, with an optional stop at Madrid, in both directions, by reasonably direct routes ;
- " (e) Geneva or Basle, Zurich and beyond, in both directions, by reasonably direct routes. "

2. If the Portuguese Government agrees to the above modifications, I propose that this note and your note in reply shall be regarded as constituting a formal agreement between our respective Governments in this matter.

3. No further changes are made in the existing arrangements other than the above new enumeration of routes, to take effect this day.

I have the honour to be, etc.

(Signed) Olegário MARIANNO

His Excellency Professor
Paulo Arsénio Viríssimo Cunha
Minister of Foreign Affairs

« 2) Du Brésil, via l'île du Sel, et-ou d'autres points intermédiaires en Afrique, vers Lisbonne et, de là, vers :

- « a) Paris et au-delà, en routes raisonnablement directes, dans les deux sens ;
- « b) Londres et au-delà, via points intermédiaires en Europe, en routes raisonnablement directes, dans les deux sens ;
- « c) Madrid et points intermédiaires vers Rome et au-delà, en routes raisonnablement directes, dans les deux sens ;
- « d) Milan et au-delà, avec escale facultative à Madrid, en routes raisonnablement directes, dans les deux sens ;
- « e) Genève ou Bâle, Zurich et au-delà, en routes raisonnablement directes, dans les deux sens. »

2. Au cas où le Gouvernement portugais serait d'accord avec ces modifications, je propose que cette note et la note de réponse de Votre Excellence soient considérées comme constituant un Accord formel entre nos Deux Gouvernements à ce sujet.

3. Aucune modification n'est apportée à ce tableau autre que cette nouvelle énonciation de routes, qui est valable à partir de cette date.

Je saisis cette occasion pour réitérer à Votre Excellence les assurances de ma plus haute considération.

(Signé) Olegário MARIANNO

Son Excellence le professeur
Docteur Paulo Arsénio Viríssimo Cunha
Ministre des affaires étrangères

II

[PORTUGUESE TEXT — TEXTE PORTUGAIS]

MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS

Lisboa, 19 de Julho de 1954

Senhor Embaixador,

Tenho a honra de acusar a recepção da Nota de Vossa Excelência, de hoje, do seguinte teor :

[See note I — Voir note I]

Tenho a honra de informar Vossa Excelência que o Governo Português concorda com as propostas contidas na Nota de Vossa Excelência e considerará essa Nota e a presente resposta como constituindo um Acordo entre os nossos dois Governos nesta matéria.

Aproveito esta oportunidade para reiterar a Vossa Excelência, Senhor Embaixador, os protestos da minha mais elevada consideração.

a) Paulo CUNHA

Sua Excelência o Senhor Olegário Marianno
Embaixador dos Estados Unidos do Brasil
Lisboa

[TRANSLATION — TRADUCTION]

MINISTRY OF FOREIGN AFFAIRS

Lisbon, 19 July 1954

Your Excellency,

I have the honour to acknowledge the receipt of your note of today's date, in the following terms :

[See note I]

I have the honour to inform you that the Portuguese Government agrees to the proposals set forth in your note and will regard the said note and this reply as constituting an agreement

[TRADUCTION — TRANSLATION]

MINISTÈRE DES AFFAIRES ÉTRANGÈRES

Lisbonne, le 19 juillet 1954

Monsieur l'Ambassadeur,

J'ai l'honneur d'accuser réception de la note de Votre Excellence en date d'aujourd'hui, de la teneur suivante :

[Voir note I]

J'ai l'honneur d'informer Votre Excellence que le Gouvernement portugais est d'accord avec les propositions qui figurent dans la note de Votre Excellence et considère cette note et la

between our respective Governments in this matter.

I have the honour to be, etc.

(Signed) Paulo CUNHA

His Excellency Mr. Olegário Marianno
Ambassador of the United States of
Brazil
Lisbon

présente réponse comme constituant un Accord entre nos deux Gouvernements à ce sujet.

Je saisis cette occasion pour réitérer à Votre Excellence les assurances de ma plus haute considération.

(Signé) Paulo CUNHA

Son Excellence M. Olegário Marianno
Ambassadeur des États Unis du Brésil
Lisbonne