

No. 425

**FRANCE
and
SPAIN**

**Convention regulating civil aviation relations. Signed at San
Sebastian, on 23 August 1948**

*French and Spanish official texts communicated by the Secretary-General of the
International Civil Aviation Organization. The registration took place on
13 April 1949.*

**FRANCE
et
ESPAGNE**

**Convention réglementant les relations aériennes civiles.
Signée à Saint-Sébastien, le 23 août 1948**

*Textes officiels français et espagnol communiqués par le Secrétaire général de
l'Organisation de l'aviation civile internationale. L'enregistrement a eu lieu
le 13 avril 1949.*

TRANSLATION — TRADUCTION

No. 425. CONVENTION¹ BETWEEN FRANCE AND SPAIN
REGULATING CIVIL AVIATION RELATIONS. SIGNED
AT SAN SEBASTIAN, ON 23 AUGUST 1948

The French and Spanish Governments, desirous of facilitating air relations between their respective territories, have appointed representatives for this purpose who, duly authorized, have agreed on the following:

TITLE I

GENERAL

Article I

For the purposes of the present convention:

(a) The term "aeronautical authorities" shall mean, in the case of the French Republic, "le Secrétariat Général à l'Aviation Civile et Commerciale", and, in the case of Spain, "el Ministerio del Aire", and, in both cases, any person or body authorized to perform the functions at present exercised by them;

(b) The term "territory" shall be deemed to include the land areas and territorial waters under the sovereignty, suzerainty, protection, mandate or trusteeship of each Contracting Party.

Article II

The civil, commercial or private aircraft of each Contracting Party shall enjoy, in the territory of the other Contracting Party, rights of transit and of stops for non-traffic purposes at the airports open to international traffic, provided that the first and last stops in each country are made at a customs airport.

Article III

It is understood that this right shall not extend to zones the crossing of which by air is prohibited, and shall in all cases be exercised in accordance with the regulations in force in the country whose whole territory is crossed.

¹ Came into force on 23 August 1948, as from the date of signature, in conformity with Article XXXII.

Article IV

Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Contracting Party shall, throughout the period in which they are in force, be recognized as valid by the other Contracting Party.

Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licences granted to its own nationals by the other Contracting Party or by another State.

Article V

(a) The laws and regulations of each Contracting Party relating to the admission to, sojourn within or departure from its territory of aircraft engaged in international air navigation, or to the operation, handling and navigation of such aircraft while within its territory, shall be applied to the aircraft of the other Contracting Party.

(b) The laws and regulations in force in the territory of each Contracting Party as to admission to, sojourn within and departure from its territory of passengers, crew or cargo carried by air, and particularly regulations relating to police formalities, entry, immigration, emigration, passports, clearance, customs, health and currency, shall apply to passengers, crew and cargo carried by air.

Article VI

Aircraft tickets and commercial documents shall be drawn up in accordance with the provisions in force in the contracting country in which the flight originates. Such provisions shall in no case be discriminatory in regard to either Contracting Party.

Article VII

Any offence against the provisions of the air navigation regulations of each Contracting Party which does not constitute a delict and is committed on the territory of that Party shall be communicated to the competent aeronautical authorities of the other Party. Should the offence be serious and be committed by an agent of an airline, the competent aeronautical authorities shall have the right to request the dismissal of such agent.

Article VIII

Should either of the Contracting Parties deem it desirable to modify any clause in the present convention, it may request consultation between the

aeronautical authorities of the two Contracting Parties to begin within a period of sixty (60) days from the date of the request. Any modification of the convention approved by the said authorities will come into force after confirmation by a protocol or an exchange of diplomatic notes.

Article IX

If either Contracting Party has the intention of denouncing the present convention, it shall request consultation with the other Contracting Party. If no agreement is reached within a period of sixty (60) days from the date of dispatch of such request for consultation, the first Contracting Party may notify the other Contracting Party of its denunciation. Notice shall be given through diplomatic channels and the convention shall cease to be in force one hundred and twenty (120) days after such notice.

Article X

Any dispute between the Contracting Parties relating to the interpretation or application of the convention which cannot be settled directly by consultation between the airlines concerned, between the aeronautical authorities or between the respective Governments shall be referred to arbitration in accordance with the usage of international law.

The Contracting Parties undertake to comply with any provisional measures ordered in the course of the proceedings, and with the arbitration award, which shall in all cases be considered as final.

Article XI

The present convention shall replace all privileges, concessions or authorizations previously granted, in whatsoever form, by either of the Contracting Parties to airlines of the other Contracting Party.

TITLE II

AGREED COMMERCIAL SERVICES

Article XII

The Government of the French Republic grants the Spanish Government, and reciprocally the Spanish Government grants the Government of the French Republic, the right to have the air services specified in the attached route schedules operated by one or more airlines designated by their respective Governments, without prejudice to the exercise of the right of cabotage, which each

country reserves to itself. Such services shall hereinafter be referred to as the "agreed services".

Article XIII

(a) Each of the agreed services may be put into operation immediately or at a later date at the option of the Contracting Party to whom the rights are granted, provided always that:

1. The Contracting Party to whom the rights have been granted has designated an airline or airlines for the route or routes specified;

2. The Contracting Party granting the rights has authorized the airline or airlines concerned to open the agreed services, which shall be done without delay subject to paragraph (b) of the present article and to article XV.

(b) The airlines designated 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 these authorities to the operation of commercial airlines.

Article XIV

In order to prevent all discriminatory practices and to respect the principle of equality of treatment:

(a) The taxes or other fiscal charges that either of the Contracting Parties may impose or permit to be imposed upon the airline or airlines designated by 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 airlines operating similar international services.

(b) Fuel, lubricating oils, spare parts, regular equipment and general supplies intended solely for use by aircraft operated by the airlines designated by one Contracting Party for the operation of the agreed services and introduced into the territory of the other Party by such airline or on its behalf, or taken in that territory on board an aircraft belonging to the said airline to be used within that territory, shall be accorded by the other Contracting Party, with respect to the imposition of customs duties, inspection fees or any other fiscal duties or charges, treatment as favourable as that accorded to any aircraft operating similar international services.

(c) Aircraft of one of the Contracting Parties attached to the agreed services, fuel, lubricating oils, spare parts, regular equipment, general supplies and aircraft stores retained on board the said aircraft shall be exempt, in the territory of the other Contracting Party, from customs duties, inspection fees

and all other fiscal duties or charges, even though such supply be consumed or used by such aircraft on flights in that territory.

(d) The supplies listed in the preceding paragraph and exempted in the manner defined therein may not be unloaded save with the approval of the customs authorities of the other Contracting Party. Where such supplies are to be re-exported, they shall be kept, until re-exportation, under the customs supervision of the other Contracting Party but shall remain at the disposal of the airline.

Article XV

Each Contracting Party reserves the right to withhold the authorization to operate referred to in article XIII of the present convention from an airline designated by the other Contracting Party, or to revoke such authorization, whenever it has reason to believe that it has no proof that substantial ownership and effective control of such airline are vested in nationals of that Contracting Party. The same right may be exercised in case of failure of a designated airline to comply with the laws and regulations of the Contracting Party over whose territory it operates, or to perform its obligations under this convention.

Article XVI

Each Contracting Party shall have the right, after previously informing the other Contracting Party, to replace its national airline or airlines designated to operate the agreed services by another airline or airlines. The newly-designated airline or airlines shall have the same rights and duties as its or their predecessors.

Article XVII

The airlines designated by each of the Contracting Parties shall have the right to pick up and set down international traffic in passengers, mail and cargo at the stops referred to in the annexed schedules of routes and on the conditions laid down in the following articles.

Article XVIII

It shall be a fundamental and basic right of each country to operate non-stop "neighbourhood" services between a French territory and a Spanish territory or *vice versa*.

Article XIX

For the operation of the routes listed in paragraphs A of the attached schedules, the aeronautical authorities of the two countries shall comply with the following regulations:

(a) Capacity shall, as far as possible, be divided equally between the French and Spanish airlines operating the same routes.

(b) The total capacity exploited on each route shall be adapted to the requirements which may reasonably be anticipated.

In order to meet unexpected temporary traffic demands on these routes, the designated airlines shall agree between themselves on suitable measures to meet the temporary increase in traffic. They shall immediately report thereon to the aeronautical authorities of their respective countries, who may consult each other if they deem it desirable.

(c) Where the aeronautical authorities of one of the Contracting Parties do not wish to operate, on one or more routes, in whole or in part, the transport capacity granted to them, they shall arrange with the aeronautical authorities of the other Party for the transfer to such authorities, for a definite period, of all or part of the transport capacity available to them during such period.

Where a third country has already acquired or is contemplating the acquisition of rights on one of the routes listed in the attached schedules, the two Governments shall consult together to examine the practical consequences of the exercise of such rights.

Authorities which have transferred their rights in whole or in part may recover them at any time.

Article XX

On each of the routes listed in paragraphs B of the attached schedules, the agreed services shall have as their chief purpose the provision, at a rate of utilization deemed to be reasonable, of capacity adapted to the normal and reasonably foreseeable requirements of international air traffic from or to the territory of the Contracting Party which designated the airline operating the said services.

Each Contracting Party shall have the right to pick up and set down in the territory of the other Party passengers, mail and cargo travelling to or from the stops listed in paragraphs B, including stops in third countries. The exercise of this right shall not prejudice the facilities offered by the other Contracting Party on the routes linking its territory to the said stops in third countries.

Article XXI

The Contracting Parties shall consult each other periodically and at least twice a year with a view to examining the conditions in which the provisions of this title of the convention are applied by designated French and Spanish

airlines and to ensuring that the interests of their local, regional and long-distance services are not injured.

In the course of such consultation the Contracting Parties shall take into account statistics, which shall be regularly exchanged between them, of the traffic carried.

Where one of the Contracting Parties alleges that its neighbourhood or regional services are suffering injury contrary to the spirit of the convention, the aeronautical authorities of the two Parties shall consult each other within a period not exceeding sixty (60) days with a view to the specific and practical application of the provisions of the convention to the matter in dispute.

Article XXII

(a) Tariffs shall be fixed at reasonable levels, regard being had in particular to economical operation, reasonable profit, tariffs proposed by other airlines operating all or part of the same route, and the characteristics of each service, such as conditions of speed and accommodation.

(b) Tariffs charged for traffic picked up or set down at any stop on the route may not be lower than the tariffs charged for the same traffic by the airlines of the Contracting Party operating the local or regional services on the corresponding sector of the route.

(c) Tariffs to be charged on the agreed services between the points in French territory and the points in Spanish territory listed in the annexed schedules shall, so far as possible, be agreed between the designated French and Spanish airlines.

These airlines shall proceed:

1. By applying any resolutions adopted under the tariff-fixing procedure of the International Air Transport Association; or
2. By direct agreement after consultation, where necessary, with any airlines of a third country operating all or part of the same routes.

(d) The tariffs so fixed shall be submitted to the aeronautical authorities of each Contracting Party for approval not less than thirty (30) days before the date laid down for their entry into force; in special cases this time limit may be reduced subject to the agreement of the said authorities.

(e) Should the designated airlines fail to agree on the fixing of a tariff in accordance with paragraph (c) above, or should one of the Contracting Parties make known its dissatisfaction with the tariff submitted to it in accordance with the provisions of paragraph (d) above, the aeronautical authorities of the two Contracting Parties shall endeavour to reach a satisfactory solution.

In the last resort the matter shall be referred to the arbitration provided for in article X of the convention.

The Contracting Party making known its dissatisfaction shall have the right to require the other Contracting Party to maintain the tariffs previously in force pending the announcement of the arbitration award or the ordering of provisional measures in accordance with article X of the present convention.

Article XXIII

(a) As from the entry into force of the present convention, the aeronautical authorities of the two Contracting Parties shall exchange information as quickly as possible concerning the authorizations given to their own designated airlines to operate all or part of the agreed services. Such information shall include in particular copies of the authorizations granted, any amendments thereto, and all annexed documents.

(b) At least one week before their respective services begin to be exploited effectively, the aeronautical authorities of the two Contracting Parties shall notify each other of the time-tables, flight frequencies and types of aircraft to be used. They shall likewise notify each other of any changes in these arrangements.

Article XXIV

The postal authorities of the two Contracting Parties shall co-operate in making arrangements for airmail facilities within the framework of the international postal unions or in accordance with the bilateral agreements, if any, concluded between one of the Contracting Parties and third States.

Article XXV

Subject to authorization by the competent aeronautical authorities, each designated airline may maintain its own technical and administrative staffs at the airports of the other Party. It is understood that such authorization shall cover the minimum staffs necessary for the normal operation of the services.

Article XXVI

So long as visa formalities for the admission of foreigners to the two countries continue, the crews entered in the manifests of aircraft of the two countries attached to the agreed services shall be exempt from visa requirements. They shall hold valid passports, and identification papers issued by the airline to which they belong.

ROUTE SCHEDULES

1. FRENCH SERVICES

A. In either direction between

Paris—Madrid.
Paris—Barcelona.
Algiers—Palma and Marseilles—Palma.
Perpignan—Barcelona.
Toulouse—Barcelona.
Marseilles—Barcelona.
Oran—Valencia.
Algiers—Valencia.
Bordeaux—Bilbao.

B. In either direction between:

Paris—Madrid—Casablanca.
Paris—Madrid—Casablanca—Cape Juby¹ or Villa Cisneros—Dakar.
Marseilles—Palma—Algiers.
Paris—Madrid—Casablanca—Dakar—Recife—Rio de Janeiro—Montevideo—
Buenos Aires—Mendoza—Santiago de Chile.

2. SPANISH SERVICES

A. In either direction between:

Madrid—Paris.
Barcelona—Paris.
Palma—Algiers and Palma—Marseilles.
Barcelona—Perpignan.
Barcelona—Toulouse.
Barcelona—Marseilles.
Valencia—Oran.
Valencia—Algiers.
Bilbao—Bordeaux.

B. In either direction between:

Madrid—Casablanca—Las Palmas and/or Tenerife.

¹ On this route the airline designated by the French Government may not carry commercial traffic (passengers, mail and cargo) between Madrid and Cape Juby (or *vice versa*), though it is understood that the Spanish authorities may request it to do so against reasonable remuneration.

Madrid—Las Palmas—Villa Cisneros or Sal Island or Dakar—Natal or Recife—Rio de Janeiro—Montevideo—Buenos Aires.

Madrid—Paris—London—Dublin.

Madrid—Melilla—Algiers—Tripoli—El Aden—Cairo or Jerusalem—Baghdad or Basra—Karachi or Bombay—Calcutta—Rangoon—Bangkok—Saigon—Manilla (or Calcutta—Mandalay—Hanoi—Hongkong—Manilla).

TITLE III

OTHER AIR TRANSPORT

Article XXVII

The French and Spanish Governments, desirous of facilitating air relations between their two countries other than the air relations forming the subject of the preceding title and, in particular, the carriage of goods by air between the two countries, shall adapt their relevant general regulations so as to reduce, in a spirit of reciprocity, the number of cases requiring preliminary authorization and the time required for the grant of authorization.

Article XXVIII

In all cases, flights to one of the Contracting Parties shall require a preliminary declaration to be made to the authorities of the other Contracting Party, in accordance with regulations to be made by each Party. Such declaration shall be equivalent to authorization wherever preliminary authorization has not been imposed in virtue of article XXX.

Article XXIX

It is understood that in no case may an aircraft of one Contracting Party make more than one traffic stop in the territory of the other Contracting Party.

Article XXX

Preliminary authorization shall be required:

(a) To pick up or set down in the territory of the other Contracting Party traffic destined for or picked up in a third country.

(b) In case of flights between stops (or between airfields geographically close to such stops) on any one route laid down in the route schedules under title II aforesaid, wherever more than four persons are carried.

(c) For all flights to French or Spanish overseas territories other than a North African territory.

(d) Where exemption is sought from the provisions of article XXIX.

Article XXXI

In view of the special nature of the air traffic dealt with in this title, the aeronautical authorities of the Contracting Parties shall consult each other as often as may be necessary for the application of the foregoing provisions.

TITLE IV

FINAL PROVISIONS

Article XXXII

The present convention shall enter into force on the date of its signature.

IN FAITH WHEREOF the plenipotentiaries appointed for this purpose sign the present convention and thereto affix their seals.

DONE at San Sebastian, in duplicate, this 23rd day of August, 1948, in the French and Spanish languages, both texts being equally authentic.

For the Government
of the French Republic:
Bernard HARDION

For the Spanish Government:
Alberto MARTÍN ARTAJO

JOINT DECLARATION

BY THE CHAIRMEN OF THE NEGOTIATING DELEGATIONS

The two delegations have agreed to submit to their respective Governments the proposal that the Joint Commission provided for in the Spanish-French Commercial and Financial Agreement signed at Madrid on 8 May 1948 should consider at its next session the method of clearing any balances in favour of either of the Contracting Parties which may result from sums paid into the Instituto Español de Moneda Extranjera and the Office des Changes respectively, in respect of passenger and freight charges collected by the respective airlines.

La Toja, 29 July 1948.

For the Spanish delegation:
Rafael MARTÍNEZ DE PISÓN

For the French delegation:
A. MATTEI