

No. 556

**FRANCE
and
PORTUGAL**

Agreement on air transport between French and Portuguese territories (with annex). Signed at Lisbon, on 30 April 1946

French and Portuguese official texts communicated by the Secretary-General of the International Civil Aviation Organization. The registration took place on 7 September 1949.

**FRANCE
et
PORTUGAL**

Accord relatif aux transports aériens entre les territoires français et portugais (avec annexe). Signé à Lisbonne, le 30 avril 1946

Textes officiels français et portugais communiqués par le Secrétaire général de l'Organisation de l'aviation civile internationale. L'enregistrement a eu lieu le 7 septembre 1949.

TRANSLATION — TRADUCTION

No. 556. AGREEMENT¹ ON AIR TRANSPORT BETWEEN FRENCH AND PORTUGUESE TERRITORIES. SIGNED AT LISBON, ON 30 APRIL 1946

The Provisional Government of the French Republic and the Government of Portugal

Considering:

— that the possibilities of commercial aviation as a means of transport have greatly increased,

— that it is desirable to organize regular international air services in a safe and orderly manner and to promote to the fullest possible extent the development of international co-operation in this field, and

— that the agreements on the operation of regular air services previously concluded between the two Governments should be replaced by a more general agreement adapted to the new air transport conditions,

have appointed representatives who, being duly authorized, have agreed on the following provisions:

Article I

The Contracting Parties shall grant each other the rights specified in the annex for the establishment of the international services specified therein. Such services may be inaugurated immediately or at a later date, at the option of the Contracting Party to which the rights are granted.

Article II

(a) Each of the air services specified in the annex may be brought into operation as soon as the Contracting Party to which the rights specified in the said annex have been granted has designated an airline or airlines to operate the routes in question.

(b) Any airline so designated by either Contracting Party may be required, before receiving permission to inaugurate the services covered by the present agreement, to satisfy the competent aeronautical authorities of the other Con-

¹ Came into force on 30 April 1946, as from the date of signature, in accordance with article XI.

tracting Party, in accordance with the laws and regulations in force in the territory of the latter, that it possesses the necessary qualifications and commercial standing.

Article III

(a) Each of the Contracting Parties agrees that the charges imposed on the airline or airlines of the other Contracting Party for the use of airports and other facilities shall not be higher than those paid for the use of such airports and facilities by its national aircraft engaged in similar international services.

(b) Fuel, lubricating oils and spare parts introduced into or taken on board aircraft in the territory of either Contracting Party by or on behalf of an airline designated by the other Contracting Party, and intended solely for use by the aircraft of that airline, shall be accorded with respect to customs duties, inspection fees and other duties or charges, the same treatment as national airlines or most-favoured-nation treatment.

(c) Aircraft operated by the airline or airlines designated by either Contracting Party on the routes covered by the present agreement, and fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board the said aircraft shall, upon entering or leaving the territory of the other Contracting Party, be exempt from customs duties, inspection fees and similar duties or charges, even though such supplies be used or consumed by such aircraft on flights over that territory.

Article IV

Certificates of airworthiness, certificates of competency and licences issued or rendered valid by either Contracting Party shall be recognized by the other for the purpose of operating the routes and services specified in the annex. Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flight over its own territory, certificates of competency or licences issued to its own nationals by another State.

Article V

(a) The laws and regulations of either Contracting Party concerning the admission to or departure from its territory of aircraft engaged in international air navigation, or the operation and navigation of such aircraft within its territory, shall apply to aircraft of the airline or airlines of the other Contracting Party.

(b) Passengers, crews and consignors of goods shall comply, either personally or through a third party acting in their name and on their behalf, with the laws and regulations in force in the territory of each Contracting Party governing the entry, stay or departure of passengers, crews or cargo, such as those relating to entry, clearance, immigration, passports, customs and quarantine.

Article VI

Each Contracting Party reserves the right to withhold or revoke a certificate or permit granted to any airline designated by the other Contracting Party if it is not satisfied that substantial ownership and effective control of such airline are vested in nationals of one or other of the Contracting Parties, or if the airline fails to comply with the laws and regulations mentioned in article V, or to perform its obligations under the present agreement.

Article VII

For the purpose of the present agreement and its annex, the term "territory" shall be taken to mean the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection, mandate or trusteeship of one or other of the Contracting Parties.

Article VIII

(a) The Contracting Parties agree to submit to arbitration any dispute relating to the interpretation and application of the present agreement and its annex which cannot be settled by direct negotiation.

(b) Any such dispute shall be referred to the Council of the International Civil Aviation Organization set up by the Convention on International Civil Aviation signed at Chicago on 7 December 1944,¹ or, pending the entry into force of the said Convention between the two Contracting Parties, to the Interim Council set up by the Interim Agreement on International Civil Aviation signed at Chicago on the same date.

(c) Nevertheless, the Contracting Parties may by common agreement settle the dispute by submitting it either to an arbitral tribunal or to any other person or body they may appoint.

(d) The Contracting Parties undertake to comply with the decision given.

Article IX

The present agreement supersedes all previous Franco-Portuguese arrangements relating to air transport, including those concluded between the two Governments by an exchange of notes dated 16 October and 10 November 1934, and 12 and 17 November 1936.

Article X

The present agreement and all contracts connected therewith shall be registered with the Provisional International Civil Aviation Organization set up

¹ United Nations, *Treaty Series*, Volume 15, page 295; Volume 26, page 420; Volume 32, page 402, and Volume 33, page 352.

by the Interim Agreement on International Civil Aviation signed at Chicago on 7 December 1944.

Article XI

(a) The present agreement shall come into force on the date of its signature.

(b) In a spirit of close collaboration, the competent aeronautical authorities of the two Contracting Parties shall from time to time consult together with a view to ensuring the application and satisfactory implementation of the principles laid down in the present agreement and its annex.

(c) In the event of the two Contracting Parties ratifying a multilateral air convention or becoming parties thereto, the present agreement or its annex shall be amended to conform with the provisions of such convention as soon as that convention shall have come into force between them.

(d) Should either of the Contracting Parties desire to modify the terms of the annex to the present agreement, it may request that a consultation be held between the competent aeronautical authorities of the two Contracting Parties, such consultation to begin within a period of sixty days from the date of such request. Any modification to the annex which may be agreed on by the said authorities shall come into force as soon as it has been confirmed by an exchange of diplomatic notes.

(e) Either Contracting Party may at any time give notice to the other of its desire to terminate the present agreement. Such notice shall be simultaneously communicated to the Provisional International Civil Aviation Organization or its successor. The present agreement shall expire twelve months from the date of receipt of the notice by the other Contracting Party, unless such notice be withdrawn by common consent before the end of that period. Failing acknowledgment of receipt of the notice by the Contracting Party to which it was addressed, notice shall be deemed to have been received fourteen days after its receipt by the Provisional International Civil Aviation Organization or its successor.

DONE at Lisbon the thirtieth day of April, nineteen hundred and forty-six, in duplicate, in the French and Portuguese languages, both texts being equally authentic.

For the Portuguese Government:

(Signed) ANTÓNIO DE OLIVEIRA SALAZAR

For the Provisional Government of the French Republic:

(Signed) J. DU SAULT

ANNEX

I

The Government of Portugal grants the Government of the French Republic the right to designate one or more airlines to operate air transport services on the routes (specified in schedule I attached) which cross or serve Portuguese territories.

II

The Government of the French Republic grants the Government of Portugal the right to designate one or more airlines to operate air transport services on the routes (specified in schedule II attached) which cross or serve French territory.

III

(a) The airline or airlines designated by each of the Contracting Parties on the conditions laid down in the agreement shall have the right to cross the territory of the other Contracting Party and to make non-traffic stops therein on the routes and at the points enumerated in part A of schedule I and schedule II.

(b) In order to ensure closer co-operation between the Contracting Parties, to satisfy public air transport requirements and to operate the proposed services in an economic and orderly manner, the airline or airlines designated by each of the Contracting Parties shall enjoy, on the routes and at the points enumerated in parts B and C of schedule I and schedule II, in addition to the rights granted in paragraph (a) of the present section, the right to pick up and set down international passenger, mail and cargo traffic at all airports open to international traffic, on the following conditions:

The competent aeronautical authorities of each Contracting Party shall consult together from time to time, or at the request of either Party, in order to determine the respective proportion of international traffic that each service shall be entitled to operate.

Such proportion shall be calculated and adjusted in relation to traffic requirements at the points in question, due regard being had to the air services operated by each Contracting Party on the route in question or on parallel routes.

The total capacity provided by the services in question shall be determined by the aeronautical authorities of the two countries at the time of consultation and on the basis described in section IV below.

IV

It is agreed between the Contracting Parties that:

(a) The capacity provided by the airlines of the two countries shall be adapted to traffic requirements.

(b) On common routes, the airlines of the two countries shall take their mutual interests into consideration so as not to affect unduly their respective services.

(c) The primary objective of the services enumerated in the attached schedules shall be the provision of capacity adequate to traffic requirements between the country to which the airline belongs and the country of ultimate destination of the traffic.

(d) The right to pick up and set down international traffic to or from third countries at the points or on the routes specified shall be exercised in accordance with the general principles of orderly development to which both Governments have subscribed and in such a way that capacity shall be related to:

1. traffic requirements between the country of origin and the countries of destination;
2. the requirements of economical operation of the services in question;
3. the traffic requirements of the areas traversed, after taking account of local and regional services.

V

Rates shall be fixed at reasonable levels, due regard being paid to operating costs, a reasonable profit margin and the characteristics of each service, such as speed and comfort.

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

Failing any such recommendations from the said Association, the Portuguese and French airlines shall agree on the rates to be charged for passengers and cargo on common sections of their routes, after consultation, should the occasion arise, with the airlines of third countries operating the same routes or parts thereof.

These agreements shall be submitted for the approval of the competent aeronautical authorities of the two countries.

In the event of the airlines being unable to reach agreement on the rates to be charged, the competent aeronautical authorities of the two countries shall endeavour to reach a satisfactory solution.

In the last resort, the matter shall be referred to arbitration as provided for in article VIII of the agreement.

ADDENDUM RELATING TO ROUTES LINKING METROPOLITAN FRANCE AND NORTH AFRICA WITH PORTUGAL AND TO REGIONAL COLONIAL ROUTES OF INTEREST TO BOTH COUNTRIES

(a) The competent aeronautical authorities of the two countries shall agree on the initial capacity to be provided, on the one hand, on the routes linking metropolitan France and North Africa with Portugal and, on the other, on the regional colonial routes specified in schedule I, paragraph C, and schedule II, paragraph C.

Such capacity shall from time to time be adjusted to traffic requirements by direct agreement between the airlines concerned.

The said airlines may also effect temporary adjustments of such capacity in order to meet unexpected or exceptional traffic demands.

Any such adjustments shall be reported immediately to the competent aeronautical authorities of their respective countries, who may consult together if they think fit.

(b) Such capacity shall be divided equally between the Portuguese and French airlines operating the same routes.

(c) Should the competent aeronautical authorities of either of the two countries not wish to utilize, on one or more routes, a part or the whole of the capacity allotted to them, they shall arrange with the aeronautical authorities of the other country for the transfer to the latter, for a fixed period, of the whole or a part of the capacity to which they are entitled within the limits of the total capacity provided for.

Authorities that have transferred the whole or part of their rights may regain them at any time.

(d) Airlines designated by the two countries which operate services on the same routes included among those referred to in paragraph (a) above shall agree on the conditions of operation of the said services.

Such agreement, taking into account the capacities to be provided by each of the operating airlines, shall fix the frequency of services, time-tables, the rates to be charged, and, in general, the conditions on which the services shall be operated by the designated airlines.

(e) Any agreements concluded between airlines, and any modifications to such agreements, shall be submitted for the approval of the competent aeronautical authorities of the two countries.

(f) In the event of third countries beginning to operate services on the routes referred to in the present addendum, the French and Portuguese airlines may, with the approval of their respective aeronautical authorities, come to an agreement with the airline or airlines of the said third countries on the terms of a system of co-operative working based on the same principles.

(Signed) A. D'O. SALAZAR

(Signed) J. DU SAULT

SCHEDULE I

ROUTES THAT MAY BE OPERATED BY FRENCH AIRLINES

A. — *Transit routes* (see annex, section III, paragraph (a)).

1. From France to the Azores and via intermediate points to Canada, the United States, Mexico, Central America or the West Indies, in both directions.

2. From France via Algeria, French West Africa, French Equatorial Africa, Angola, to the Union of South Africa, in both directions.

3. From France, via Tunisia, French Equatorial Africa, Belgian Congo, Portuguese East Africa to Madagascar, in both directions.

B. — *Transit routes with right of traffic stops* (see annex, section III, paragraph (b)).

1. From Marseilles via Lisbon, the Azores and intermediate points, to the United States, Mexico, Central America or the West Indies, in both directions.
 2. From France, via Portugal (Lisbon), Morocco, French West Africa (Dakar) to South America, in both directions.
 3. From Dakar, via Portuguese Guinea (Bolama) and the African coast to Pointe Noire or Brazzaville, in both directions.
 4. From Madagascar, via Portuguese East Africa (Mozambique-Quelimane-Beira-Lourenço Marques) to the Union of South Africa, in both directions.
 5. From Madagascar, via Portuguese East Africa (Mozambique) and British East Africa to Djibouti or Cairo, in both directions.
- C. — *Special routes* (see addendum to the annex).
1. From Paris to Lisbon via Bordeaux, in both directions.
 2. From Marseilles to Lisbon via Spain (Barcelona-Madrid) in both directions.
 3. From Casablanca to Lisbon via Tangier, in both directions.
 4. From Brazzaville to Angola (Loanda-Lobito-Mossamedes) in both directions.

SCHEDULE II

ROUTES THAT MAY BE OPERATED BY PORTUGUESE AIRLINES

A. — *Transit routes* (see annex, section III, paragraph (a)).

1. Lisbon-Marseilles-Athens (or Cairo)-Basra-Karachi-Goa-Rangoon-Hanoi-Macao and beyond, in both directions.
2. Lisbon-Dakar (or Bathurst)-Natal (or Pernambuco)-Rio de Janeiro and beyond, in both directions.
3. Lisbon-Madrid-Geneva-Zurich-Paris-London-Bordeaux-Lisbon, in both directions.

B. — *Transit routes with right of traffic stops* (see annex, section III, paragraph (b)).

1. Any one of the following routes at the option of the Portuguese Government:
 - (a) Lisbon-Cape Juby-Villa Cisneros-Dakar-Bathurst-Bolama-Freetown (or Monrovia)-Takoradi (or Accra)-Lagos-Libreville-Loanda-Vila Luso-Lusaka (or Livingstone)-Lourenço Marques, in both directions,

or

- (b) Lisbon - Dakar - Bamoko - Niamey-Zinder-Fort Lamy-Bangui-Lcopoldville-Loanda-Lourenço Marques, as above,

or

- (c) Lisbon - Colomb Béchar - Aoulef - Goa - Lagos-Libreville-Loanda-Lourenço Marques, as above,

or

- (d) Lisbon - Colomb Béchar - Aoulef - Goa-Niamey-Zinder-Fort Lamy-Bangui-Lcopoldville-Loanda-Lourenço Marques, as above.

2. Lisbon-Madrid-Paris-Brussels and beyond to Amsterdam or Stockholm, via intermediate points, in both directions.

C. — *Special routes* (see addendum to the annex).

1. Lisbon-Paris, via Bordeaux, in both directions.
2. Lisbon-Casablanca, via Tangier, in both directions.
3. Loanda-Brazzaville, in both directions.
4. Points in Angola-Pointe Noire, in both directions.
5. Bolama-Bamako-Niamey (or Goa), in both directions.

(Signed) A. D'O. SALAZAR

(Signed) J. DU SAULT

PROTOCOL OF SIGNATURE

1. The French Government undertakes that any aircraft of the airlines mentioned in schedule I of the annex to the present agreement flying over the continental territory of Portugal shall call at Lisbon, with the exception of special cases in which this provision has previously been waived by the Portuguese Government.

2. In regard to the application of section IV of the annex the French Government recognizes the highly-specialized nature of the air services between Portugal and Brazil, which shall be regarded as having the same character as the services mentioned at the end of paragraph (d) 3 of that section.

Similarly, the Portuguese Government shall regard the portion of airline 2 of schedule II, part B, between Paris, Amsterdam and Stockholm as having the same character.

3. The Contracting Parties agree that the provisions of section III (b) of the annex relating to the right to pick up and set down international passengers, mail and cargo traffic shall not apply:

- (a) To airlines 1 and 2 of part B and airlines 1 and 2 of part C of schedule I in regard to points between Portugal and Spain, or to airline 4 of part B of schedule I in regard to points between Portuguese East Africa and the Union of South Africa;
- (b) To airline 2 of part B of schedule II in regard to points between France and Spain and between France and Belgium.

(Signed) SALAZAR

(Signed) J. DU SAULT