No. 722

DENMARK
and
BRAZIL

Air Transport Agreement (with annex and protocol). Signed at Rio de Janeiro, on 14 November 1947

Official texts of the agreement and the annex : Danish, Portuguese and French.
Official text of the protocol : French.
Registered by the International Civil Aviation Organization on 20 February 1950.

DANEMARK
et
BRÉSIL

Accord relatif aux transports aériens (avec annexe et protocole). Signé à Rio-de-Janeiro, le 14 novembre 1947

Textes officiels de l'accord et l'annexe : danois, portugais et français.
Texte officiel du protocole : français.
Enregistré par l'Organisation de l'aviation civile internationale le 20 février 1950.

TRANSLATION — TRADUCTION

No. 722. AIR TRANSPORT AGREEMENT[1] BETWEEN THE GOVERNMENT OF DENMARK AND THE GOVERNMENT OF THE UNITED STATES OF BRAZIL. SIGNED AT RIO DE JANEIRO, ON 14 NOVEMBER 1947

The Government of Denmark and the Government of the United States Brazil, 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 regular international air services in a safe and orderly manner and to further as much as possible the development of international co-operation in this field without prejudice to national and regional interests;

that it is their desire to achieve the conclusion of a general multilateral Convention on international air transport governing all nations;

that, pending the conclusion of such general multilateral Convention to which the two Governments will be parties, it is necessary to conclude an Agreement for the purpose of ensuring regular air communications between the two countries in accordance with the provisions of the Convention on International Civil Aviation signed at Chicago on 7 December 1944 [2];

have appointed for this purpose their plenipotentiaries who, having exchanged their full powers, found in good and due form, have agreed as follows :

Article 1

The Contracting Parties grant each other the rights specified in this Agreement and its Annex, in order that there may be established the regular interna-

[1] Came into force on 10 March 1949, by exchange of notes, in accordance with article 12.

[2] United Nations, *Treaty Series*, volume 15, page 295 ; volume 26, page 420 ; volume 32, page 402 ; volume 33, page 352 ; and volume 44, page 346.

tional air services described therein and 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 national airlines for the specified route or routes;

(*b*) the Contracting Party granting the rights has authorized the airline or airlines concerned to inaugurate the agreed services, which, subject to the provisions of paragraph 2 of this article and of article 4, it shall do without delay.

2. The designated airlines may be required to satisfyt he 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 to the operation of commercial airlines.

Article 3

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

1. The charges which either of the Contracting Parties 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 the territory of one Contracting Party or taken on board aircraft in the territory of one Contracting Party by or on behalf of an airline designated by the other Contracting Party and intended solely for use by the aircraft of such designated airline, shall enjoy, with respect to customs duties, inspection fees and other duties or charges imposed by the first Contracting Party, treatment not less favourable than that granted to national airlines of to airlines of the most favoured nation.

3. Aircraft of one Contracting Party operated on the agreed services, and fuel, lubricating oils, spare parts, normal equipment and aircraft stores retained on board 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 within that territory.

Article 4

Each Contracting Party reserves the right to withhold an operating permit from an airline designated by the other Contracting Party, or to revoke such permit 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 13 of the Convention on International Civil Aviation or to perform its obligations under the present 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 5

If either of the Contracting Parties considers it desirable to modify any provision or provisions of the Annex to this Agreement, or to exercise the right specified in article 4, it may request consultation between the competent aeronautical authorities of the two Contracting Parties, such consultation to begin within a period of sixty (60) 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 6

Any dispute between the Contracting Parties relating to the interpretation or application of this Agreement or of its Annex which is not covered by the provisions of chapter XVIII of the aforementioned Convention on International Civil Aviation, and which cannot be settled through direct consultation, shall be

referred for decision to an Arbitral Tribunal or to some other agreed person or body.

Article 7

Either Contracting Party may at any time give notice to the other if it desires to terminate this Agreement. Such notice shall be sent simultaneously to the International Civil Aviation Organization. The Agreement shall terminate six (6) months after the date of receipt of the notice to terminate by the other Contracting Party, unless the notice is withdrawn by agreement between the Contracting Parties 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 International Civil Aviation Organization.

Article 8

With the entry into force of a multilateral Convention ratified by both Contracting Parties, this Agreement and its Annex shall be amended so as to conform with the provisions of the said multilateral Convention.

Article 9

This Agreement supersedes any privileges, concessions or permissions previously granted for any reason by one of the Contracting Parties to airlines of the other Contracting Party.

Article 10

This Agreement and all contracts connected therewith shall be registered with the International Civil Aviation Organization.

Article 11

For the purposes of this Agreement and its Annex :

(*a*) the term « aeronautical authorities » shall mean, in the case of Denmark, the Minister of Public Works and, in the case of the United States of Brazil, the Minister for Air, or, in both cases, any person or agency authorized to perform the functions at present exercised by them;

(*b*) the term « designated airline » shall mean any airline which has been selected by one of the Contracting Parties to operate the agreed services, and in respect of which notification has been sent to the competent aeronautical authorities of the other Contracting Party in accordance with article 2 of this Agreement;

(*c*) the term « regular international air service » shall mean any international service operated on a regular schedule by a designated airline in accordance with time-tables and routes agreed to in advance by the Governments concerned.

Article 12

This Agreement shall be approved or ratified as the case may be, in accordance with the terms of the Constitution of each Contracting Party, and shall come into force on the date of the exchange of diplomatic notes to this effect, which shall take place as soon as possible.

The Contracting Parties shall endeavour to put the provisions of this Agreement into effect, so far as lies within their administrative powers, thirty (30) days after the date of signature.

IN WITNESS WHEREOF the undersigned plenipotentiaries have concluded the present Agreement and have thereto affixed their seals.

DONE in duplicate, at Rio de Janeiro, this 14th day of November 1947, in the Danish, Portuguese and French languages, the French text being regarded as authentic in case of doubt as to the interpretation of the Danish and Portuguese texts.

(*Signed*) Otto WADSTED
(*Signed*) Raul FERNANDES
(*Signed*) Armando TROMPOWSKY

ANNEX

I

The Government of the United States of Brazil grants the Government of Denmark the right to operate air transport services by one or more airlines designated by the latter Government on the routes specified in Schedule I attached.

II

The Government of Denmark grants the Government of the United States of Brazil the right to operate air transport services by one or more airlines designated by the latter Government on the routes specified in Schedule II attached.

III

The airline or airlines designated by each of the Contracting Parties under the conditions provided in the Agreement and the present Annex shall enjoy, in the territory of the other Contracting Party, on each of the routes described in the attached Schedules, rights of transit and of stops for non-traffic purposes at airports open to international traffic, as well as the right to pick up and set down international traffic in passengers, mail and cargo at the points enumerated in the said Schedules, in accordance with the provisions of Section IV.

IV

(*a*) The air transport capacity provided by the designated 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 the agreed services.

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

(*d*) The agreed services shall have as their primary objective the provision of capacity adequate to traffic demands between the country to which the airline belongs and the countries of ultimate destination of the traffic.

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

1. to traffic requirements between the country of origin and the countries of destination;
2. to the requirements of economic through-airline operation;
3. to the traffic requirements of the area through which the airline passes, after taking account of local and regional services.

V

The aeronautical authorities of the Contracting Parties may consult together, at the request of either of them, to determine the conditions in which the principles set forth in section IV above are being complied with, and in particular to prevent an unfair proportion of traffic being diverted from any designated airline.

VI

(*a*) The determination of rates shall be made at reasonable levels, regard being paid in particular to economy of operation, reasonable profit, the rates charged by other airlines and the characteristics of each service, such as conditions of speed and accommodation.

(*b*) The rates to be charged by the designated airlines of either Contracting Party between the points in Brazilian territory and the points in Danish territory referred to in the attached Schedules, shall be subject to approval by the aeronautical authorities of the Contracting Parties not less than thirty (30) days before the proposed date of introduction, provided that this period pay be reduced in particular cases with the consent of the said authorities.

(*c*) The airlines of each Contracting Party shall agree on the passenger and goods rates to be applied on the joint sections of their routes, after consultation where necessary with the airlines of third countries operating all or part of the same routes.

(*d*) In fixing these rates, account shall be taken of the recommendations of the International Air Transport Association (I.A.T.A.).

(*e*) Should the designated airlines fail to agree on the rates to be established, 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 6 of the Agreement.

VII

(*a*) For the purposes of the present section, the term « transshipment » shall mean the transportation by the same airline of traffic beyond a certain point on a given route by different aircraft than those employed on the earlier stages of the same route.

(*b*) Transshipment when justified by economy of operation shall be permitted at all points mentioned in the attached Schedules in the territory of the two Contracting Parties.

(*c*) However, no transshipments shall be made in the territory of either Contracting Party which would alter the long range characteristics of the operation or which would be inconsistent with the standards set forth in this Agreement and its Annex and particularly section IV of this Annex.

(*d*) In particular, in the case of services originating in the country in which the aircraft are registered, no onward flight after transshipment shall be effected except in connexion with the arrival of the aircraft employed up to the point of transshipment. Similarly, the capacity of the aircraft employed after transshipment shall be determined with reference to the traffic arriving at the point of transshipment and requiring to be carried beyond that point.

(*e*) If any capacity is available in the aircraft employed after a transshipment operation effected in accordance with the provisions of paragraph (*d*) above, such capacity may be allotted in either direction, to international traffic from or to the territory in which transshipment was effected.

VIII

Changes made by either Contracting Party in the routes described in the attached Schedules, except changes in the points served by these airlines in the territory of the other Contracting Party, shall not be considered as modifications of the Annex. The aeronautical authorities of either Contracting Party may therefore proceed unilaterally to make such changes, provided, however, that notice of any change is given without delay to the aeronautical authorities of the other Contracting Party.

If such aeronautical authorities find that, having regard to the principles set forth in section IV of the present Annex, the interests of their national airlines are prejudiced by the carriage by the airlines of the first Contracting Party of traffic between the territory of the second Contracting Party and the new point in the territory of a third country, the authorities of the two Contracting Parties shall consult with a view to arriving at a satisfactory agreement.

IX

After the present Agreement comes into force, the aeronautical authorities of both Contracting Parties shall exchange information as promptly as possible concerning the authorizations extended to their respective designated airlines to operate the agreed services or fractions thereof. Such exchange of information shall include copies ot the authorizations granted, any modifications thereof and all annexed documents.

SCHEDULE I

A. *Danish route to Brazilian territory.*

From Denmark, via intermediate points in Europe and Africa to Natal or Recife, and Rio de Janeiro in both directions.

B. *Danish route serving and crossing Brazilian territory.*

From Denmark via intermediate points in Europe and Africa to Natal or Recife, Rio de Janeiro and points beyond, via Porto Alegre, by a reasonably direct route in both directions.

SCHEDULE II

A. *Brazilian route to Danish territory.*

From Brazil via intermediate points in Africa and Europe to Copenhagen in both directions.

B. *Brazilian route serving and crossing Danish territory.*

From Brazil via intermediate points in Africa and Europe to Copenhagen and points beyond by a reasonably direct route in bo h directions.

PROTOCOL

In the course of the negotiations leading to the signature of the Air Transport Agreements between the Government of the United States of Brazil and the Governments of Denmark, Norway and Sweden, concluded at Rio de Janeiro this day, the representatives of the Contracting Parties agreed as follows :

1. Whereas the airline services « DET DANSKE LUFTFARTSELSKAB (D. D. L.) » « DET NORSKE LUFTFARTSELSKAB A/S (D. N. L.) » and « SVENSK INTERKONTINENTAL LUFTTRAFIK AKTIEBOLAG (S. I. L. A.) » are at present jointly operated under the name of « SCANDINAVIAN AIRLINES SYSTEM (S. A. S.) », the aeronautical authorities of the United States of Brazil agree, for as long as this situation exists, to accept as national crews for the purpose of article 4 of the Agreements, mixed crews the members of which are nationals of the three countries, with due regard to the provisions of the Convention on International Civil Aviation concluded at Chicago on 7 December 1944.

2. Aircraft belonging to the three above-mentioned airlines incorporated in the « SCANDINAVIAN AIRLINES SYSTEM (S. A. S.) » may be used on any of the routes specified in the Schedules attached to the Annexes to the Agreements signed this day, for as long as the situation referred to in the preceding paragraph continues to exist.

3. Third-party risks and the obligations laid down in the above-mentioned Agreements shall be borne by the designated airline for whose account the given aircraft is operated.

DONE at Rio de Janeiro, in quadruplicate, this 14th day of November 1947.

(*Signed*) Otto WADSTED
(*Signed*) Ivar MELHUUS
(*Signed*) Ragnar KUMLIN
(*Signed*) Raul FERNANDES
(*Signed*) Armando TROMPOWSKY