

**No. 3230**

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**SPAIN  
and  
PERU**

**Agreement (with annex) for air services between and  
beyond their respective territories. Signed at Lima,  
on 31 March 1954**

*Official text: Spanish.*

*Registered by the International Civil Aviation Organization on 11 April 1956.*

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**ESPAGNE  
et  
PÉROU**

**Accord (avec annexe) relatif aux services aériens entre  
leurs territoires respectifs et au-delà. Signé à Lima,  
le 31 mars 1954**

*Texte officiel espagnol.*

*Enregistré par l'Organisation de l'aviation civile internationale le 11 avril 1956.*

[TRANSLATION — TRADUCTION]

No. 3230. AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF SPAIN AND THE GOVERNMENT OF THE REPUBLIC OF PERU FOR AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES. SIGNED AT LIMA, ON 31 MARCH 1954

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The Government of Spain and the Government of the Republic of Peru, desiring to facilitate civil air transport as a means of strengthening, through rapid communications, the bonds of friendship and brotherly relations between the Spanish and Peruvian peoples, have decided to conclude the present Agreement and have for this purpose appointed as their plenipotentiaries :

The Government of Spain : His Excellency Mr. Tomás Suñer Ferrer, Ambassador of Spain to Peru, and

The Government of Peru : Dr. Ricardo Rivera Schreiber, Minister of State for Foreign Affairs,

who, having exchanged their full powers, found in good and due form, have agreed as follows :

*Article I*

Each Contracting Party grants to the other the rights specified in the Annex<sup>2</sup> to this Agreement for the purpose of establishing the air services described therein and hereinafter referred to as the "agreed services".

*Article II*

The operation of air services between their respective territories is a fundamental and basic right of the two Contracting Parties.

*Article III*

For the purposes of this Agreement and its Annex, except where the text provides otherwise :

(a) The term "aeronautical authorities" shall mean, in the case of Spain, the Dirección General de Aviación Civil del Ministerio del Aire, or any other person or body authorized to perform the functions at present exercised by the said

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<sup>1</sup> Came into force provisionally on 31 March 1954, upon signature, and definitively on 22 December 1955, upon ratification, in accordance with article XVII.

<sup>2</sup> See p. 86 of this volume.

Dirección General, and, in the case of the Republic of Peru, the Ministerio de Aeronáutica or any other person or body authorized to perform the functions at present exercised by the said Ministerio.

(b) The term "designated airline" shall mean the airline or airlines which the aeronautical authorities of each Contracting Party have designated, after giving notice thereof in writing to the aeronautical authorities of the other Contracting Party, in accordance with article IV of this Agreement, to operate the routes specified in such notice.

(c) The term "territory" shall have the meaning given to it by article II of the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944.<sup>1</sup>

(d) The definitions contained in paragraphs (a), (b), and (d) of article 96 of the aforementioned Convention shall apply.

#### *Article IV*

1. The agreed services may be inaugurated immediately or at a later date at the option of the Contracting Party to whom the rights are granted, on condition that :

(a) The Contracting Party to whom the rights are granted has designated an airline for the route or routes specified ; and that

(b) The Contracting Party granting the rights has given the appropriate operating permission to the designated airline, which it shall do without delay, subject to paragraph 2 of this article and to article XI.

2. Each airline may be required to satisfy the aeronautical authorities of the Contracting Party granting the rights that it is qualified to fulfil the conditions prescribed under the laws, regulations and other provisions governing the operation of commercial air services in force in the country granting the rights.

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

#### *Article V*

1. The charges which either Contracting Party may impose or permit to be imposed on the airline designated by the other Contracting Party for the use

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<sup>1</sup> See footnote 3, p. 11 of this volume.

of airports and other installations shall not be higher than would be paid for the use of such airports and installations by its national airlines or the airline of the most favoured nation, operating international services.

2. Aircraft of the airline designated by one Contracting Party and fuel, lubricating oils, spare parts, regular equipment and aircraft stores carried on board such aircraft on their arrival in the territory of the other Contracting Party and retained on board on departure, shall be exempt, in that territory, from customs duties, inspection fees and similar national or local duties or charges.

3. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores not included under paragraph 2, introduced into the territory of one Contracting Party or taken on board in that territory by or on behalf of the airline designated by the other Party and intended solely for use by the aircraft of that airline, shall enjoy the following treatment with regard to customs duties and other charges :

(a) Fuel and lubricating oils taken on board the aircraft in that territory and retained on board at the last airport at which the aircraft land before leaving that territory : exemption from export duty ;

(b) Spare parts and regular aircraft equipment introduced into that territory : the same treatment as that applied to national airlines and the airlines of the most favoured nation ;

(c) Fuel, lubricating oils, spare parts, regular equipment and aircraft stores not included under paragraphs (a) and (b) : treatment not less favourable than that granted to similar articles taken on board in or introduced into the said territory and intended for use by aircraft of a national airline or of the most favoured foreign airline operating international air services.

#### *Article VI*

Certificates of airworthiness, certificates of competency and licences issued or accepted 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 of competency and licences granted to its own nationals by the other Contracting Party or by any other State.

#### *Article VII*

Each designated airline may maintain its own technical and administrative staffs in the territory of the other Contracting Party. Without prejudice to the

national legislation of the Contracting Parties, it is understood that such authorization shall cover the minimum staffs necessary for the normal operation of the services.

*Article VIII*

The postal authorities of the two Contracting Parties shall co-operate in making arrangements for airmail facilities in accordance with the standards laid down in the existing international conventions in that field.

*Article IX*

The aeronautical authorities of the Contracting Parties shall, in so far as their obligations under unilateral agreements permit, make every endeavour to reach agreement on the minimum facilities and services to be extended reciprocally at airports and at other points on the specified routes, such as air navigation facilities, exchanges of information, units of measure, language to be used, and codes.

*Article X*

1. The laws, regulations and other provisions of each Contracting Party relating to the admission to, stay in or departure from its territory of aircraft engaged in international air navigation, or to the operation, handling and navigation of such aircraft shall apply to the aircraft of the airline designated by the other Party while within that territory.

2. The laws, regulations and other provisions of each Contracting Party relating to the admission to, stay in and departure from its territory of passengers, crew or cargo of aircraft (such as provisions relating to entry, clearance, passports, customs, immigration, emigration, police, health and currency) shall apply to the passengers, crew and cargo of aircraft of the airline designated by the other Party while within that territory.

3. So long as visa formalities for the admission of aliens to the territory of either Contracting Party continue, the crew members entered in the manifest of any aircraft operating a service agreed to in this Agreement shall be exempt from the passport and visa requirement provided they are in possession of the identity document prescribed in paragraph 3-10 of annex 9 to the aforementioned Chicago Convention.

*Article XI*

Subject to consultation with the other Party, such consultation to be held within a period of sixty days following the date on which it is requested, each of

the Contracting Parties reserves the right to withhold or revoke the exercise of the rights specified in the annex to this Agreement, or to impose such conditions as it thinks fit on the airline designated by the other Party, whenever it considers that the substantial ownership and effective control of that airline are not vested in the other Party or its nationals. It may also, without prior consultation, withhold or revoke the exercise of such rights or impose such conditions as it thinks fit, in any case where the airline fails to comply with the laws, regulations and other provisions referred to in article X of this Agreement, or otherwise fails to fulfil the conditions under which the said rights were granted.

#### *Article XII*

This Agreement shall be registered with the Council of the International Civil Aviation Organization, in accordance with the provisions of article 83 of the Convention opened for signature at Chicago on 7 December 1944.

#### *Article XIII*

If either of the Contracting Parties considers it desirable to modify the provisions of the annex to this Agreement, it may request consultation between the aeronautical authorities of both Contracting Parties, such consultation to take place within a period of sixty days from the date of the request. If the said authorities agree on modifications of the annex, such modifications shall come into effect after they have been confirmed by an exchange of diplomatic notes.

#### *Article XIV*

1. Any dispute concerning the interpretation or application of this Agreement or its annex which it has not been possible to settle by negotiation between the Parties within a period of sixty days from the date on which negotiations were requested by one of the Parties, shall, in the absence of express agreement to the contrary, be referred to the International Civil Aviation Organization or to arbitration by a person, body or tribunal designated by agreement between the Parties, which undertake to comply with the decision given.

2. If the dispute is referred to an arbitral tribunal, the constitution and procedure of such tribunal shall be in accordance with the following paragraphs :

(a) The tribunal shall be composed of three arbitrators. Each Contracting Party shall appoint one arbitrator and the third shall be nominated by agreement between the first two and shall not be a national of either Party.

(b) The first two arbitrators shall be appointed within the fifteen days following the date of the receipt by one of the Parties of a diplomatic note from the other Party requesting arbitration. The third arbitrator shall be nominated within thirty days following the appointment of the first two.

(c) If no agreement is reached within the prescribed period on the nomination of the third arbitrator, the Contracting Parties shall request the Council of the International Civil Aviation Organization to nominate him.

(d) The arbitral tribunal so appointed shall give its decision within a period of not more than thirty days following the date of its establishment. This period may be extended by agreement between the two Parties.

*Article XV*

If a multilateral air transport convention ratified by both Contracting Parties enters into force, this Agreement shall be amended so as to conform with the provisions of such convention.

*Article XVI*

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 Council of the International Civil Aviation Organization. If such notice is given, this Agreement shall terminate one hundred and eighty days after the date of receipt of the notice by the other Contracting Party, unless the notice in question is withdrawn by agreement before the expiry of this period. If the other Contracting Party fails to acknowledge receipt of the notice, the notice shall be deemed to have been received fourteen days after its receipt by the Council of the International Civil Aviation Organization.

*Article XVII*

1. This Agreement shall enter into force provisionally on the date of signature and definitively on the date of its ratification.

2. Pending the deposit of the instruments of ratification and the definitive entry into force of this Agreement, the Contracting Parties undertake to give effect, within the limits of their constitutional powers, to its provisions as from the date of signature.

DONE in duplicate at Lima, this thirty-first day of March 1954, in the Spanish language.

For the Government of Spain :	For the Government of the Republic of Peru :
Tomás SUÑER	Ricardo RIVERA

## ANNEX

For the purpose of operating air services on the routes specified in the schedule to this annex, the airline of each Contracting Party shall enjoy, in the territory of the other Contracting Party, rights of transit and non-traffic stops at airports designated by each country for international traffic, as well as the right to pick up and set down international traffic in passengers, cargo and mail originating principally in the territory of either Contracting Party, on the conditions laid down in this annex.

In order to regulate these services in an orderly manner the Contracting Parties have agreed as follows :

(a) There shall be equal opportunity for the airlines of the two Contracting Parties to operate the specified routes;

(b) The air transport capacity provided shall have as its primary objective the satisfaction of traffic demands between the territories of the Contracting Parties.

The services initially provided by each airline shall have as their primary objective the provision, at a reasonable load factor, of transport capacity adequate to meet the normal and reasonably foreseeable requirements of traffic from or to the territory of the Contracting Party which designated the airline.

(c) The capacity provided by the designated airlines in the light of the principles laid down in the foregoing may be revised upwards whenever statistics show that during the six months preceding the request for revision the load factor of the aircraft of the airline desiring the revision has been higher than 80 per cent, and downwards when the said load factor has been lower than 60 per cent.

The new frequencies shall be determined by consultation between the aeronautical authorities.

(d) The airlines designated by each of the Contracting Parties shall have the right to pick up and set down in the territory of the other Party commercial traffic in passengers, mail and cargo destined for or proceeding from the indicated points on the specified routes.

This traffic shall be operated as supplementary to the principal traffic between the two Contracting Parties and the capacity provided for it shall not affect unduly the development of the corresponding local and regional services.

(e) The aeronautical authorities of the two Parties shall consult each other periodically, or at any time at the request of either of them, and within fifteen days from the date of such request, in order to determine whether the designated airlines are duly observing the principles of this annex.

(f) The rates to be charged for the transport of passengers, cargo and mail by the airlines to which this annex refers shall be fixed in the first instance by agreement between them, after consultation with other airlines operating all or part of the same routes, and shall be based as far as possible on information furnished by the Rates and Tariffs Office of the International Air Transport Association (IATA).

The rates so fixed shall be subject to the approval of the Contracting Parties. In case of disagreement between the airlines, the Contracting Parties shall endeavour to



reach a solution, and if they fail to do so, the matter shall be referred to arbitration as provided for in article XIV of the Agreement.

(g) The rates established in accordance with paragraph (f) shall be fixed at reasonable levels, regard being paid to all relevant factors such as economy of operation, reasonable profit, differences in characteristics of service, including speed and accommodation, and the rates charged by other airlines serving the same route.

(h) Each Contracting Party shall, within the limits of its legal powers, ensure that no new or revised rate schedule comes into force so long as a dispute in the matter exists between the aeronautical authorities of the two Parties.

#### SCHEDULE I

##### *Spanish routes terminating in or crossing Peruvian territory*

1. Spain–Lisbon–Azores–Bermuda and/or Miami and/or Havana and/or San Juan, Puerto Rico–Caracas–Barranquilla–Quito (Guayaquil)–Lima and points beyond outside Peru (in both directions).

For operational convenience, the following alternative route may be flown in either direction :

II. Spain–Sal Island–Trinidad–Caracas–Barranquilla–Quito (Guayaquil)–Lima and points beyond outside Peru (in both directions).

NOTE : The airline or airlines operating these routes may omit one or more intermediate stops, provided the omission is previously announced in their time-tables.

#### SCHEDULE II

##### *Peruvian routes terminating in or crossing Spanish territory*

1. Peru–Quito (Guayaquil)–Caracas–Puerto Rico–Bermuda–Azores–Lisbon–Madrid and points beyond outside Spain (in both directions).

For operational convenience, the following alternative route may be flown in either direction :

II. Peru–Quito (Guayaquil)–Caracas–Trinidad–Sal Island–Lisbon–Madrid and points beyond outside Spain (in both directions).

NOTE : The airline or airlines operating these routes may omit one or more intermediate stops, provided the omission is previously announced in their time-tables.