

No. 3599

**PORTUGAL
and
ITALY**

**Air Transport Agreement (with annex). Signed at Lisbon,
on 5 April 1950**

Official texts: Portuguese and Italian.

Registered by the International Civil Aviation Organization on 1 December 1956.

**PORTUGAL
et
ITALIE**

**Accord (avec annexe) relatif aux transports aériens. Signé
à Lisbonne, le 5 avril 1950**

Textes officiels portugais et italien.

Enregistré par l'Organisation de l'aviation civile internationale le 1^{er} décembre 1956.

[TRANSLATION¹ — TRADUCTION²]

No. 3599. AIR TRANSPORT AGREEMENT³ BETWEEN PORTUGAL AND ITALY. SIGNED AT LISBON, ON 5 APRIL 1950

The Government of Portugal and the Government of the Italian Republic desiring to conclude an agreement for the purpose of establishing, on a basis of reciprocity, regular air communications between their respective territories, have agreed as follows :

Article I

For the purpose of the present Agreement and its Annex,⁴ except as otherwise provided in the text :

(a) the term “aeronautical authorities” shall mean :
in the case of Portugal

the “Ministério das Comunicações — Direcção Geral da Aeronáutica Civil” or any person or body authorised to perform the functions presently exercised by the “Ministério das Comunicações — Direcção Geral da Aeronáutica Civil”.

in the case of Italy

the “Ministero della Difesa-Aeronautica — Direzione Generale della Aviazione Civile e del Traffico Aereo” or any person or body authorised to perform the functions presently exercised by the “Ministero della Difesa-Aeronautica — Direzione Generale dell’Aviazione Civile e del Traffico Aereo”.

(b) the term “designated airline” shall mean an airline which the aeronautical authorities of one Contracting Party have notified, in writing, to the aeronautical authorities of the other Contracting Party as being the airline designated by that Party, subject to the provisions of Article III of the present Agreement, to operate the routes mentioned in said notification;

(c) the term “territory” shall have the meaning specified in Article 2 of the Chicago Convention on International Civil Aviation (December 7th, 1944);⁵

¹ Translation by the Government of Portugal.

² Traduction du Gouvernement du Portugal.

³ Came into force provisionally on 5 April 1950, as from the date of signature, in accordance with article XIV.

⁴ See p. 356 of this volume.

⁵ See footnote 2, p. 265 of this volume.

(*d*) the definitions given in paragraphs *a*), *b*) and *d*) of Article 96 of the Chicago Convention on International Civil Aviation (December 7th, 1944 shall apply to the present Agreement.

Article II

The Contracting Parties grant to each other the rights specified in the Annex hereto for the establishment of the international air routes and services therein described, which services may be inaugurated immediately or at a later date at the option of the Contracting Party to whom the rights are granted.

Article III

(*a*) Each of the services mentioned in the foregoing article may be put into operation as soon as the Contracting Party to whom the rights have been granted designates the airline or airlines for the operation of the routes specified and the other Contracting Party gives the appropriate permission, which may not be denied if the designated airline or airlines comply with the provisions of this article and of Article VIII.

Before the beginning of the operations provided for in this Agreement, the airline designated by one Contracting Party may be required to satisfy the aeronautical authorities of the other Contracting Party that it is qualified to operate in compliance with the laws and regulations normally applied by these authorities. In areas of hostilities or military occupation, or affected thereby, the beginning of operations shall be subject to the approval of the appropriate military authorities.

(*b*) It is understood that any Contracting Party granted commercial rights under this Agreement should exercise them at the earliest practicable date, except in the case of temporary inability.

Article IV

Operating rights which may have been granted previously by any of the Contracting Parties to third parties (any State or airline) shall continue in force according to their terms.

Article V

(*a*) The charges and other duties which either of the Contracting Parties may impose, or permit to be imposed, on the designated airlines of the other Contracting Party for the use of airports and other facilities shall be fair and reasonable and not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international air services.

(b) Fuel, lubricating oils, spare parts and stores introduced into or taken on board aircraft in the territory of the other Party, solely for use by the aircraft of the first Contracting Party engaged in the operation of the services specified in the Annex to the present Agreement, shall be accorded, with respect to customs duties, inspection fees or other charges, treatment not less favourable than that granted to national or foreign airlines regularly engaged in international air transport.

(c) Aircraft operated on the services specified in the Annex to the present Agreement, supplies of fuel, lubricating oils, spare parts as well as regular equipment and aircraft stores retained on board aircraft of the designated airlines of one Contracting Party shall be exempt, in the territory of the other Party, from customs duties, inspection fees and other charges even though the above mentioned material be use by such aircraft on flights in that territory.

(d) Goods exempted under the terms of the foregoing paragraph may only be unloaded with the approval of the customs authorities of the other Contracting Party. In case they cannot be used or consumed, they must be re-exported. These goods shall be kept until re-exportation under the supervision of said customs authorities remaining, however, at the disposal of the airlines.

Article VI

Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Contracting Party and still in force shall be recognised as valid by the other Party for the purpose of operating the routes and services described in the Annex. Each Contracting Party reserves the rights, however, to refuse to recognise, for the purpose of flight above its own territory, certificates of competency and licences granted to its own nationals by the authorities of the other Contracting Party or of another State.

Article VII

(a) The laws and regulations of one Contracting Party relating to entry into or departure from its territory of aircraft engaged in international air navigation or to the operation and navigation of such aircraft while within its territory shall apply to the aircraft of the other Contracting Party and shall be complied with upon entering or departing from or while within the territory of that Contracting Party.

(b) The laws and regulations of one Contracting Party relating to the entry into, departure from or staying in its territory of passengers, crew or

cargo shall be complied with by the passengers, crew or cargo of the aircraft of the designated airlines of the other Contracting Party.

Article VIII

Each Contracting Party reserves the right to deny the exercise of the rights specified in the Annex to this Agreement to a designated airline of the other Contracting Party, or to revoke such an exercise, in any case in which it is not satisfied that substantial ownership and effective control of the designated airline are vested in nationals or bodies of the other Contracting Party.

Each Contracting Party may moreover withhold its permission, when the above-mentioned airline or the Government which has designated it do not comply with the laws and regulations referred to in Article VII of the present Agreement, or fail to perform the duties resulting thereof, or otherwise to fulfil the conditions under which the rights have been granted in accordance with this Agreement and its Annex.

Article IX

The present Agreement and its Annex, as well as any contract which may complete or modify them, shall be registered with the International Civil Aviation Organization (ICAO).

Article X

If either of the Contracting Parties considers it desirable to modify any provisions of the present Agreement or its Annex, it may request consultation between the aeronautical authorities of both Contracting Parties. Such consultation shall begin within a period of sixty days from the date of the request.

If an agreement is reached, the modifications so decided shall not come into effect until after they have been confirmed by an exchange of diplomatic notes.

The amendments and modifications to the routes indicated in the Schedules may, however, be made by direct agreement between the aeronautical authorities of both Contracting Parties.

Article XI

Any dispute between the Contracting Parties relating to the interpretation or application of this Agreement or of the Annex thereto shall be referred for decision to the Council of the International Civil Aviation Organization, unless the Contracting Parties agree to settle the dispute by reference to an Arbitral Tribunal appointed by agreement between the Contracting Parties or to some other person or body. The Contracting Parties undertake to comply with the decision given.

Article XII

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 International Civil Aviation Organization. If such notice is given, this Agreement shall terminate twelve months after the date of receipt of the notice by the other Contracting Party, unless it is withdrawn by agreement before the expiry of this period. In the absence of acknowledgement of receipt by the Contracting Party to whom the notice has been given, the notice shall be deemed to have been received fourteen days after its receipt by the International Civil Aviation Organization.

Article XIII

The airlines designated by one Contracting Party may omit points included in one of the routes provided for in the Annex, with the exception of those situated in the territory of the other Party; they are, however, bound to notify it without delay to the aeronautical authorities of the said Party, unless such cases be only single ones.

Article XIV

The present Agreement shall be provisionally put into force on the day it is signed and shall enter into force definitively as soon as the formalities provided for in the domestic legislation of each Contracting Party are complied with.

IN WITNESS THEREOF the undersigned plenipotentiaries, duly authorised thereto by their respective Governments, have signed the present Agreement.

DONE at Lisbon, in duplicate, this fifth day of April nineteen hundred and fifty, in the Portuguese and Italian languages, both texts being equally authentic.

For the Government of Portugal :

(Signed) J. CAEIRO DA MATTA

For the Government of the Italian Republic :

(Signed) DE VERA D'ARAGONA

ANNEX

I

The Portuguese Government grants to the Government of the Italian Republic the right to conduct air transport services by the airlines designated by the latter country on the routes specified in Schedule I¹ attached hereto.

II

The Italian Government grants to the Portuguese Government the right to conduct air transport services by the airlines designated by the latter country on the routes specified in Schedule II² attached hereto.

III

The airlines designated by each Contracting Party under the conditions provided for in this Agreement and the present Annex shall be accorded in the territory of the other Contracting Party rights of transit and of non-traffic stops, as well as the right to embark and disembark international traffic in passengers, mail and cargo at the points specified for each of the routes mentioned in the attached Schedules.

However, the airlines of one Contracting Party are not in any way allowed to take on passengers, mail and cargo from one point to another within the territory of the other Contracting Party (cabotage).

IV

The airlines designated by either Contracting Party will enjoy a fair and equal treatment so as to benefit of the same opportunities for the operation of the agreed services under the conditions provided for in the Agreement and the present Annex.

V

In the operation of the trunk services on the routes specified in the present Annex, the designated airlines of each Contracting Party shall take into consideration the interests of the airlines of the other Contracting Party so as not to affect unduly the services which the latter provide on all or part of the same routes.

VI

The air transport facilities shall bear a close relationship to the requirements of the public.

VII

It is understood by both Governments that services provided by a designated airline under the Agreement and this Annex shall retain as their primary objective the provision of capacity adequate to the traffic demands between the country of which such

¹ See p. 360 of this volume.

² See p. 362 of this volume.

airline is a national and the country of ultimate destination of the traffic. The right to embark or disembark on such services international traffic in passengers, cargo and mail destined for and coming from third countries at a point or points on the routes specified in this Annex shall be applied in accordance with the general principles of orderly development of air transportation to which both Governments subscribe and shall be subject to the general principle that capacity should be related :

- (a) to traffic requirements between the country of origin and the countries of destination;
- (b) to the requirements of through airline operation;
- (c) to the traffic requirements of the area through which the airline passes after taking account of local and regional air services.

VIII

Should a route or part of a route as mentioned in Schedule I and II to this Annex be served by the airlines of both Contracting Parties, the airlines concerned may consult with each other with a view to arrive at a form of co-operation on this route or part of such route. If an agreement is reached, it shall be submitted for approval to the respective competent aeronautical authorities.

IX

For the purposes of the foregoing two sections, the Government of the Italian Republic recognises the special nature of the air services between Portugal and Brazil, which will be considered as having the same character as the services mentioned in the last category of letter (c) of section VII of the present Annex.

X

The aeronautical authorities of both Contracting Parties shall consult at the request of either Party with a view to ensure the compliance with such principles and the application of such obligations as are provided for in the Agreement and in the present Annex.

XI

1. The rates to be charged in each of the agreed services shall be fixed at reasonable levels, due regard being paid to all relevant factors such as cost of operation, reasonable profit, characteristics of the various services and the rates charged by any other airlines operating on all or part of the route. These rates shall be established in accordance with the following provisions of this section.

2. Tariffs shall in principle be established by the International Air Transport Association (IATA). In the absence of a decision taken by IATA, the designated airlines shall endeavour to establish tariffs after consultation with other airlines operating air services on all or part of the same route. The tariffs so determined shall be subject to the approval of the respective aeronautical authorities.

3. In the event of disagreement between the designated airlines on the subject of tariffs, the competent aeronautical authorities shall endeavour to establish said tariffs by mutual agreement.

4. In failure of such an agreement, the matter shall be referred to arbitration as provided for in Article XI of this Agreement.

XII

1. After this Agreement comes into force, the aeronautical authorities of both Contracting Parties shall exchange information as promptly as possible concerning the authorisations extended to their respective designated airlines to operate on all or part of the routes specified in the Schedules attached hereto.

To this information they shall add copies of the authorisations issued and of the statutes of the designated airlines with eventual amendments thereto, as well as of any other documents relating to the matter.

2. The aeronautical authorities of both Contracting Parties shall notify each other, fifteen days at least before the beginning of operation of the respective services, of the following data: complete schedules of the services, frequencies and types of aircraft used. The same authorities shall equally notify each other of all eventual modifications.

(Signed) C. MATTA

(Signed) D'ARAGONA

SCHEDULE I

ROUTES TO BE OPERATED BY THE DESIGNATED AIRLINES OF THE ITALIAN GOVERNMENT

A — *Routes terminating in Portuguese territory*

Italy-Barcelona and/or Madrid-Lisbon.

B — *Routes traversing Portuguese territory*

Italy-Barcelona and/or Madrid-Lisbon and/or Sal and/or Dakar	{	Natal and/or Rio de Janeiro and/or S. Paulo-Montevideo-Buenos Aires Caracas-S. Domingos
Italy-Barcelona and/or Madrid-Lisbon and Azores	{	Bermuda Boston and/or New York Havana Mexico Caracas

The above-mentioned routes may be varied by agreement between the competent aeronautical authorities of both Contracting Parties.

Note : It is understood that the provision of section III of this Annex relating to the right to embark or disembark international traffic in passengers, cargo and mail shall not apply to any points between the Portuguese continental territory (including Azores and Madeira) and Spain.

(Signed) C. MATTA

(Signed) D'ARAGONA

SCHEDULE II

ROUTES TO BE OPERATED BY THE DESIGNATED AIRLINES OF THE PORTUGUESE GOVERNMENT

A — *Routes terminating in Italian territory*

Lisbon–Rome, with or without landings in Spain.

B — *Routes traversing Italian territory*

Lisbon with or without landings in Spain–Rome–Athens–Cairo, with possibility of extension through Asia to the Portuguese territories in this Continent and/or Oceany.

The above-mentioned routes may be varied by agreement between the competent aeronautical authorities of both Contracting Parties.

(Signed) C. MATTA

(Signed) D'ARAGONA