

No. 4495

SWITZERLAND
and
PORTUGAL

**Provisional Agreement relating to air transport (with annex).
Signed at Lisbon, on 9 December 1946**

**Exchange of notes constituting an agreement modifying the
annex to the above-mentioned Agreement. Lisbon,
18 June and 18 July 1956**

Official texts : French and Portuguese.

Registered by the International Civil Aviation Organization on 9 September 1958.

SUISSE
et
PORTUGAL

**Accord provisoire relatif aux transports aériens (avec
annexe). Signé à Lisbonne, le 9 décembre 1946**

**Échange de notes constituant un accord modifiant l'annexe
à l'Accord susmentionné. Lisbonne, 18 juin et 18 juillet
1956**

Textes officiels français et portugais.

Enregistrés par l'Organisation de l'aviation civile internationale le 9 septembre 1958.

N^o 4495. ACCORD¹ PROVISOIRE RELATIF AUX TRANSPORTS AÉRIENS ENTRE LA SUISSE ET LE PORTUGAL. SIGNÉ À LISBONNE, LE 9 DÉCEMBRE 1946

Le Conseil fédéral suisse et le Gouvernement portugais, considérant :

que les possibilités de l'aviation commerciale, en tant que mode de transport, se sont considérablement accrues ;

qu'il convient d'organiser d'une manière sûre et ordonnée les communications aériennes régulières et de poursuivre dans la plus large mesure possible le développement de la coopération internationale dans ce domaine ;

qu'il est nécessaire, en conséquence, de conclure entre la Suisse et le Portugal un accord réglementant les transports aériens par des lignes régulières ;

ont désigné des représentants à cet effet, lesquels, dûment autorisés, sont convenus des dispositions suivantes :

Article 1

a) Les parties contractantes s'accordent l'une à l'autre les droits spécifiés à l'annexe² ci-jointe pour l'établissement des lignes internationales définies à cette annexe, qui traversent ou desservent leurs territoires respectifs.

b) Chaque partie contractante désignera une ou plusieurs entreprises de transports aériens pour l'exploitation des lignes qu'elle peut ainsi établir et décidera de la date d'ouverture de ces lignes.

Article 2

a) Chaque partie contractante devra, sous réserve de l'article 6 ci-après, délivrer l'autorisation d'exploitation nécessaire à l'entreprise ou aux entreprises désignées par l'autre partie contractante.

b) Toutefois, avant d'être autorisées à ouvrir les lignes définies à l'annexe, ces entreprises pourront être appelées à justifier de leur qualification, conformément aux lois et règlements normalement appliqués par les autorités aéronautiques délivrant l'autorisation d'exploitation.

¹ Entré en vigueur le 9 décembre 1946, date de sa signature, conformément à l'article 9, a.

² Voir p. 258 de ce volume.

Article 3

(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 would be 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 one contracting party by or on behalf of any designated air carrier of the other contracting party and intended solely for use by the aircraft of such airline shall be accorded, with respect to customs duties, inspection fees and other duties and charges, imposed by the former contracting party, the treatment granted to national airlines or to the most-favoured-nation.

(c) All aircraft operated by the airline or airlines designated by one contracting party on the routes covered by the present agreement, and supplies of fuel, lubricating oils, spare parts, normal equipment and aircraft stores retained on board aircraft shall be exempt, on entry into or departure from the territory of the other contracting party, from customs duties, inspection fees or similar duties or charges, even though such supplies be used or consumed by or in such aircraft on flights within that territory.

Article 4

Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one contracting party shall be recognised as valid by the other contracting party for the purpose of operating the services specified in the annex. Each contracting party reserves the right, however, to refuse to recognise, for the purpose of flight above its own territory, certificates of competency and licenses granted to its own nationals by another State.

Article 5

(a) The laws and regulations of one contracting party relating to entry into or departure from its own territory of aircraft engaged in international air navigation or to the operation and navigation of such aircraft while within its territory, shall apply to aircraft of the designated airline or airlines of the other contracting party.

(b) Passengers, crews and consignors of freight shall be required in the territory of either contracting party to comply either in person or through the intermediary of a third person acting in their name and on their account, with the laws and regulations governing the entry into, the presence in and the departure from that country of passengers, crews or freight, such as the regulations relating to entry, clearance, immigration, passports, customs and quarantine.

Article 6

Each contracting party reserves the right to withhold a certificate or permit to operate from an airline of another State, or to revoke it, in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of the other party to this agreement, or in case of failure by an airline to comply with the laws and regulations referred to in Article 5, or to fulfil its obligations under this agreement.

Article 7

(a) The contracting parties agree to submit to arbitration any dispute relating to the interpretation or application of this agreement or of the annex thereto 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 the 7th December, 1944¹ or, pending the entry into force of the said Convention as 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.²

(c) Nevertheless, the contracting parties may, by mutual agreement, settle the dispute by referring it either to an arbitral tribunal or to any person or body that they may designate, without prejudice, however, to the procedure set forth in paragraph (b).

(d) The contracting parties undertake to comply with the decision given.

Article 8

This agreement and all contracts connected therewith shall be registered with the Provisional International Civil Aviation Organization set up by the Interim Agreement on International Civil Aviation signed at Chicago on 7th December 1944, or its successor.

Article 9

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

(b) In a spirit of close collaboration, the competent aeronautical authorities of the contracting parties will consult from time to time with a view to ensuring the observance of the principles and the satisfactory implementation of the provisions outlined in the present agreement and its annex.

(c) The present agreement and its annex shall be brought into harmony with any multilateral agreement which comes into force in respect of both contracting parties.

¹ See footnote 2, p. 230 of this volume.

² United Nations, *Treaty Series*, vol. 171, p. 345.

(d) If either of the contracting parties considers it desirable to modify the terms of the annex to the present agreement, it may request consultation between the aeronautical authorities of the contracting parties, such consultation to begin within sixty days from the date of the request. Any modification in the annex agreed to by said aeronautical authorities shall come into effect when it has been confirmed by an exchange of diplomatic notes.

(e) Each contracting party may terminate the agreement by notice giving one year's notice to the other party.

DONE in Lisbon, on 9 December 1946, in duplicate in the French and Portuguese languages, both texts being equally authentic.

For the Swiss Federal Council :

(Signed) Maximilien JAEGER

For the Portuguese Government :

(Signed) A. O. SALAZAR

A N N E X

1. (a) For the purpose of operating the air services specified in the schedules hereunder, the airlines designated by Switzerland and Portugal shall be accorded in the territory of the other contracting party rights of transit and non-traffic stops as well as the use of airports and ancillary facilities designated for international traffic.

(b) For the purpose of operating the air services specified in section A of schedules I¹ and II¹ hereunder, the airlines designated by Switzerland and Portugal shall be accorded in the territory of the other Contracting Party the right to pick up and discharge international traffic in passengers, mail and cargo, in accordance with the provisions of the present annex.

2. The contracting parties agree that :

(a) the traffic capacity provided by the airlines of the two contracting States shall bear a close relationship to the traffic demands ;

(b) the airlines of the contracting parties shall, on the stages of any route which they operate in common, have regard to their mutual interests so as not to affect unduly their respective services ;

(c) the services specified in the attached schedules shall retain as their primary objective the provision of capacity adequate to the traffic demands between the country of which the airline is a national and the countries of destination of traffic ;

(d) the right to embark or disembark, at the points specified in the annexed schedules, international traffic to or from a third country shall be exercised in accordance with the

¹ See p. 268 of this volume.

general principles of orderly development to which both Governments subscribe and in such a manner that the capacity shall be related to :

- (1) traffic requirements between the country of origin and countries of destination ;
- (2) the requirement of economic operation of the specified services ;
- (3) the traffic requirements in the regions traversed, after taking account of local and regional services.

3. Rates shall be fixed at reasonable levels, after taking into account economy of operation, reasonable profit and the features of each service such as speed and comfort. In fixing such rates, regard shall also be paid to the recommendations of the International Air Transport Association (I.A.T.A.). Failing any such recommendations the Swiss and Portuguese airlines shall consult the airlines of third countries operating over the same routes. Their agreements shall be submitted to the competent aeronautical authorities of the contracting parties for approval. If the airlines are unable to reach agreement, those authorities shall endeavour to find a solution. In the last resort the procedure provided in Article 7 of the present agreement shall be applied.

SCHEDULE I

SERVICES WHICH MAY BE OPERATED BY SWISS AIRLINES

A. *Switzerland-Portugal Services*

1. *Switzerland - Lisbon*, in both directions.
Temporarily this service will be replaced by
- 1 (a) *Switzerland - Barcelona - Madrid - Lisbon*, in both directions,
or
- 1 (b) *Switzerland - Madrid - Lisbon*, in both directions.

B. *Services in transit over Portuguese territories*

1. *Switzerland* (Lisbon or Algiers or Cap Juby) - *Sal - South America*, in both directions.
2. *Switzerland - Azores - North America*, in both directions.

SCHEDULE II

SERVICES WHICH MAY BE OPERATED BY PORTUGUESE AIRLINES

1. *Lisbon - Madrid - Geneva - Zurich - Paris - London - Lisbon*, in both directions.
2. *Lisbon - Madrid (or Barcelona) - Geneva - Zurich*, in both directions.
3. *Lisbon - Madrid (or Barcelona) - Geneva* in both directions.

(Signed) Maximilien JAEGER

(Signed) A. O. SALAZAR

[TRANSLATION — TRADUCTION]

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN SWITZERLAND AND PORTUGAL MODIFYING
THE ANNEX TO THE PROVISIONAL AGREEMENT OF
9 DECEMBER 1946² RELATING TO AIR TRANSPORT.
LISBON, 18 JUNE AND 18 JULY 1956

I

Your Excellency,

For the purpose of modifying the annex to the provisional Agreement relating to air transport between Switzerland and Portugal of 9 December 1946² a consultation between representatives of the Portuguese and Swiss aeronautical authorities took place at Lisbon in January 1956, in conformity with article 9 (*d*) of the above-mentioned Agreement.

In accordance with the minutes of 19 January 1956, signed by the chairmen of the Portuguese and Swiss delegations, and taking into account the improvements set forth in an *aide-mémoire* of the Ministry of Foreign Affairs which was later delivered to the Legation of Switzerland, the annex in question is modified as follows :

A. A sub-paragraph (*c*) reading as follows is added to paragraph 1 of the annex :

(*c*) For the purpose of operating the air services specified in section B of schedule I hereunder, the designated Swiss airlines shall be accorded in Portuguese territory the rights specified in sub-paragraph (*b*) above, in respect of :

- (1) Passengers, mail and cargo carried between Portugal and Switzerland and vice versa ;
- (2) Passengers, mail and cargo carried between Portugal and Dakar and vice versa, to the extent that the designated Portuguese airlines do not satisfy the traffic requirements ;
- (3) Passengers, mail and cargo carried between Portugal and Brazil and vice versa, provided that the designated Portuguese airlines do not themselves operate any service to Brazil ;
- (4) Passengers, mail and cargo carried between Portugal and points in South America outside Brazil and vice versa, to the extent that the designated Portuguese airlines operating services to those points do not satisfy the traffic requirements. Whenever a Portuguese service is established to any point in South America, such carriage shall be effected to the extent that the traffic requirements between Portugal and the above-

¹ Came into force on 18 July 1956 by the exchange of the said notes.

² See p. 264 of this volume.

mentioned points and vice versa are not satisfied by that service ; in such case, the Portuguese aeronautical authorities may make the exercise of this right subject to the conclusion of an agreement with the Swiss aeronautical authorities. Nevertheless, this provision shall not apply to the operation of services on route B3 of schedule I ;

- (5) Passengers, mail and cargo carried between Portugal on the one hand and the United States of America, Mexico, the South American countries listed under B3 of schedule I and the countries of Central America on the other, and vice versa, to the extent that the traffic requirements are not satisfied by the designated Portuguese airlines operating services to the same points. The provisions of this paragraph shall not apply to the operation of services on route B1 of schedule I.

B. A sub-paragraph (e), reading as follows, is added to paragraph 2 of the annex :

(e) The designated airlines of the Contracting Parties shall enjoy fair and equal opportunity to operate services between the territory of continental Portugal and Swiss territory.

C. Schedule I will henceforth read as follows :

SCHEDULE I

SERVICES WHICH MAY BE OPERATED BY SWISS AIRLINES

A. *Switzerland – Portugal services*

1. Points in Switzerland – Barcelona – Madrid – Lisbon, in both directions.
2. Points in Switzerland – Bordeaux or Marseilles or Nice – Lisbon, in both directions.

B. *Services in transit over Portuguese territories*

1. Points in Switzerland – Lisbon – Algiers and/or Casablanca and/or Cap Juby and/or Sal and/or Dakar – South America, in both directions.
2. Points in Switzerland – Lisbon – Azores – Gander and/or Bermuda – United States of America – Mexico, in both directions.
3. Points in Switzerland – Lisbon – Sal or Dakar or Azores and points beyond (points in Central America – Colombia – Ecuador – Mexico – Peru – Venezuela), in both directions.

The airline designated by Switzerland may omit one or more stops on all or certain flights, provided that the services begin in Switzerland and that prior notice of such omission is given in the time-tables.

Route B2 may in any case terminate in the United States of America.

D. Schedule II will henceforth read as follows :

SCHEDULE II

SERVICES WHICH MAY BE OPERATED BY PORTUGUESE AIRLINES

1. Points in continental Portugal – Madrid or Barcelona or Bordeaux or Marseilles or Nice – Geneva, in both directions.

2. Points in continental Portugal – Madrid or Barcelona or Bordeaux or Marseilles or Nice – Geneva and/or Zurich, in both directions.

3. Points in continental Portugal – Madrid or Barcelona or Bordeaux or Marseilles or Nice – Geneva – Zurich and points beyond, in both directions.

4. Points in continental Portugal – Madrid or Barcelona or Bordeaux or Marseilles or Nice – Geneva – Zurich – points in Germany – Austria, in both directions.

The airline designated by Portugal may omit one or more stops on all or certain flights, provided that the services begin in continental Portugal and that prior notice of such omission is given in the time-tables.

This note and your reply in similar terms will constitute formal confirmation of the foregoing in conformity with article 9 (*d*) of the Agreement of 9 December 1946, and the modified annex will take effect on the date of this exchange of notes.

I have the honour to be, etc.

Henry BÉAT DE FISCHER
Minister of Switzerland

II

Sir,

I have the honour to acknowledge receipt of the note of His Excellency the Minister of Switzerland in Lisbon, of 18 June 1956 reading as follows :

[See note I]

I have the honour to confirm the agreement of the Portuguese Government with the foregoing.

I have the honour to be, etc.

O. SALAZAR