

No. 4645

**PAKISTAN
and
PORTUGAL**

**Agreement (with annex) relating to air services. Signed
at Karachi, on 7 June 1958**

Official text: English.

Registered by Pakistan on 23 January 1959.

**PAKISTAN
et
PORTUGAL**

**Accord (avec annexe) relatif aux transports aériens. Signé
à Karachi, le 7 juin 1958**

Texte officiel anglais.

Enregistré par le Pakistan le 23 janvier 1959.

No. 4645. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN AND THE GOVERNMENT OF PORTUGAL RELATING TO AIR SERVICES. SIGNED AT KARACHI, ON 7 JUNE 1958

The Government of the Islamic Republic of Pakistan and the Government of Portugal, hereinafter described as the Contracting Parties,

Being Contracting Parties to the Convention on International Civil Aviation signed at Chicago on the seventh day of December 1944,² the terms of which Convention are binding on both Parties,

And desiring to conclude an agreement for the operation of air transport services between and beyond their respective territories,

Have agreed as follows :

Article I

Each Contracting Party grants to the other Contracting Party the right to operate the air services specified in the Annex³ to this Agreement (hereinafter referred to as the "specified air services") on the routes specified in the said Annex (hereinafter referred to as the "specified air routes").

Article II

(A) Each of the specified air 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 :

1. The Contracting Party to whom the rights have been granted shall have designated an airline (hereinafter referred to as a "designated airline") for the specified air routes.
2. The Contracting Party which grants the rights shall have given the appropriate operating permission to the airline, which it shall do with the least possible delay, provided that the airline has, if called upon, complied with the requirements of paragraph (B) of this Article.

(B) The designated 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 by or under the laws and regulations normally applied by those authorities to the operation of international air services.

¹ Came into force on 7 June 1958, the date of signature, in accordance with article XV (B).

² See footnote 2, p. 210 of this volume.

³ See p. 238 of this volume.

(C) The operation of each of the specified air services shall be subject to the agreement of the Contracting Party concerned that the route organisation available for civil aviation on the specified air route is adequate for the safe operation of air services.

* *Article III*

The airlines designated by each Contracting Party shall enjoy, while operating the specified air services, the rights:

- (i) To fly their aircraft across the territory of the other Contracting Party;
- (ii) To make stops in the said territory for non-traffic purposes; and
- (iii) subject to the provisions of Article IV to make stops in the said territory at the points specified in the Annex to this Agreement for the purposes of setting down and picking up international traffic in passengers, cargo and mail.

Article IV

1. It is recognised that each Contracting Party shall have fair and equal rights to the carriage of 3rd and 4th freedom traffic on the routes specified in the Annex to this Agreement, 5th freedom traffic to have a supplementary character. Where traffic is of the nature of 5th Freedom to one Contracting Party but 3rd or 4th freedom to the other Contracting Party, the primary right to the carriage of such traffic shall be that of the latter Contracting Party. The first Contracting Party shall have the right to uplift such 5th freedom traffic provided that it shall not be prejudicial to the primary interests of the other Contracting Party.

2. The capacity offered by the airlines of each Contracting Party on the specified air routes shall jointly bear a close relationship to the current and reasonably anticipated needs of the public for air transport at a reasonable load factor.

3. The right of the airlines of either Contracting Party to embark and to disembark at points in the territory of the other Contracting Party international traffic destined for or coming from third countries shall, subject to the principles in para 1 of this Article, be related to :

- (a) The air transport needs between the country of origin and the countries of destination and the air transport needs of the area through which the airline passes, after taking into account the services operated by airlines of the other Contracting Party over the whole or parts of the route specified, and
- (b) the economics of through airline operation.

Article V

(A) The aeronautical authorities of both Contracting Parties shall exchange information as promptly as possible concerning the current authorisations extended to their respective designated airlines to render service to, through and from the territory of the other Contracting Party. This will include copies of current certificates and authorisations for service on the specified air routes, together with amendments, exemption orders and authorised service patterns.

(B) Each Contracting Party shall cause its designated airlines to provide to the aeronautical authorities of the other Contracting Party, as long in advance as practicable, copies of time tables tariff schedules, including any modification thereof, and all other relevant information concerning the operation of the specified air services including information about the capacity provided on each of the specified air routes and any further information as may be required to satisfy the aeronautical authorities of the other Contracting Party that the requirements of this Agreement are being duly observed.

(C) Each Contracting Party shall cause its designated airlines to provide to the aeronautical authorities of the other Contracting Party statistics relating to the traffic carried on their air services to from or over the territory of the other Contracting Party showing the origin and destination of the traffic.

Article VI

(A) Rates shall be fixed at reasonable levels, due regard being paid to all relevant factors, including costs of comparable economical operation, reasonable profit and differences of characteristics of service.

(B) The rates to be charged by the designated airlines of each Contracting Party in respect of traffic carried under this Agreement to or from the territory of the other Contracting Party shall be agreed in the first instance between the designated airlines of both the Contracting Parties and shall have regard to the relevant rates adopted by the International Air Transport Association. Any rates so agreed shall be subject to the approval of the aeronautical authorities of both the Contracting Parties. In the event of disagreement between the airlines and/or the aeronautical authorities, the Contracting Parties themselves shall endeavour to reach agreement and will take all necessary steps to give effect to such agreement. Should the Contracting Parties fail to agree, the dispute shall be dealt with in accordance with Article XI. Pending settlement of any such disagreement, the rates already established shall prevail.

Article VII

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, the other Contracting Party or its designated airlines and intended solely for use by the latter's aircraft shall be accorded, with respect to customs duty, inspection fees or other charges imposed by the former Contracting Party, treatment not less favourable than that granted to its national airlines engaged in international public transport or to the airlines of the most favoured nation.

Article VIII

Each Contracting Party reserves the right to itself to withhold or revoke, or impose such appropriate conditions as it may deem necessary with respect to an operating permission in case it is not satisfied that substantial ownership and effective control of the airline are vested in the nationals of the other Contracting Party, or in case of failure by a designated airline of the other Contracting Party to comply with the laws and regulations of the former Contracting Party, or in case, in the judgement of the former Contracting Party, there is a failure to fulfil the conditions under which the rights are granted in accordance with this Agreement. Except in case of a failure to comply with laws and regulations, such action shall be taken only after consultation between the Contracting Parties. In the event of action by one Contracting Party under this Article, the rights of the other Contracting Party under Article XI shall not be prejudiced.

Article IX

(A) In a spirit of close collaboration, the aeronautical authorities of the two Contracting Parties will consult regularly with a view to assuring the observance of the principles and the implementation of the provisions outlined in this Agreement.

(B) Either Contracting Party may at any time request consultation with the other with a view to initiating any amendments of the Agreement which it may deem desirable. Such consultation shall begin within a period of sixty days from the date of the request. Any modification of this Agreement agreed to as a result of such consultation shall come into effect when it has been confirmed by an exchange of diplomatic notes.

(C) Changes made by either Contracting Party in the specified air routes, except those which change the points served by the designated airlines in the territory of the other Contracting Party, shall not be considered as modifications

of this Agreement. The aeronautical authorities of either Contracting Party may, therefore, proceed unilaterally to make such changes, provided, however, that notice of any change shall be given without delay to the aeronautical authorities of the other Contracting Party. If such latter aeronautical authorities find that, having regard to the principles set forth in this Agreement, the interests of any of their airlines are prejudiced by the carriage by a designated airline of the first Contracting Party of traffic between the territory of the second Contracting Party and the new points in the territory of a third country, the latter Party may request consultation in accordance with the provisions of paragraph (B) of this Article.

Article X

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. This Agreement shall terminate one year after the date of receipt of the notice by the other Contracting Party, unless the notice is withdrawn by Agreement before the expiration of this period. In the absence of acknowledgement of receipt by the other Contracting Party notice shall be deemed to have been received fourteen days after the receipt of the notice by the International Civil Aviation Organization.

Article XI

(A) If any dispute arises between the Contracting Parties relating to the interpretation or application of the present Agreement, the Contracting Parties shall in the first place endeavour to settle it by negotiation between themselves.

(B) If the Contracting Parties fail to reach a settlement by negotiation,

- (i) they may agree to refer the dispute for decision to an arbitral tribunal or some other person or body appointed by agreement between them; or
- (ii) if they do not so agree or if, having agreed to refer the dispute to an arbitral tribunal they cannot reach agreement as to its composition, either Contracting Party may submit the dispute for decision to any tribunal competent to decide it established within the International Civil Aviation Organization, or, if there be no such tribunal, to the International Court of Justice.

(C) The Contracting Parties undertake to comply with any decision given, including any interim recommendation made, under paragraph (B), of this Article.

(D) If and so long as either Contracting Party or a designated airline of either Contracting Party fails to comply with the requirements of paragraph (C) of this Article, the other Contracting Party may limit, withhold or revoke any rights which it has granted by virtue of the present Agreement.

Article XII

To the extent to which they are applicable to the air services established under this Agreement, the provisions of the Convention, and in particular, Articles 9, 11, 13, 15, 24, 31, 32, and 33 thereof, shall remain in force in their present form between the Contracting Parties for the duration of the Agreement, as if they were an integral part of the Agreement, unless both Contracting Parties ratify any amendment to the provisions of the Convention which shall have come into force in accordance with Article 94 of the Convention, in which case these provisions as amended shall remain in force for the duration of this Agreement.

Article XIII

In the event of the conclusion of a multilateral convention or agreement concerning air transport to which both Contracting Parties adhere, this Agreement shall be modified to conform with the provisions of such convention or agreement.

Article XIV

For the purpose of this Agreement :

- (A) The terms “ air service ”, “ international air service ”, and “ airline ” have the meaning specified in the Convention,
- (B) The term “ Territory ” in relation to a Contracting Party means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or trusteeship of that Contracting Party.
- (C) The term “ aeronautical authorities ” means, in the case of Pakistan, the Director General of Civil Aviation, and in the case of Portugal, the Director General of Civil Aviation, and in both cases any person or body authorised to perform the functions presently exercised by the above mentioned authorities.
- (D) The term “ capacity ” in relation to an aircraft means the payload of that aircraft available on the route or section of a route.
- (E) The term “ capacity ” in relation to a specified air service means the capacity of the aircraft used on such service, multiplied by the frequency operated by such aircraft over a given period and route or section of a route.

(F) The term “ designated airlines ” means an airline or airlines designated by one Contracting Party to the aeronautical authorities of the other Contracting Party in accordance with Article II of this Agreement.

Article XV

(A) The Annex to this Agreement shall be deemed to be part of the Agreement and all references to the “ Agreement shall include references to the Annex, except where otherwise expressly provided.

(B) This agreement shall come into force on the date it is signed.

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

DONE this Seventh day of June 1958 in duplicate at Karachi in the English language.

For the Government of the Islamic Republic of Pakistan :

(Signed) S. N. BAKAR

For the Government of Portugal :

(Signed) Dr. Alvaro BRILHANTE LABORINHO

ANNEX

(1) An airline designated by the Government of the Islamic Republic of Pakistan shall be entitled to operate air services in both directions on each of the routes specified hereafter and to make scheduled landings for traffic purposes in Portugal and other Portuguese territories at the points specified :

<i>From</i>	<i>To</i>	<i>Intermediate points</i>	<i>Points in Portugal or Portuguese territory</i>	<i>Points beyond</i>
1. Karachi	Goa-Karachi	Direct route	Goa	Any points beyond if desired
2. Karachi	Lourenço-Marques	Bahrein-Aden-Nairobi	Lourenço-Marques	Any points beyond if desired
3. Karachi	Lisbon & beyond	Points in the Middle East; Points in the Near East; Points in Europe	Lisbon	Any points in U.K., U.S.A., and/or Canada, if desired

(2) An airline designated by the Government of Portugal shall be entitled to operate air services in both directions on each of the routes specified hereafter and to make scheduled landings for traffic purposes in Pakistan at the points specified :

<i>From</i>	<i>To</i>	<i>Intermediate points</i>	<i>Points in Pakistan</i>	<i>Points beyond</i>
1. Goa	Lisbon	Kuwait-Pasra- Beirut-Athens- Rome	Karachi	Kuwait-Basra- Beirut-Athens- Rome
2. Goa	Karachi	Damaun and Diu (optional)	Karachi	
3. Goa	Lourenço-Marques		Karachi	Aden-Mogadiscio Nairobi-Lumbo

(3) (A) Points on any of the specified routes may, at the option of the designated airlines, be omitted on any or all flights.

(B) If, at any time, scheduled flights on any of the specified air services of one Contracting Party are operated so as to terminate in the territory of the other Contracting Party and not as part of a through air service extending beyond such territory, the latter Contracting Party shall have the right to nominate the terminal point of such scheduled flights on the specified route in its territory. The latter Contracting Party shall give not less than six months' notice to the other Contracting Party if it decides to nominate a new terminal point for such scheduled flight.