

No. 5649

**PERU
and
NICARAGUA**

**Agreement (with annex) for air services between their
respective territories. Signed at Lima, on 14 October
1959**

Official text: Spanish.

Registered by the International Civil Aviation Organization on 27 March 1961.

**PÉROU
et
NICARAGUA**

**Accord (avec annexe) relatif aux services aériens entre les
territoires des deux pays. Signé à Lima, le 14 octobre
1959**

Texte officiel espagnol.

Enregistré par l'Organisation de l'aviation civile internationale le 27 mars 1961.

[TRANSLATION — TRADUCTION]

No. 5649. AGREEMENT¹ BETWEEN THE GOVERNMENT OF PERU AND THE GOVERNMENT OF NICARAGUA FOR AIR SERVICES BETWEEN THEIR RESPECTIVE TERRITORIES. SIGNED AT LIMA, ON 14 OCTOBER 1959

The Government of Peru and the Government of Nicaragua, having ratified the Convention on International Civil Aviation concluded at Chicago on 7 December 1944;² and

Desiring to conclude an agreement which will encourage and promote the joint development of air transport between the two countries, concur in concluding an agreement for the purpose of establishing air services between Nicaraguan and Peruvian territory, and for this purpose appoint as their plenipotentiaries :

The Government of Peru : His Excellency Dr. Raúl Porras Barrenechea, Minister for Foreign Affairs, and

The Government of Nicaragua : His Excellency Dr. Adrián Cuadra Gutiérrez, Ambassador Extraordinary and Plenipotentiary to Peru,

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

Article I

For the purpose of this Agreement and its annex,³ the expressions hereinafter described shall have the meaning assigned to them in this article, except where the text of the Agreement and its annexes provides otherwise :

(a) The expression "the Convention" shall mean the Convention on International Civil Aviation concluded at Chicago on 7 December 1944 and includes any annex adopted under article 90 of that Convention.

(b) The expression "aeronautical authorities" shall mean, in the case of Peru, the Ministry of Aviation and any person or body authorized to perform any of the functions at present exercised by the said Ministry or similar functions, and, in the case of Nicaragua, the Ministry of War, Marine Affairs and Aviation or any person or body authorized to perform any of the functions referred to in this Agreement.

¹ Applied provisionally from 14 October 1959, the date of signature, in accordance with article XIII.

² See footnote 2, p. 266 of this volume.

³ See p. 318 of this volume.

(c) The expressions “ air services ”, “ international air service ”, “ airline ” and “ stop for non-traffic purposes ” shall have the meanings assigned to them in article 96 of the Convention on International Civil Aviation.

Article II

The Contracting States grant each other the rights defined in this Agreement and its annex for the purpose of operating “ international air services ” on the routes specified in the “ schedule of routes ”,¹ regardless of when such services may be inaugurated, provided that this Agreement is in force at the time.

Article III

The services referred to in the preceding article may be inaugurated as soon as the Contracting States have agreed, through their respective aeronautical authorities, on at least one airline in each Contracting State to operate the said services. These services may be expanded by similar agreements at any time, in which event new routes may be agreed on even though they are not shown in the schedule.

Article IV

The services agreed in accordance with the preceding article shall be inaugurated when an application by an airline of one Contracting State to operate an international air service has been accepted by the other State, provided that the said airline has also complied with all the prior requirements and conditions prescribed by the laws and regulations in force in the latter Contracting State for the inauguration of such services.

Article V

In order to prevent discriminatory practices and to ensure equality of treatment for the airlines operating the service referred to in this Agreement, it is agreed that :

(a) The charges which either Contracting State may impose or permit to be imposed on aircraft of the other for the use of airports, installations and services shall be equal to those prescribed for aircraft in the same category employed on similar international services in the State which imposes the said charges or permits them to be imposed.

(b) Aircraft and fuel, grease, oils, lubricants, spare parts, regular equipment and aircraft stores which are carried on board an aircraft on its arrival in the territory of the other Contracting State and which are still on board the said

¹ See p. 320 of this volume.

aircraft when it leaves shall be exempt from customs duties, inspection fees and any other charges or duties. This exemption shall apply to the unloaded spare parts and equipment referred to in the next paragraph but not to other objects taken out of the aircraft save as may be otherwise provided by the customs regulations of the said State which, in that event, may require such objects to be kept under customs supervision.

(c) Spare parts and equipment introduced into the territory of a Contracting State for installation and use in aircraft of the airline operating the service referred to in this Agreement shall be exempt from customs duties, inspection fees and any other charges or duties; the foregoing shall not affect the provisions of the regulations of the State concerned, which may require such articles to be kept under customs supervision.

(d) Fuel, grease and lubricating oils acquired in or introduced into the territory of a Contracting State solely for use by aircraft of the airline operating the service referred to in this Agreement shall be accorded with respect to customs duties and other charges and duties the same treatment as fuel, grease and lubricating oils intended for use by the airlines in the Contracting State imposing the said charges and duties.

Article VI

The laws and regulations of each Contracting State relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft within that territory, shall be observed and complied with by the airlines operating the service referred to in this Agreement when their aircraft enter, stay in or leave the territory of the Contracting State concerned.

Article VII

The laws and regulations of each Contracting State relating to the admission to or departure from its territory of passengers, crew or cargo of aircraft and those concerning entry, immigration, clearance, passports, customs, quarantine and the like shall be observed and complied with by the passengers and crew and by the airline operating the service referred to in this Agreement upon entry into and departure from and while within the territory of the Contracting State concerned.

Article VIII

Each Contracting State reserves the right to withhold or revoke the permit for an airline of the other Contracting State to operate the services referred to in this Agreement in any case where 51 per cent of the capital and effective control of that airline are not vested in nationals of the latter Contracting State.

It likewise reserves the right to revoke the said permit in any case where such airline fails to comply with this Agreement and with the laws and regulations of the Contracting State which authorized the operations of such airline.

Article IX

This Agreement and any modification or supplement made to it in accordance with the provisions of the next article shall be registered with the International Civil Aviation Organization either by the Government of Peru or by the Government of Nicaragua.

Article X

If any dispute arises between the Contracting States relating to the interpretation or supplementing of this Agreement and its annex, the Contracting States shall endeavour to settle it by negotiation between themselves.

If the point at issue is not settled by the said negotiations, the States shall submit the dispute for arbitration to any person, body or tribunal designated by agreement between the two States. The said agreement shall include the designation of the arbitrator or arbitral tribunal, the point or points to be decided and the appropriate arbitral procedure.

If the States cannot agree on any of the points referred to in the preceding paragraph, the dispute shall be submitted for decision to a competent tribunal established within the International Civil Aviation Organization or, if there is no such tribunal, to the Council of that Organization.

If either Contracting State or the airline authorized to operate the service referred to in this Agreement fails to comply with the arbitral award, the other Contracting State may limit, suspend or revoke any right granted by virtue of this Agreement either to the Contracting State or to the authorized airline in default.

Article XI

If either Contracting State wishes to modify one or more of the provisions of this Agreement, it may request consultation with the competent authorities of the other Contracting State, such consultation to begin within sixty days from the date of the request. If the modification is agreed between the Contracting States, it shall come into effect when it is confirmed by an exchange of diplomatic notes.

In the event of the conclusion of any multilateral convention on air transport which is binding on both Contracting States, this Agreement shall be amended so as to conform with the provisions of such convention.

Article XII

Either Contracting Party may at any time give notice to the other of its desire to denounce this Agreement. Such notice shall be communicated simultaneously to the Council of 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 the notice of termination 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 XIII

This Agreement shall be ratified in accordance with the constitutional requirements of each Contracting Party and shall enter into force on the date of the exchange of the instruments of ratification, which shall take place at Lima as soon as possible. Pending the entry into force of this Agreement, its provisions shall be applied provisionally by the Contracting Parties with effect from the date of signature.

IN WITNESS WHEREOF the aforementioned plenipotentiaries sign this Agreement, in duplicate, and affix thereto their seals.

DONE at Lima, this fourteenth day of October, one thousand nine hundred and fifty-nine.

For the Government of Peru :
Raúl PORRAS BARRENECHEA

For the Government of Nicaragua :
Adrián CUADRA GUTIÉRREZ

ANNEX TO THE AGREEMENT ON INTERNATIONAL COMMERCIAL
AIR SERVICES BETWEEN THE GOVERNMENT OF NICARAGUA
AND THE GOVERNMENT OF PERU¹

SECTION I

It is agreed between the two States :

(a) That the airlines of the two Contracting States operating on the routes described in this annex shall enjoy fair and equal opportunity for operation on the said routes.

¹ See p. 310 of this volume.

(b) That the air transport capacity offered by the airlines of both countries shall bear a close relationship to traffic requirements.

(c) That in operating at common points on trunk routes the airlines of the Contracting States shall take into account each other's interests so as not to affect unduly each other's services.

(d) That the services provided by an airline authorized in accordance with the terms of this Agreement and its annex shall have as their primary objective the provision of capacity adequate to the requirements of traffic between the country to which the airline belongs and places under its jurisdiction and the country of destination.

(e) That the right to pick up and set down at places under the jurisdiction of the other Contracting State international traffic of all kinds destined for or coming from a point or points, hereinafter specified, in third countries shall be exercised in accordance with the general principles of orderly development to which both Governments subscribe and shall be subject to the general principle that capacity shall be related to :

- (1) Air traffic requirements between the country of origin and places under its jurisdiction and the countries of destination.
- (2) Existing air traffic requirements in the areas through which the airline passes, after taking account of local and regional services.

(f) The competent aeronautical authorities of the two Contracting States shall consult together from time to time, or at the request of one of them, in order to determine how far the principles set forth in paragraph (e) of this annex are being followed by the airlines operating the service, in order to prevent any of the said airlines from securing a disproportionate share of the air traffic through violation of any of the principles set forth in this Agreement or its annex.

SECTION II

Routes

(a) The international airline authorized to operate in accordance with this Agreement shall enjoy in the Republic of Peru rights of transit, the right to make stops for traffic purposes and the right to pick up and set down international traffic in passengers, cargo and mail on the following route via intermediate points in both directions :

From Nicaragua via intermediate points in Costa Rica, Panama and Ecuador; Lima, Peru, and beyond.

On the above route the airline authorized to operate on the route may operate non-stop flights between any of the points enumerated, omitting stops at one or more of the other points mentioned. Similarly the flights need not terminate in Nicaragua and/or Peru.

(b) The international airline authorized to operate in accordance with this Agreement shall enjoy in the Republic of Nicaragua rights of transit, the right to make stops for traffic purposes and the right to pick up and set down international traffic in passengers, cargo and mail on the following route via intermediate points in both directions :

From Peru, via intermediate points in Ecuador, Panama and Costa Rica, Managua, Nicaragua, and beyond.

On the above route the airline authorized to operate on the route may operate non-stop flights between any of the points enumerated, omitting stops at one or more of the other points mentioned. Similarly the flights need not terminate at Lima and/or Nicaragua.
