No. 11900

BRAZIL
and
DENMARK

Air Transport Agreement (with annex). Signed at Rio de Janeiro on 18 March 1969

Authentic texts: Portuguese and English.

Registered by Brazil on 27 July 1972.

BRÉSIL
et
DANEMARK

Accord relatif aux transports aériens (avec annexe). Signé à Rio de Janeiro le 18 mars 1969

Textes authentiques : portugais et anglais.

Enregistré par le Brésil le 27 juillet 1972.

AIR TRANSPORT AGREEMENT[1] BETWEEN THE FEDERATIVE REPUBLIC OF BRAZIL AND DENMARK

The Government of the Federative Republic of Brazil and the Government of Denmark,

Considering that Brazil and Denmark are parties to the International Civil Aviation Convention, opened for signature in Chicago on 7 December, 1944,[2]

Desiring to develop International Cooperation in air transport,

Desiring to conclude an agreement for the purpose of establishing regular air services between and beyond their respective territories,

Have appointed their duly authorized plenipotentiaries for this purpose, who have agreed as follows:

Article I

For the purpose of this Agreement and its annex:

(*a*) The term "Convention" means the International Civil Aviation Convention, opened for signature in Chicago, on 7 December, 1944;

(*b*) The term "aeronautical authorities" means in the case of Brazil the Air Ministry and in the case of Denmark the Ministry of Public Works, or, in both cases, any person or body authorized to perform the functions which are exercised by them;

(*c*) The expression "designated airline" means an airline which one of the Contracting Parties has designated in conformity with article III of this Agreement to operate the agreed air services.

Article II

1. Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing air services on the routes specified in the schedules of the annex of this agreement. These services and routes are hereafter called "agreed services" and "specified routes".

[1] Came into force provisionally on 18 March 1969, the date of signature, and definitively on 26 September 1969, the date by which the Contracting Parties had notified each other that their constitutional requirements had been complied with, in accordance with article XVIII. See also "Protocol relating to air transport between Brazil and the Scandinavian countries, signed at Rio de Janeiro on 18 March 1969", United Nations, *Treaty Series*, vol. 893, No. I-12778.

[2] United Nations, *Treaty Series*, vol. 15, p. 295; for the texts of the Protocols amending this Convention, see vol. 320, pp. 209 and 217; vol. 418, p. 161; vol. 514, p. 209, and vol. 740, p. 21.

2. Subject to the provisions of the present Agreement the designated airline of each Contracting Party shall enjoy, while operating international air services :

(*a*) the right to fly without landing across the territory of the other Contracting Party;

(*b*) the right to make stops in said territory for non-traffic purposes;

(*c*) the right to make stops in said territory at the points specified in the annex for the purpose of putting down and taking on international traffic in passengers, cargo and mail.

Article III

1. Each Contracting Party shall have the right to designate an airline for the purpose of operating the agreed services. Written notice of this designation shall be given via diplomatic channels.

2. Upon receipt of such designation the other Contracting Party shall, subject to the provisions of paragraphs 3 and 4 of this article, without delay grant to the designated airline the appropriate operating authorizations.

3. The aeronautical authorities of one Contracting Party may require the airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed by the laws and regulations normally applied to the operation of international air services by said authorities in conformity with the provisions of the Convention.

4. Each Contracting Party shall have the right to refuse to grant the operating authorizations referred to in paragraph 2 of this article, or to impose such conditions as it may deem necessary on the exercise by the designated airline of the rights specified in article II, paragraph 2 of this Agreement when the said Contracting Party is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals.

5. On receipt of the authorization refered to in paragraph 2 of this article, the designated airline may at any time begin to operate the agreed services, provided that a tariff, established in accordance with the provisions of article X of this Agreement is in force in respect of that service.

Article IV

1. Each Contracting Party shall have the right to revoke an operating authorization or to suspend the exercise of the rights specified in article II, paragraph 2 of this Agreement by the airline designated by the other Contract-

ing Party, or to impose such conditions as it may deem necessary on the exercise of these rights :

(*a*) in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of such Contracting Party, or

(*b*) in the case of failure by that airline to comply which the laws and regulations of the Contracting Party granting these rights, or

(*c*) in case the airline fails to operate the agreed services in accordance with the conditions prescribed under the present Agreement and its annex.

2. Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph 1 of this article is essential to prevent further infringements of laws or regulations such right shall be exercised only after consultation with the other Contracting Party.

Article V

1. There shall be fair and equal opportunity for the airlines of both Contracting Parties to operate the agreed services on the specified routes between their respective territories.

2. In operating the agreed services, the designated airline of each Contracting Party shall take into account the interests of the airline of the other Contracting Party so as not to affect unduly the services which the latter provides.

3. The transport capacity of the designated airlines shall bear a close relationship to the demands of traffic.

4. As regards the air traffic relations between the Contracting Parties, the agreed services shall have as their primary objective the provision of capacity adequate to the demands of traffic between the territories of the Contracting Parties. The agreed services may also provide transport capacity adequate to the demand of traffic between the territory of the Contracting Party designating the airline and the points on the specified routes within the territories of third countries.

5. The right of the designated airline of one Contracting Party to fly without landing across the territory of the other Contracting Party, to make stops in said territory for nontraffic purposes and to transport international traffic between the territory of the other Contracting Party and points situated on the specified routes in the territory of third countries shall be applied in accordance with the general principles of orderly development of air transport to which both Contracting Parties subscribe and be subject to the principle that capacity should be related :

(*a*) to the traffic requirements to and from the territory of the Contracting Party having designated the airline;

(*b*) to the traffic requirements of the areas through which the route passes after taking account of local and regional services;

(*c*) to the requirements of an economical operation of the agreed services.

Article VI

1. Aircraft operated on international services by the designated airline of either Contracting Party, as well as their regular equipment, supplies of fuel and lubricants and aircraft stores including food, beverages and tobaccos on board such aircraft shall be exempt from all customs duties, inspection fees, and other duties and taxes on arriving in the territory of the other Contracting Party provided such equipment, supplies and provisions remain on board the aircraft up to such time as they are re-exported.

2. There shall also be exempt from the same duties and taxes, with the exception of charges corresponding to services performed :

(*a*) aircraft stores taken on board in the territory of either Contracting Party, within the limits fixed by the authorities of said Contracting Party, and for use on board aircraft engaged in international service by the company designated by the other Contracting Party;

(*b*) spare parts and normal airborne equipment, entered into the territory of either Contracting Party for the maintenance or repair of aircraft used in international service;

(*c*) fuel and lubricants destined to supply aircraft engaged in international service by the designated airline of the other Contracting Party even when these supplies will be used on the part of the journey performed over the territory of the Contracting Party in which they are taken on board.

3. The regular airborne equipment as well as the supplies and provision retained on board the aircraft of the designated airline of either Contracting Party may be unloaded in the territory of the other Contracting Party only with the approval of the customs authorities of that Contracting Party. In such case, they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with customs authorities.

Article VII

Passengers, baggage and cargo in transit across the territory of one of the Contracting Parties and which do not leave the zone of the airport

reserved for them shall be subject to no more than a very simplified control. Baggage and cargo in direct transit shall be exempt from customs tariffs and other similar taxes.

Article VIII

1. The laws and regulations of one Constracting Party relating to the admission to and the 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 be applied to the designated airline of the other Contracting Party.

2. The laws and regulations of one Contracting Party relating to the entry into force, stay in or departure from its own territory of passengers, crew, cargo or mail, such as regulations relating to entry, departure, immigration and emigration customs and quarantine shall be applied to passengers, crew, cargo and mail of the aircraft of the designated airline of the other Contracting Party while being within the said territory.

3. When applying the laws and regulations mentioned in this article both Contracting Parties undertake not to give their own airline engaged in similar international air services any preferential treatment in comparison with the airline designated by the other Contracting Party.

4. For the use of airports and other facilities offered by one Contracting Party, the airline designated by the other Contracting Party shall not pay charges higher than those that are paid by national airlines engaged in similar international services.

5. The airline designated by one of the Contracting Parties shall have the right to maintain representatives in the territory of the other Contracting Party. These representatives may include commercial, operational and technical personnel.

Article IX

1. The crew of aircraft used on the agreed services shall consist of nationals of the Contracting Party which has designated the carrier.

2. Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Contracting Party and still in force shall be recognized as valid by the other Contracting Party.

3. Each Contracting Party reserves the right, however, to refuse to recognize for the purpose of flight over its own territory, certificates

of competency and licences granted to its own nationals by the other Contracting Party or by another State.

Article X

1. The tariffs on any agreed service shall be established at reasonable levels, due regard being paid to all relevant factors including cost of operation, reasonable profit, characteristics of service and the tariffs of other airlines.

2. The tariffs mentioned in paragraph 1 of the present article shall, if possible, be reached by joint agreement : between the airlines designated by the two Contracting Parties and after consultation with other airlines which serve the whole or part of the same route. The designated airline shall, as far as possible, in such agreement, observe the rate-fixing procedures established by the international body which is formulating proposals on this subject.

3. The tariffs so agreed shall be subject to the approval of the aeronautical authorities of the Contracting Parties at least thirty days before the proposed date for their introduction; in special cases this time limit may be reduced, subject to the agreement of the said authorities.

4. If the designated carriers cannot reach an agreement or if the tariffs should not be approved by the aeronautical authorities of one of [the Contracting Parties,] the two Contracting Parties shall try to determine a tariff by agreement between themselves.

5. If an agreement cannot be reached the difference of opinion shall be submitted for arbitration according to article XIV below.

6. The tariffs established shall remain in force until new tariffs have been fixed in accordance with the provisions of the present article or of the article XIV of this Agreement, however, not for more than twelve months from the date on which the aeronautical authorities of one the Contracting Parties refused the approval.

Article XI

The designated airline of either Contracting Party shall supply to the aeronautical authorities of the other Contracting Party at their request periodical statistics or other similar information regarding the traffic on the agreed services.

Article XII

1. Either Contracting Party or its aeronautical authorities may at any time request that consultation be held with the other Contracting Party or with its aeronautical authorities.

2. Such consultation shall begin within a period of sixty days from the date of the receipt of the request.

Article XIII

1. Any modification of this agreement shall enter into force as soon as the Contracting Parties have notified each other that the constitutional requirements have been complied with.

2. Modifications of the annex of this Agreement may be agreed upon by the aeronautical authorities of the Contracting Parties. They shall enter into force when they have been confirmed by an exchange of diplomatic notes.

Article XIV

Disputes between the Contracting Parties relating to the interpretation or application of this Agreement or its annex, which cannot be settled by means of consultation or diplomatic negotiations, will be submitted to judicial arbitration in accordance with the procedures laid down in article 85 of the Convention.

Article XV

The present Agreement and possible amendments shall be registered with the International Civil Aviation Organization.

Article XVI

This Agreement and its annex will be amended so as to conform with any multilateral convention which may become binding on both Contracting Parties.

Article XVII

1. Either Contracting Party may, at any time, give notice to the other Contracting Party of its decision to terminate this Agreement; such notice shall be communicated simultaneously to the International Civil Aviation Organization.

2. The termination shall come into force six months after the traffic period as defined in the annex during which the notice has been made, unless by mutual agreement this notice has been withdrawn within the above-mentioned period.

3. 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 XVIII

This Agreement will be applied provisionally by the Brazilian and Danish authorities in their respective areas of competence from the date of its signing and will enter into force when the Contracting Parties have notified each other that the constitutional requirements have been complied with.

Article XIX

This Agreement supersedes any privileges, permissions or concessions that may exist at the time of the signing and granted for any reason by either of the Contracting Parties, in favour of the airline of the other Contracting Party.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments, have signed this Agreement.

DONE in the city of Rio de Janeiro, on 18 March, 1969 in duplicate in the Portuguese and English languages. In case of dispute the English language should prevail.

For the Government of Denmark :	For the Government of the Federative Republic of Brazil :
J. A. W. PALUDAN	JOSÉ DE MAGALHÃES PINTO MÁRCIO DE SOUZA MELLO

ANNEX

A

ROUTE SCHEDULES

I

Routes on which air service may be operated by the carrier designated by Denmark

1. Points in Scandinavia – Praga and/or Vienna – Zurich or Geneva – Lisbon – two points in Africa (North-West and/or West Africa) – Brasília and/or Rio de Janeiro and/or São Paulo in both directions.

2. Points in Scandinavia – Prague and/or Vienna – Zurich or Geneva – Lisbon – two points in Africa (North-West and/or West Africa) – Brasília and/or Rio de Janeiro and/or São Paulo – Montevideo – Buenos Aires – Santiago de Chile, in both directions.

NOTE

The carrier may on each of the specified routes serve only two points in Brazil.

II

Routes on which air services may be operated by the carrier designated by Brazil

1. Points in Brazil – two points in Europe – Copenhagen and/or Stockholm and/or Oslo, in both directions.
2. Points in Brazil – two points in Europe – Copenhagen and/or Stockholm and/or Oslo, to points beyond in both directions.

B

1. Schedules covering the air transportation and indicating type, model and maximum number of seats in aircraft used as well as the number of frequencies and landing points shall be submitted by the designated carrier of each Contracting Party to the aeronautical authorities of the other Contracting Party at least thirty days before the envisaged entering into force. Such schedules shall be approved within this same time limit unless they involve alterations of landing points or of capacity inconsistent with the provisions agreed upon between the Contracting Parties.

2. The following alterations of landing points which have been approved by the competent authorities shall, when requested by the carrier, not be considered as modifications of the route schedule :

(*a*) inclusion or omission of landing points in the territory of the Contracting Party which has designated the carrier;

(*b*) omission of landing points in the territory of the other Contracting Party;

(*c*) omission of landing points in the territory of third countries.

These modifications, which are not subject to previous approval by the Contracting Parties, can be filed directly by the carrier with the aeronautical authorities of the other Contracting Party.

3. A modification of the routes by inclusion of a landing point not forseen in the route schedules and situated outside the territory of the Contracting Party which has designated the carrier is subject to approval by the competent authorities by diplomatic channels.

4. The traffic period shall correspond to the period established by IATA.