

No. 17878

**NETHERLANDS
and
PARAGUAY**

Agreement concerning scheduled air transport services (with annex). Signed at The Hague on 7 February 1974

Authentic texts: Dutch and Spanish.

Registered by the International Civil Aviation Organization on 2 July 1979.

**PAYS-BAS
et
PARAGUAY**

Accord relatif aux transports aériens réguliers (avec annexe). Signé à La Haye le 7 février 1974

Textes authentiques : néerlandais et espagnol.

Enregistré par l'Organisation de l'aviation civile internationale le 2 juillet 1979.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE KINGDOM OF THE NETHERLANDS
AND THE REPUBLIC OF PARAGUAY CONCERNING SCHED-
ULED AIR TRANSPORT SERVICES

The Kingdom of the Netherlands and the Republic of Paraguay, being Parties to the Convention on International Civil Aviation signed at Chicago on 7 December 1944,² have decided to apply specific regulations to the air transport services between their respective territories and, to that end, have appointed their Plenipotentiaries, as follows:

Her Majesty the Queen of the Netherlands: His Excellency Dr. Max van der Stoel, Minister for Foreign Affairs, and

His Excellency the President of the Republic of Paraguay: His Excellency Mr. Tomás Salomoni, Ambassador Extraordinary and Plenipotentiary of Paraguay to the Kingdom of the Netherlands,

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

Article 1. For the purpose of this Agreement and unless the text provides otherwise:

1. The term “Convention” means the Convention on International Civil Aviation signed at Chicago on 7 December 1944, and includes all annexes adopted under article 90 of that Convention and any amendment of that Convention or of its annexes adopted under articles 90 and 94 thereof;

2. The term “aeronautical authorities” means, in the case of Paraguay, the Directorate-General of Civil Aeronautics — Ministry of National Defence and, in the case of the Kingdom of the Netherlands, for the Netherlands, the Director-General of Civil Aviation; for Suriname, the Director of Civil Aviation of Suriname, and for the Netherlands Antilles, the Director of Civil Aviation of the Netherlands Antilles, or in all cases the persons or institutions authorized by the Contracting Party concerned to exercise the functions assumed at present by the above-mentioned authorities;

3. The term “designated airline” means any airline designated in writing by one of the Contracting Parties to the other Contracting Party, in accordance with the provisions of article 3 of this Agreement, to provide air services on the routes specified;

4. The term “territory” is to be understood as defined in article 2 of the Convention;

5. The terms “air service”, “international air service”, “airline”, and “stop for non-traffic purposes”, respectively, have the meanings assigned to them in article 96 of the Convention.

¹ Applied provisionally on 7 February 1974, the date of signature, and came into force definitively on 13 December 1974, the date of the exchange of the instruments of ratification, which took place at The Hague, in accordance with article 16.

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; vol. 740, p. 21; vol. 893, p. 117; vol. 958, p. 217, and vol. 1008, p. 213.

Article 2. 1. The Contracting Parties shall grant each other the rights specified in this Agreement for the purpose of providing services on the routes that appear in the annex established by virtue of this Agreement (hereinafter referred to as “agreed services” and “specified routes”).

The agreed services may be operated immediately or at a future date, once the designation formalities referred to in article 3 of this Agreement have been carried out.

2. In accordance with the provisions of this Agreement, the airline designated by each of the Contracting Parties shall, while providing an agreed service on a specified route, enjoy the following rights:

- (a) The right to fly without landing over the territory of the other Contracting Party;
- (b) The right to make stops in the said territory for non-traffic purposes;
- (c) The right to make stops in the territory of the other Contracting Party at the points specified for that route in the annex to this Agreement, for the purpose of putting down or taking on international air traffic in passengers, cargo or mail.

3. None of the provisions of paragraph 2 of this article shall be deemed to confer on the airline of one of the Contracting Parties the privilege of taking on, in the territory of the other Contracting Party, passengers, cargo or mail for remuneration and destined for another point in the territory of that other Contracting Party.

Article 3. 1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines for the operation of the agreed services on the specified routes.

2. Once the other Contracting Party has received notice of this designation, it shall without delay, subject to the provisions of paragraphs 3 and 4 of this article, grant the appropriate operating authorization to the designated airline or airlines.

3. The aeronautical authorities of one Contracting Party may require any airline designated by the other Contracting Party to show proof that it is able to fulfil the conditions prescribed by the laws and regulations normally and reasonably applied by the said authorities, in accordance with the provisions of the Convention, to the operation of international air services.

4. Each Contracting Party shall have the right to refuse the operating authorization 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 2 if the said Contracting Party is not satisfied that a substantial ownership and effective control of such airline are vested in the Contracting Party designating the airline or in its nationals.

5. When an airline has been thus designated and authorized, it may commence operation of any of the agreed services at any time, provided that a tariff fixed in accordance with the provisions of article 9 of this Agreement is applied to that service.

Article 4. 1. Each Contracting Party shall have the right to revoke an operating authorization, or to suspend the exercise by the airline designated by the other Contracting Party of the rights specified in article 2 of this Agreement, or to impose such conditions as it may deem necessary on the exercise of these rights, if:

- (a) It 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; or that

- (b) The airline has not complied with the laws and regulations of the Contracting Party granting those rights; or
- (c) The airline fails to operate the services in accordance with the conditions prescribed in this Agreement.

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

Article 5. 1. Aircraft employed in international traffic by the designated airline of one Contracting Party, as well as their regular equipment, spare parts, supplies of fuels and lubricants, and aircraft stores (including food, beverages and tobacco) on board shall, on arriving in the territory of the other Contracting Party, be exempt from all customs duties, inspection fees and other duties and charges, provided such equipment and supplies remain on board the aircraft until re-exported.

2. The following shall likewise be exempt from such duties and charges, excluding payment for services rendered:

- (a) Aircraft stores taken on in the territory of one Contracting Party within limits fixed by the authorities of the said Contracting Party and intended for use on board aircraft of the other Contracting Party providing an international service;
- (b) Spare parts introduced into the territory of one Contracting Party for the maintenance and repair of aircraft employed in international traffic by the designated airline of the other Contracting Party;
- (c) Fuels and lubricants intended for aircraft employed in international traffic by the designated airline of the other Contracting Party, even if such supplies are consumed during that part of the flight which takes place over the territory of the Contracting Party in which they were taken on board.

The articles referred to in sub-paragraphs (a), (b) and (c) above may be required to be kept under customs supervision or control.

Article 6. Regular equipment and the above-mentioned supplies and stores may not be unloaded in the territory of the other Contracting Party save with the consent of the customs authorities of that Party. When so unloaded, they may be placed under the supervision of the said authorities until they are re-exported or otherwise disposed of in accordance with customs regulations.

Article 7. Passengers in transit across the territory of either Contracting Party shall be subject to no more than a reasonably simplified control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar charges.

Article 8. 1. The airlines designated by the two Contracting Parties shall enjoy fair and equitable treatment in the operation of the agreed services on the specified routes.

2. In operating the agreed services, the airline designated by each of the Contracting Parties shall take into account the interests of the airline designated by the other Contracting Party, in order not to affect unduly the services which the latter provides on all or a part of a shared route.

3. The agreed services provided by the airline designated by each of the Contracting Parties shall have as their primary objective the provision, at a reasonable

load factor, of capacity adequate to satisfy the normal and foreseeable requirements of international air traffic originating in or destined for the territory of the Contracting Party which designated the airline.

4. Additional capacity may be provided for the transport of passengers, cargo and mail taken on and put down at points on the specified routes in the territories of States other than that designating the airline. Such additional capacity shall be subject to the general principle that capacity shall be related to:

- (a) Traffic requirements between the country of origin and the countries of destination;
- (b) Traffic requirements of the area through which the airline passes, account being taken of local and regional services;
- (c) The requirements of through airline operation.

Article 9. 1. The tariffs to be charged by the airline of one of the Contracting Parties for carriage to or from the territory of the other Contracting Party shall be fixed at reasonable levels, due regard being paid to all relevant factors, in particular the cost of operation, a reasonable profit, and the tariffs charged by other airlines.

2. The tariffs referred to in paragraph 1 of this article shall, if possible, be fixed by agreement between the airlines designated by both Contracting Parties, after consultation with the other airlines operating over all or part of the same route. The airlines shall, wherever possible, reach this agreement by having recourse to the tariff-fixing procedure established by the International Air Transport Association.

3. The tariffs so fixed shall be submitted for approval to the aeronautical authorities of the Contracting Parties not less than 30 days before the proposed date of their introduction. In special cases this interval may be reduced, subject to the agreement of the said authorities.

4. If the designated airlines are unable to reach agreement on any of these tariffs, or if for any reason a tariff cannot be fixed in accordance with paragraph 2 of this article, or if, during the first 15 days of the 30-day period mentioned in paragraph 3 of this article, a Contracting Party informs the other Contracting Party of its disapproval of any tariff agreed in accordance with paragraph 2 of this article, the aeronautical authorities of the Contracting Parties shall endeavour to determine the tariff by mutual agreement.

5. If the aeronautical authorities cannot agree on the approval of any tariff submitted to them under paragraph 3 of this article, nor on the determination of any tariff under paragraph 4, the matter shall be settled in accordance with article 14 of this Agreement.

6. Subject to paragraph 3 of this article, no tariff shall come into force unless the aeronautical authorities of both Contracting Parties have approved it.

7. Tariffs established in accordance with the provisions of this article shall remain in force until new tariffs have been established in accordance with this article.

Article 10. Each Contracting Party undertakes to enable the other Contracting Party to transfer freely, at the current bank rate of exchange, any receipt in excess of expenditure accruing in its territory from the carriage of passengers, baggage, mail and cargo by a designated airline of the other Contracting Party. Wherever the payments system between the Contracting Parties is governed by a special agreement, this special agreement shall apply.

Article 11. 1. In a spirit of close co-operation, the aeronautical authorities of the Contracting Parties shall consult together at the request of one of them with a view to ensuring the satisfactory implementation of the provisions of this Agreement and its annexes.

2. The aeronautical authorities of one of the Contracting Parties shall supply to the aeronautical authorities of the other Contracting Party at their request such statements and statistics as may reasonably be requested concerning the frequency and capacity of the services provided and traffic carried by its designated carrier proceeding to and/or coming from the territory of the other Contracting Party or in transit through that territory, including statements relating to the origin and destination of such traffic on the specified routes. Such statements and statistics shall not exceed what is currently required by the Council of the International Civil Aviation Organization.

Article 12. 1. If either Contracting Party considers it desirable to modify any provision of this Agreement or its annexes, it may request consultation with the other Contracting Party. Such consultation, which may take place between the aeronautical authorities, either orally or by correspondence, shall begin within a period of sixty (60) days from the date of the request.

2. Any modifications of this Agreement decided upon pursuant to paragraph 1 shall be agreed upon in writing between the Contracting Parties and shall take effect on the date on which the Contracting Parties have informed each other by an exchange of notes that the relevant constitutional requirements have been complied with.

3. Any modification of the annex or annexes of this Agreement may be agreed upon in writing between the aeronautical authorities.

Article 13. If a general multilateral agreement concerning air transport, accepted by both Contracting Parties, enters into force, the provisions of the multilateral agreement shall prevail.

Article 14. 1. If any dispute arises relating to the interpretation or application of this Agreement, the Contracting Parties shall endeavour to settle it by consultation between the aeronautical authorities, in accordance with article 11, and should these consultations fail, by negotiation.

2. If the negotiations between the Contracting Parties have not been concluded within ninety (90) days from the date of receipt of the above-mentioned request, the dispute shall, at the request of one of the Parties, be submitted to an arbitration tribunal.

3. This arbitration tribunal shall consist of three members. Each of the Governments shall appoint an arbitrator; these arbitrators shall in turn appoint by common consent as chairman a national of a third State.

If within a period of ninety (90) days from the day on which one of the Governments proposed that the dispute should be settled by arbitration, the two arbitrators have not been appointed, or if during the following sixty (60) days the two arbitrators have not reached agreement on the appointment of a chairman, each Contracting Party may request the President of the Council of the International Civil Aviation Organization to make the necessary appointments.

4. If the arbitration tribunal fails to reach an amicable settlement of the dispute, it shall decide by majority vote. Unless the Contracting Parties agree otherwise,

the tribunal shall draw up its own rules of procedure and choose its own meeting place.

5. The Contracting Parties undertake to comply with any provisional measures ordered in the course of the proceedings and with the arbitral award which shall be deemed final in all cases.

6. If, and so long as, either Contracting Party fails to comply with an arbitral award, the other Contracting Party may limit, suspend or revoke any rights or privileges which it has granted under this Agreement to the Contracting Party in default.

7. Each Contracting Party shall be responsible for remunerating his own arbitrator and defraying the costs of his services, and for half the remuneration and costs of the chairman appointed.

Article 15. Either Contracting Party may at any time give notice to the other Contracting Party of its decision to denounce this Agreement. Such notice shall be given simultaneously to the International Civil Aviation Organization.

In this case, the Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice is withdrawn by mutual agreement before the expiry of that period.

Failing acknowledgement of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen (14) days after its receipt by the International Civil Aviation Organization.

Article 16. This Agreement shall be provisionally applicable from the date of its signature and shall enter into force on the date of the exchange of the instruments of ratification.

IN WITNESS WHEREOF the above-mentioned Plenipotentiaries have signed this Agreement and have thereto affixed their seals.

DONE at The Hague on 7 February 1974, in duplicate, in the Dutch and Spanish languages, both being equally authentic.

For the Kingdom of the Netherlands:

M. VAN DER STOEL

For the Republic of Paraguay:

TOMÁS SALOMONI

ANNEX

SCHEDULE OF ROUTES

Republic of Paraguay

Routes:

These shall be determined at a later date by the aeronautical authorities in accordance with article 12, paragraph 3, of the Agreement.

Kingdom of the Netherlands

Routes:

Amsterdam/any point or intermediate points in Europe/Las Palmas/any point or points in Africa/points in Brazil/Montevideo/Buenos Aires/Asunción/Santiago, Chile, in both directions.

Points in Suriname/via intermediate points in South America to Asunción or points beyond in both directions.

Points in the Netherlands Antilles/via intermediate points in South America to Asunción or points beyond in both directions.

The designated airlines may omit one or more points on the routes indicated and also change the order of the points.
