

No. 17927



FRANCE
and
PERU

**Air Transport Agreement (with annex). Signed at Lima on
23 April 1959**

**Exchange of notes constituting an agreement modifying the
route schedule annexed to the above-mentioned Agree-
ment. Lima, 17 February and 22 April 1969**

**Exchange of notes constituting an agreement further
modifying the route schedule annexed to the above-
mentioned Agreement of 23 April 1959, as amended.
Paris, 19 and 23 May 1969**

**Exchange of notes constituting an agreement further mod-
ifying the route schedule annexed to the above-
mentioned Agreement of 23 April 1959, as amended.
Lima, 17 November 1972 and 17 January 1973**

Authentic texts: French and Spanish.

*Authentic text of the Exchange of notes of 19 and 23 May 1969: French.
Registered by France on 31 July 1979.*

[TRANSLATION — TRADUCTION]

AIR TRANSPORT AGREEMENT¹ BETWEEN THE FRENCH REPUBLIC AND THE REPUBLIC OF PERU

The President of the French Republic and the President of the Republic of Peru, desirous of promoting air transport between the territories of the two States, [have decided to conclude an Air Transport Agreement between the two Republics which will lay the basis for such co-operation and, for that purpose,]² have appointed their respective plenipotentiaries, namely [His Excellency General Charles de Gaulle, President of the French Republic,]² Mr. Léon Brasseur, Ambassador Extraordinary and Plenipotentiary of France to Peru, and [His Excellency Mr. Manuel Prado, President of the Republic of Peru,]² Mr. Raúl Porras Barrenechea, Minister for Foreign Affairs of Peru, who, having exchanged their full powers, found in good and due form, have agreed as follows:

PART I. GENERAL PROVISIONS

Article 1. For the purposes of this Agreement:

1. The term “territory” shall have the meaning given in article 2 of the Convention on International Civil Aviation, signed at Chicago on 7 December 1944.³

2. The term “aeronautical authorities” shall mean, in the case of France, the Secrétariat général à l’Aviation civile et commerciale and, in the case of Peru, the Ministerio de Aeronáutica or, in both cases, any person or agency authorized to perform the functions at present exercised by the aforementioned bodies.

3. The term “designated airline” shall mean the airline chosen by either one of the Contracting Parties to operate the agreed services listed in the annex, the designation of which shall be notified to the aeronautical authorities of the other Contracting Party in accordance with the provisions of article 9 of this Agreement.

4. The term “agreed services” shall mean the air services specified in the route schedule contained in the annex to this Agreement.

Article 2. In order to prevent any discriminatory measure and to respect the principle of equal treatment, the Contracting Parties hereby agree that:

(a) The taxes and other charges or dues levied by each Contracting Party for the use of airports and other aeronautical facilities on its territory by the aircraft of the other Contracting Party shall not be higher than those payable by national aircraft of the same type used for similar purposes.

(b) Aircraft used by the airline designated by one of the Contracting Parties shall, on entering the territory of the other Contracting Party, be exempt in that

¹ Applied provisionally from 23 April 1959, the date of signature, and came into force definitively on 17 December 1960, the date when the Contracting Parties had notified each other of the completion of their constitutional formalities, in accordance with article 14.

² The text between brackets appears only in the Spanish authentic text.

³ 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.

territory, on the terms established by that country's customs regulations, from customs duties and other duties or taxes levied on goods entering, leaving and in transit through the territory, with the exception, however, of taxes representing the cost of a given service. Such exemption shall also apply to fuel, lubricating oils, spare parts, on-board equipment and provisions and equipment in general intended solely for the use of the aircraft and imported and re-exported with them.

(c) Fuel, lubricating oils, spare parts, normal equipment and on-board provisions intended for the use of the aircraft referred to in paragraph (b) above shall, on entering or leaving the territory of the other Contracting Party, be exempt from customs duties, inspection fees and other similar duties and taxes, with the exception, however, of taxes representing the cost of a service rendered.

(d) Fuel and lubricating oils taken on board aircraft used by the designated airlines of one Contracting Party in the territory of the other Contracting Party and re-exported shall, on the terms established by the customs regulations of that Contracting Party, be exempt from customs duties, purchase tax and other national duties and taxes, with the exception of taxes representing the cost of a service rendered.

Article 3. Certificates of airworthiness, certificates of competency and licences issued or validated by one of the Contracting Parties shall be recognized as valid by the other Contracting Party, for the purposes of operating the agreed services, as long as they remain in force.

Each Contracting Party reserves the right, however, to refuse to recognize as valid, for the purpose of flight over its own territory, certificates of competency and licences granted to its own nationals by the other Contracting Party.

Article 4. (a) The laws and regulations of one Contracting Party relating to the entry into and departure from its territory of aircraft engaged in international navigation or to the operation and navigation of such aircraft while within its territory shall apply to aircraft of the other Contracting Party, which shall comply with such laws and regulations on their arrival in and departure from the territory of the first-mentioned Contracting Party and during their stay in it.

(b) Passengers, crew and cargo shippers shall be required to comply, either personally or through a third party acting on their behalf and on their account, with the laws and regulations in force in the territory of each Contracting Party relating to the entry, stay and departure of passengers, crew or cargo, such as those relating to entry, stay, immigration, customs and quarantine.

Article 5. Each Contracting Party reserves the right to withhold or revoke operating authorization in respect of the airline designated by the other Contracting Party where it is not satisfied that the airline is at least 50 per cent owned and effectively controlled by nationals of one or other of the Contracting Parties or where the airline fails to comply with the laws and regulations referred to in article 4 or fails to fulfil its obligations under this Agreement and its annex.

Article 6. Civilian, commercial or private aircraft of either of the Contracting Parties shall, in the territory of the other Party, have the right to fly across that territory without landing and to make stops therein for non-traffic purposes at airports open to international traffic.

It is understood that the right does not extend to areas over which overflight is prohibited.

Article 7. In a spirit of close co-operation, the aeronautical authorities of the two Contracting Parties shall consult each other periodically with a view to ensuring the application of, and satisfactory compliance with, the principles established in this Agreement.

PART II. AGREED SERVICES

Article 8. The Government of Peru grants to the Government of the French Republic the right to arrange for the agreed services to be operated by an airline designated by it.

Article 9. The Government of the French Republic grants to the Government of the Republic of Peru the right to arrange for the agreed services to be operated by an airline designated by it.

Article 10. (a) The agreed services may be operated immediately or at a later date, at the option of the Contracting Party to which such rights have been granted, provided that:

1. The Contracting Party to which the rights have been granted has designated an airline to operate the specified route or routes;
2. The Contracting Party granting the rights has, in accordance with the terms of paragraph (b) below, authorized the airline concerned to operate the agreed services, which it shall do without delay, subject to the provisions of article 5 of this Agreement.

(b) The designated airlines may be required to satisfy the aeronautical authorities of the Contracting Party granting the rights that they are qualified to fulfill the conditions prescribed by the laws and regulations normally applied by those authorities to the operation of commercial airlines with regard to the activities envisaged in article 4, paragraph (a).

Article 11. The airline designated by each of the Contracting Parties according to the terms established in this Agreement shall, in the territory of the other Contracting Party, have the right to discharge and take on international traffic in passengers, mail and cargo at the points and on the routes listed in the annex.

Article 12. (a) The designated airlines shall receive fair and equitable treatment so as to enjoy equal opportunities for the operation of the agreed services.

(b) On common routes, they shall take their mutual interests into account so as not to affect unduly their respective services.

(c) On each of the routes listed in the schedules annexed to this Agreement, the agreed services shall have as their primary objective the provision, at a load factor which is deemed reasonable, of capacity adequate to meet the normal and reasonably foreseeable requirements of international air traffic from or to the territory of the Contracting Party which has designated the airline operating the said services.

(d) Within the limit of the capacity provided under the terms of the preceding paragraph and in addition to it, the designated airlines may satisfy traffic requirements between the territories of third States situated on the agreed routes and the territory of the other Contracting Party.

(e) Additional capacity over and above that mentioned in paragraph (d) may occasionally be provided, whenever this is warranted by the traffic requirements of the countries served by the route.

Article 13. 1. The tariffs to be charged on the agreed services serving the Peruvian and French routes described in the annex to this Agreement shall, wherever possible, be fixed by agreement between the designated airlines.

These airlines shall do so:

- (a) By implementing any resolution adopted under the tariff-fixing procedure of the International Air Transport Association (IATA); or
- (b) By direct agreement, after consultations where necessary, with any airlines of third countries which may be operating on all or part of the same routes.

2. The tariffs so fixed shall be submitted for approval to the aeronautical authorities of each Contracting Party not less than thirty (30) days before the date set for their entry into force; in special cases this time-limit may be reduced, subject to the agreement of the said authorities.

3. Should the designated airlines fail to agree on the fixing of a tariff in accordance with the provisions of paragraph 1 above, or should one of the Contracting Parties make known its dissatisfaction with the tariff submitted to it in accordance with the provisions of paragraph 2 above, the aeronautical authorities of the two Contracting Parties shall endeavour to reach a satisfactory settlement.

In the last resort, the matter shall be referred to the arbitration provided for in article 18 of this Agreement.

Pending the arbitral decision, the Contracting Party which has made known its dissatisfaction with the tariff shall have the right to require the other Contracting Party to maintain the tariffs previously in force.

FINAL PROVISIONS

Article 14. The terms of this Agreement shall be applied provisionally from the date of its signature. They shall enter into force definitively as soon as the two Contracting Parties have informed each other that the relevant constitutional formalities have been completed.

Article 15. This Agreement and any contracts relating thereto shall be registered with the International Civil Aviation Organization (ICAO) set up under the Convention on International Civil Aviation, concluded at Chicago on 7 December 1944.

Article 16. Either Contracting Party may at any time give notice to the other of its desire to terminate this Agreement. Such notice shall be communicated simultaneously to ICAO.

This Agreement shall terminate 12 months after the date of receipt of the notice to terminate by the other Contracting Party, unless such notice is withdrawn by mutual consent before the expiry of this period. If the Contracting Party which receives such notice fails to acknowledge receipt thereof, the said notice shall be deemed to have been received 14 days after its receipt by the International Civil Aviation Organization.

Article 17. Either Contracting Party may at any time request consultations with the other Party with a view to making any amendment to this Agreement

or to its annex which it considers desirable in the light of experience. It may request that such consultations be held between the aeronautical authorities of the two Contracting Parties. Such consultations shall commence within a period of 60 days from the date of the request.

Any amendment to this Agreement or to its annex agreed between the said authorities shall enter into force upon confirmation by an exchange of notes through the diplomatic channel. Should a multilateral aeronautical convention enter into force between the two Contracting Parties, such consultations shall be required by right, in order to bring the provisions of this Agreement or its annex into line with the provisions of that convention.

Article 18. Any dispute between the Contracting Parties relating to the interpretation or implementation of the Agreement which cannot be settled directly by consultations between the airlines concerned, between the aeronautical authorities or, in the last resort, between the respective Governments, shall be submitted to arbitration in accordance with the customary rules of international law.

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

[IN WITNESS WHEREOF, the above-named plenipotentiaries do hereby sign and seal this Agreement.]¹

DONE at Lima on 23 April 1959, in duplicate in the French and Spanish languages, both texts being equally authentic.

[Signed]

LÉON BRASSEUR
Ambassador Extraordinary and Plenipotentiary

[Signed]

RAÚL PORRAS BARRENECHEA
Minister for Foreign Affairs of Peru

SCHEDULE I

FRENCH ROUTES

- I. From France via Madrid, Lisbon, the French West Indies, San Juan, Caracas, Bogotá, Quito or Guayaquil to Lima, and thence to La Paz and Santiago (Chile), in both directions.
- II. From the French West Indies via the British West Indies, Venezuela, Panama, Colombia, Quito or Guayaquil to Lima, and thence to La Paz and Santiago (Chile).

¹ The text between brackets appears only in the Spanish authentic text.

- III. From France, via intermediate points in the United States, Mexico, the West Indies or Central America, to Bogotá, Quito or Guayaquil and thence to Lima, and thence to La Paz and Santiago (Chile), in both directions.
- IV. From France via intermediate points to Dakar, and thence via intermediate points in the different countries of South America to Quito or Guayaquil and beyond, in both directions.

(One or more points on the routes listed above may, at the option of the designated airline, be omitted on any or all of its services.)

[TRANSLATION — TRADUCTION]

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE FRENCH REPUBLIC AND THE REPUBLIC OF PERU MODIFYING THE ROUTE SCHEDULE ANNEXED TO THE AIR TRANSPORT AGREEMENT OF 23 APRIL 1959²

I

EMBASSY OF FRANCE IN PERU

No. 44

The Embassy of France presents its compliments to the Ministry of Foreign Affairs and has the honour to inform it as follows:

In the course of the talks which took place at Paris from 23 to 25 January 1969 between the representatives of the French and Peruvian authorities, the French and Peruvian delegations agreed that the schedule of routes annexed to the Air Transport Agreement between the French Republic and the Republic of Peru signed on 23 April 1959² would be replaced by a new schedule as follows:

SCHEDULE OF ROUTES

(One or more points on the routes listed above may, at the option of the designated airline, be omitted on any or all of its services.)

I. FRENCH ROUTES

1. From France via Madrid, Lisbon, the French West Indies, San Juan, Caracas, Bogotá, Quito and/or Guayaquil to Lima, and thence to La Paz and Santiago (Chile), in both directions.
2. From the French West Indies via the British West Indies, Venezuela, Panama, Colombia, Quito or Guayaquil to Lima, and thence to La Paz and Santiago (Chile), in both directions.
3. From France via intermediate points to Dakar, and thence via intermediate points in the different countries of South America to Quito or Guayaquil and Lima, and thence to Santiago (Chile), in both directions.

II. PERUVIAN ROUTES

1. From Peru via Quito and/or Guayaquil, Bogotá, Caracas, Trinidad, Barbados, Jamaica, San Juan (Puerto Rico), the Canary Islands, Lisbon and Madrid to Paris and thence to London, in both directions.
2. From Peru via intermediate points in the different countries of South America to Freetown and thence, via intermediate points in Europe, to Paris, and thence to another point in Europe to be specified at a later date by mutual consent, in both directions.*

* The Government of Peru shall have the right to substitute Monrovia or Villa Cisneros for Freetown, on condition that it gives the French Government one month's advance notice.

¹ Came into force on 22 April 1969, with retroactive effect from 17 February 1969, in accordance with the provisions of the said notes.

² See p. 129 of this volume.

The Embassy of France has the honour to inform the Ministry of Foreign Affairs that the above provisions are fully acceptable to the French Government.

If they are likewise acceptable to the Peruvian Government, the Embassy of France has the honour to propose to the Ministry of Foreign Affairs that this Note and the Ministry's reply thereto should constitute between the French Government and the Peruvian Government the agreement envisaged in article 17 of the above-mentioned Air Transport Agreement, which shall take effect as of this date.

Accept, Sir, etc.

Lima, 17 February 1969

Embassy of France
Lima

II

MINISTRY OF FOREIGN AFFAIRS

No. (DU) 6-14/15

The Ministry of Foreign Affairs presents its compliments to the Embassy of France and has the honour to refer to its Note No. 44 of 17 February 1969, in which it proposes that an agreement be concluded, by means of the corresponding Exchange of Notes, on the new schedule of routes for the Air Transport Agreement between Peru and France drawn up as a result of the talks between the Peruvian and French aeronautical authorities held at Paris last January.

The Ministry of Foreign Affairs of Peru is pleased to inform the Embassy of France that the diplomatic mission of Peru in Paris has been instructed to propose to the Ministry of Foreign Affairs of France the corresponding Exchange of Notes confirming the above-mentioned schedule of routes, such Notes to read as follows:

[See note I]

Accept, Sir, etc.

Lima, 22 April 1969

[Embassy of France
Lima]¹

¹ The text between brackets appears only in the Spanish authentic text.

[TRANSLATION — TRADUCTION]

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE FRENCH REPUBLIC AND THE REPUBLIC
OF PERU FURTHER MODIFYING THE ROUTE SCHEDULE
ANNEXED TO THE AIR TRANSPORT AGREEMENT OF
23 APRIL 1959, AS AMENDED²

I

EMBASSY OF PERU

5-14-M/39

The Embassy of Peru presents its compliments to the Ministry of Foreign Affairs and has the honour to inform it as follows:

In the course of the talks which took place at Lima from 25 to 27 March 1969 between the representatives of the Peruvian and French authorities, the two delegations agreed that the schedule of routes annexed to the Air Transport Agreement between the Republic of Peru and the French Republic signed on 23 April 1959, as amended by Exchange of Notes dated 17 February and 22 April 1969,² would be supplemented by the inclusion of the following routes:

PERUVIAN ROUTE NO. 3

—From Peru via Easter Island to Papeete, and thence to two points to be specified at a later date.*

FRENCH ROUTE NO. 4

—From the Society Islands via Easter Island to Lima, and thence to two points in South America to be specified at a later date.*

* Points beyond Peruvian route no. 3 and French route no. 4 shall be specified by mutual consent. At least one point beyond each of the two routes must be specified before either of the designated airlines of the two Parties can begin to operate flights on those routes.

The Embassy of Peru has the honour to inform the Ministry of Foreign Affairs that the above provisions are fully acceptable to the Peruvian Government.

If they are likewise acceptable to the French Government, the Embassy of Peru has the honour to propose to the Ministry of Foreign Affairs that this Note and the Ministry's reply thereto should constitute between the Peruvian Government and the French Government the agreement envisaged in article 17 of the above-mentioned Air Transport Agreement, which shall take effect as of this date.

Accept, Sir, etc.

Paris, 19 May 1969

Ministry of Foreign Affairs
Paris

¹ Came into force on 23 May 1969, with retroactive effect from 19 May 1969, in accordance with the provisions of the said notes.

² See pp. 129 and 135 of this volume.

II

The Ministry of Foreign Affairs presents its compliments to the Embassy of Peru and has the honour to inform it of the following:

On 19 May 1969, the Embassy addressed to the Ministry a Note which reads as follows:

[See note I]

The Ministry of Foreign Affairs has the honour to inform the Embassy of Peru that the above provisions are fully acceptable to the French Government.

Accept, Sir, etc.

Paris, 23 May 1969

Embassy of Peru
Paris

[TRANSLATION — TRADUCTION]

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE FRENCH REPUBLIC AND THE REPUBLIC OF PERU FURTHER MODIFYING THE ROUTE SCHEDULE ANNEXED TO THE AIR TRANSPORT AGREEMENT OF 23 APRIL 1959, AS AMENDED²

I

EMBASSY OF FRANCE IN PERU

No. 388

The Embassy of France presents its compliments to the Ministry of Foreign Affairs and has the honour to inform it as follows:

In accordance with the provisions of the Exchange of Notes dated 19 and 23 May 1969³ amending the schedule of routes annexed to the Franco-Peruvian Air Transport Agreement signed on 23 April 1959, as amended by Exchange of Notes dated 17 February and 22 April 1969,⁴ the French authorities propose that the schedule of routes annexed to the above Agreement should be supplemented by the addition of the following points:

ON PERUVIAN ROUTE NO. 3

—Tokyo as a point beyond Papeete.

ON FRENCH ROUTE NO. 4

—Santiago as a point beyond Lima.

The Embassy of France has the honour to inform the Ministry of Foreign Affairs that the above provisions are fully acceptable to the French authorities.

If they are likewise acceptable to the Peruvian Government, the Embassy of France has the honour to propose to the Ministry of Foreign Affairs that this Note and the Ministry's reply thereto should constitute between the French Government and the Peruvian Government the agreement envisaged in article 17 of the above-mentioned Air Transport Agreement and in Note I of the Exchange of Notes dated 19 and 23 May 1969. This agreement shall take effect as of this date.

Accept, Sir, etc.

Lima, 12 November 1972

[Signed]

ALBERT CHAMBON

¹ Came into force on 17 January 1973, with retroactive effect from 17 November 1972, in accordance with the provisions of the said Notes.

² See pp. 129, 135 and 137 of this volume.

³ See p. 137 of this volume.

⁴ See pp. 129 and 135 of this volume.

II

Reference No.: (DU).6-14/15

The Ministry of Foreign Affairs presents its compliments to the Embassy of France and has the honour to refer to its Note No. 388 of 17 November 1972 in which it proposed, in accordance with the provisions of the Exchange of Notes dated 19 and 23 May 1969 amending the schedule of routes annexed to the Franco-Peruvian Air Transport Agreement signed on 23 April 1959, as amended by Exchange of Notes dated 17 February and 22 April 1969, that the schedule of routes annexed to the Agreement should be supplemented by the addition of the following points:

[*See note I*]

In this connection, the Ministry of Foreign Affairs is pleased to inform the Embassy of France that the Air Transport Directorate of the Ministry of Transport and Communications has informed this Ministry of Foreign Affairs that, having conducted the relevant studies and evaluated the potential traffic that would be generated by the operation of these routes in co-operation with the airline Air France, it agrees with the inclusion of the above points in the annex to the Agreement.

This Note and Note No. 388 of the Embassy of France therefore constitute an amendment to the Air Transport Agreement concluded between the two countries on 23 April 1959.

Accept, Sir, etc.

Lima, 17 January 1973

Embassy of France
Lima
