

No. 19950

**NETHERLANDS
and
URUGUAY**

**Air Transport Agreement (with annexes). Signed at
The Hague on 21 November 1979**

Authentic texts: Dutch and Spanish.

*Registered by the International Civil Aviation Organization on 19 June
1981.*

**PAYS-BAS
et
URUGUAY**

**Accord relatif aux transports aériens (avec annexes). Signé à
La Haye le 21 novembre 1979**

Textes authentiques : néerlandais et espagnol.

*Enregistré par l'Organisation de l'aviation civile internationale le
19 juin 1981.*

[TRANSLATION — TRADUCTION]

AIR TRANSPORT AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AND THE GOVERNMENT OF THE EASTERN REPUBLIC OF URUGUAY

PREAMBLE

The Government of the Kingdom of the Netherlands and
The Government of the Eastern Republic of Uruguay,

Being parties to the Convention on International Civil Aviation opened for signature on 7 December 1944,² and with a view to concluding an Agreement so that scheduled commercial air services between and beyond their respective territories may be established on a basis of equality of opportunities and may be operated in a sound and economical manner,

Have agreed as follows:

GENERAL CONCEPTS

Article I. 1. For the application of this Agreement and its annexes:

(a) The term “Convention” means the Convention on International Civil Aviation opened for signature on 7 December 1944 and includes any annex adopted under article 90 of that Convention and any amendment of the annexes or Convention under articles 90 and 94 thereof;

(b) The term “territory” has the meaning specified in article II of the Convention;

(c) The term “aeronautical authorities” means:

- In the case of the Eastern Republic of Uruguay, the Ministry of National Defence;
- In the case of the Netherlands, the Ministry of Transport and Public Works;
- Or in both cases, any person or body authorized to assume the functions currently exercised by them;

(d) The terms “designated airline” or “designated airlines” mean the airline or airlines that each Contracting Party has designated in accordance with article III of this Agreement, to operate the air services described in the annex of this Agreement;

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

¹ Applied provisionally from 21 November 1979, the date of signature, and came into force definitively on 2 October 1980 by the exchange of the instruments of ratification, which took place at Montevideo, in accordance with article XXI.

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; vol. 1008, p. 213, and vol. 1175, p. 297.

GRANTING OF RIGHTS

Article II. 1. Each Contracting Party grants to the other Contracting Party the rights specified in this present Agreement and the annexes thereto, for the purpose of establishing the scheduled international air services described in the said Agreement and annexes hereinafter called “the agreed services”, on the routes specified in the route schedule in annex II, hereinafter called “specified routes”.

2. Subject to the provisions of this Agreement and its annexes, the airlines designated by each Contracting Party shall enjoy the following rights:

- (a) To fly across the territory of the other Contracting Party;
- (b) To make stops for non-traffic purposes in the said territory;
- (c) To put down or take on in the said territory international traffic in passengers, cargo and mail, separately or in combination, while operating the agreed services on the routes specified in the annex drawn up in pursuance of this Agreement.

3. The rights of cabotage traffic within the territory of each Contracting Party shall be reserved for their respective national airlines.

CONDITIONS FOR THE EXERCISE OF THE RIGHTS GRANTED

Article III. 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. On receipt of the designation, the other Contracting Party shall without delay, subject to the provisions of paragraphs 3 and 4 of this article, grant the necessary authorizations to the designated airline or airlines.

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

4. Each Contracting Party shall have the right to refuse the authorizations referred to in paragraph 2 of this article if the designated airline or airlines have not shown proof that majority ownership and effective control of that airline or airlines are vested in the Contracting Party designating the airline or in its nationals.

5. When an airline or airlines have been thus designated and authorized, operation of the agreed services may commence at any time, provided that a tariff fixed in accordance with the provisions of article XII of this Agreement is in force.

6. Each Contracting Party shall have the right to replace the airline it has designated, by written notification to the other Contracting Party. The newly designated airline shall enjoy the same rights and be subject to the same obligations as the airline for which it has been substituted.

PROHIBITED AREAS

Article IV. Each Contracting Party may, for military reasons or reasons of public safety, restrict or prohibit uniformly the aircraft of other States from flying over certain areas of its territory, provided that no distinction in this respect is made between the aircraft of the Contracting Party whose territory is involved, which are engaged in international scheduled airline services, and the aircraft of other States likewise engaged.

Such prohibited areas shall be of reasonable extent and location, so as not to interfere unnecessarily with air navigation. Descriptions of such prohibited areas in the territory of a Contracting Party, as well as any subsequent alterations, shall be communicated as soon as possible to the other Contracting Party and to the International Civil Aviation Organization.

REVOCATION, SUSPENSION AND LIMITATION OF RIGHTS

Article V. 1. Each Contracting Party shall have the right to revoke an operating authorization or to suspend the exercise of the rights granted to an airline designated by the other Contracting Party or to impose such conditions as it may deem necessary on the exercise of such rights, in the following cases:

- (a) Where it has not been proved that majority ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals;
- (b) Where the airline fails to comply with the laws and regulations of the Contracting Party which grants the rights; and
- (c) Where the airline fails to operate the agreed services in accordance with the conditions prescribed in this Agreement and its annexes.

2. Unless immediate revocation or suspension is essential to prevent further infringements of laws and regulations, this right shall be exercised only after consultation with the other Contracting Party.

USE OF INSTALLATIONS AND FACILITIES AND IMPOSITION OF AIRPORT CHARGES

Article VI. 1. The aircraft of both Contracting Parties shall have the right to use the installations and aviation facilities of the other Contracting Party.

2. For the use of such installations and facilities provided by one Contracting Party, the designated airline of the other Contracting Party shall not pay charges higher than those paid by the aircraft of the other foreign airlines engaged in scheduled international services.

EXEMPTION FROM CUSTOMS DUTIES

Article VII. 1. Aircraft employed in the agreed services by the designated airlines of the Contracting Parties, their regular equipment, supplies of fuel and lubricants, spare parts, aircraft stores (including food, beverages and tobacco) shall, on entering 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 the flight is resumed.

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

- (a) Aircraft stores taken on board in the territory of either Contracting Party within limits fixed by the authorities of the Contracting Parties and intended for use on board aircraft operating the agreed services of the other Contracting Party;
- (b) Spare parts introduced into the territory of one Contracting Party for the maintenance or repair of aircraft employed in the agreed services by the designated airline or airlines of the other Contracting Party; and

(c) Fuel and lubricants intended for aircraft employed in the agreed services by the designated airline or airlines 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 other Contracting Party, in which they were taken on board. The articles mentioned in these subparagraphs may be required to be kept under customs supervision or control.

3. Regular airborne equipment and other articles and stores on board the aircraft of either Contracting Party may not be unloaded in the territory of the other Contracting Party save with the consent of its customs authorities. When so unloaded, they may be placed under the supervision of the said authorities until they are re-loaded or otherwise disposed of in accordance with customs regulations.

4. The designated airlines, under the system of exemptions allowed in paragraphs 2 (a), 2 (b) and 2 (c) of this article, may store, on the airfield or airfields of the other Contracting Party, and under customs control, the necessary quantities of fuel, lubricants, spare parts, regular airborne equipment introduced from the territory of either Contracting Party or from other States and intended for use solely by the aircraft employed in the agreed services.

EXEMPTION FROM TAXES ON PROFITS FROM OPERATIONS

Article VIII. 1. Income or profits resulting from the operation of an aircraft in international traffic by any designated airline that is considered a resident for income tax purposes of the territory of one Contracting Party shall be exempt from any income tax, as well as any tax on profits applied by the Government of the other Contracting Party.

2. Any aircraft which operates in the international air services of either of the two Contracting Parties, as well as any property connected with the operation of the said aircraft, shall be taxable only in the State in which the place of effective management of the enterprise is situated.

TRANSFER OF PROFITS

Article IX. Each Contracting Party shall grant to the designated airline of the other Contracting Party the right of free transfer, in convertible currency, of the excess of receipts over expenditure obtained by each airline in the normal conduct of its business.

Such transfers shall be carried out regularly and must be based on the foreign exchange provisions applicable to normal payments.

No charge other than ordinary bank charges shall be applicable to the said transfers.

FACILITIES FOR PASSENGERS, EQUIPMENT AND CARGO IN TRANSIT

Article X. Passengers, equipment and cargo in direct transit across the territory of one Contracting Party and not leaving the area of the airport reserved for such purpose shall be subject to a simplified control, except in the case of security measures against violence and air piracy. Equipment and cargo in direct transit shall be exempt from customs duties and other similar taxes.

RECOGNITION OF CERTIFICATES, LICENCES AND QUALIFICATIONS

Article XI. 1. Certificates of airworthiness, certificates of competency and licences issued or validated by one Contracting Party in accordance with the provisions of the Convention and still in force shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services.

2. Each Contracting Party reserves the right, however, of refusing to recognize the validity of the certificates of competency and the licences issued to, or validated for, its own nationals by the other Contracting Party or by another State for the purpose of flight over its own territory.

TRANSPORT TARIFFS

Article XII. 1. The tariffs to be charged for the agreed services shall be established at reasonable rates, due regard being paid to all relevant factors, in particular, cost of operation, reasonable profit and the tariffs charged by other airlines operating over the same route or parts thereof.

2. The designated airlines of both Contracting Parties shall establish by mutual agreement the tariffs to be charged for the agreed services. To that end, the said airlines shall consult with other airlines operating over the route or parts thereof. Where feasible, the tariff-fixing procedure established by the International Air Transport Association (IATA) shall be applied.

3. The tariffs so fixed shall be submitted for approval to the aeronautical authorities of the Contracting Parties not less than thirty days before the proposed date of their introduction. The period of thirty days may be reduced if the aeronautical authorities of the Parties so agree.

4. If the designated airlines of the Contracting Parties fail to agree or the aeronautical authority of either Contracting Party disapproves of the tariffs submitted, the aeronautical authorities of the two Contracting Parties shall establish them by mutual agreement. Existing tariffs shall remain in force until the said agreement has been reached.

5. If the aeronautical authorities of the two Contracting Parties cannot agree, the procedure set forth in article XVIII (Settlement of disputes) shall be followed.

APPLICATION OF LAWS AND REGULATIONS

Article XIII. 1. The laws, regulations and other provisions of each of the Contracting Parties relating to the entry into, sojourn in or 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 aircraft of the designated airline or airlines of the other Contracting Party.

2. The laws, regulations and other provisions of each Contracting Party relating to the entry into, sojourn in or departure from its territory of passengers, equipment, mail and cargo, as well as those relating to the procedures of immigration, passports, customs, police and health, shall be applied to the passengers, equipment, mail and cargo carried by the aircraft of the designated airline or airlines of the other Contracting Party.

OFFENCES BY THE DESIGNATED AIRLINES

Article XIV. 1. Offences against the rules of air navigation committed by the designated airline of one Contracting Party shall be reported by the aeronautical authorities of the Contracting Party in whose territory the offence was committed to the aeronautical authorities of the other Contracting Party. If the said offence is of a serious character, the aeronautical authorities of the Contracting Party in whose territory the offence was committed shall have the right to request that appropriate measures be adopted by the aeronautical authorities of the other Contracting Party.

2. Any other offences which may be committed by the designated airline of one Contracting Party in the territory of the other Contracting Party shall be judged in accordance with the territorial law of the place in which they were committed. Without prejudice to the above and prior to compliance with the ruling handed down, the aeronautical authorities in whose territory the offence was committed shall bring the matter to the attention of the aeronautical authorities of the other Contracting Party.

STATISTICS

Article XV. The aeronautical authorities of each Contracting Party shall supply to the aeronautical authorities of the other Contracting Party, at their request, such statistical reports as may be reasonably considered necessary by the designated airline or airlines of the other Contracting Party. Such reports shall include all information required to determine the volume of traffic carried by the designated airline or airlines on the agreed services.

EXCHANGE OF VIEWS

Article XVI. There shall be regular and frequent consultation between the aeronautical authorities of the Contracting Parties, in a spirit of close co-operation, with a view to ensuring the satisfactory implementation of the provisions of this Agreement and its annexes.

CONSULTATIONS, MODIFICATIONS AND AMENDMENTS
TO THE AGREEMENT AND ANNEXES

Article XVII. 1. If either Contracting Party considers it desirable to modify any provision of this Agreement, it may request consultations between the aeronautical authorities of both Contracting Parties, concerning the modifications proposed. The consultations shall begin within a period of sixty days from the date of receipt of the request.

2. Any modification of this Agreement decided upon during the consultations referred to in paragraph 1 of this article shall be agreed on in writing between the Contracting Parties and shall take effect on the date on which the Contracting Parties have informed each other that the formalities constitutionally required in their respective countries have been fulfilled.

3. The respective aeronautical authorities have the right to agree in writing on any modifications of the annexes to this Agreement which they may decide on during the consultations referred to in paragraph 1 of this article.

Such modifications shall take effect on a date to be established in an exchange of diplomatic notes.

SETTLEMENT OF DISPUTES

Article XVIII. 1. If any dispute arises relating to the interpretation or application of the present Agreement and its annexes, the Contracting Parties shall endeavour to settle it by negotiations between themselves.

2. If the Contracting Parties fail to reach a settlement by the said consultations, either Contracting Party may refer the dispute to an arbitral tribunal the composition and operation of which shall be subject to the following:

(a) The tribunal shall be composed of three members. Each Contracting Party shall nominate one arbitrator and the third shall be appointed by agreement between the two so nominated and may not be a national of either of the Contracting Parties.

(b) Nomination of the first two arbitrators shall take place within a period of sixty days from the date of receipt by either Contracting Party from the other of a diplomatic note requesting arbitration. The third arbitrator shall be appointed within thirty days from the appointment of the first two.

(c) If either of the Contracting Parties fails to nominate an arbitrator within the period specified, or if the third arbitrator is not appointed within the period specified, the President of the Council of the International Civil Aviation Organization (ICAO) may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. If the President is a national of either of the Contracting Parties or is otherwise unable to act, his replacement shall appoint the arbitrator or arbitrators.

(d) The arbitral tribunal shall adopt its own rules of procedure and shall reach its decision by a majority of votes within thirty days from the date it is established. This period may be extended by agreement between both Contracting Parties.

(e) The decisions of the arbitral tribunal shall be binding on both Contracting Parties. Each Contracting Party shall bear the expenses of its arbitrator. The expenses of the third arbitrator shall be borne in equal parts by both Contracting Parties.

MODIFICATIONS BY A MULTILATERAL CONVENTION

Article XIX. If a Multilateral Air Convention is binding on both Contracting Parties, the provisions of the Multilateral Convention shall be automatically applicable to this Agreement.

REGISTRATION OF THE AGREEMENT

Article XX. Without prejudice to the provisions of Article 102, paragraph 1, of the Charter of the United Nations, this Agreement and its annexes shall be registered with the International Civil Aviation Organization (ICAO) by both Contracting Parties.

APPLICATION OF THE AGREEMENT

Article XXI. As regards the Kingdom of the Netherlands, this Agreement shall be valid for the Kingdom in Europe, only.

The provisions of this Agreement and its annexes shall be provisionally applicable from the date of its signature and shall enter into force on the date of exchange of the instruments of ratification through the diplomatic channel.

On its entry into force, this Agreement shall supersede, between the Kingdom of the Netherlands in Europe and the Eastern Republic of Uruguay, the Convention on Air Transport between the Netherlands and Uruguay signed in Montevideo on 12 May 1947.

DENUNCIATION OF THE AGREEMENT

Article XXII. Either Contracting Party may at any time denounce this Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organization (ICAO). If such notice is given, this Agreement shall cease to be effective twelve 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 this period. In the absence of acknowledgement of receipt by the other Contracting Party to whom notice was given, notice shall be deemed to have been received fourteen days after the date of its receipt by the International Civil Aviation Organization.

DONE at The Hague on 21 November 1979, in two originals, in the Dutch and Spanish languages, both texts being equally authentic.

For the Government of the Kingdom of the Netherlands:

C. A. VAN DER KLAUW

For the Government of the Eastern Republic of Uruguay:

P. R. RIVERO

ANNEX I

1. With regard to the utilization of regional air traffic, each of the Contracting Parties may adopt reasonable rules for protection of their interests; these rules shall be respected by the other Contracting Party.

The said rules shall not affect the rights and privileges granted in the present Agreement.

2. The agreed services shall have as their primary objective the provision of capacity suited to the reasonably anticipated international air traffic requirements between the territory of the Contracting Party designating the airline and points on the routes specified.

3. The airline or airlines designated by both Contracting Parties shall be guaranteed fair and equal treatment, so that they may enjoy equal opportunities in the provision of capacity, for the operation of the agreed services.

4. In operating their routes or common sections thereof the designated airline or airlines of the Contracting Parties shall take into account their reciprocal interests so as not to affect unduly their respective services and, in particular, regional services.

Each Contracting Party undertakes to grant to the designated airline or airlines of the other Contracting Party the exercise of fifth freedom traffic rights, which shall be of a supplementary nature with respect to the primary objective of operating traffic between the territory of the Contracting Party designating the airline and points on the routes specified.

All rights granted by one Contracting Party to the designated airline or airlines of the other Contracting Party to operate fifth freedom traffic to points beyond either of their two territories shall require the latter Contracting Party, for reasons of equality of opportunities, to grant such rights in the same form to the designated airline or airlines of the first Contracting Party.

5. The form in which these principles shall be applied shall be the subject of an agreement between the aeronautical authorities of both Contracting Parties.

ANNEX II

ROUTE SCHEDULE

1. Route specified for the Kingdom of the Netherlands:

Amsterdam, two points in Europe, two points in Africa, Rio de Janeiro, São Paulo, *Montevideo*, Buenos Aires and Santiago, Chile.

2. Route specified for the Eastern Republic of Uruguay:

Montevideo, two points in South America, two points in Africa, two points in Europe to be specified, *Amsterdam* and two points beyond, to be specified.

3. The designated airlines may omit one or more points or change the order of the points on the routes indicated on any or all flights.

4. Nothing shall prevent the designated airlines from serving other points than those specified on the routes, provided that no traffic rights are exercised between those points and the point in the territory of the other Contracting Party, without prior authorization.

5. Extra flights may be operated by the designated airlines with the prior authorization of the aeronautical authorities of the other Contracting Party.
