

**No. 19970**

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**SPAIN  
and  
COSTA RICA**

**Air Transport Agreement (with annex). Signed at San José on 16 November 1979**

*Authentic text: Spanish.*

*Registered by Spain on 29 June 1981.*

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**ESPAGNE  
et  
COSTA RICA**

**Accord relatif aux transports aériens (avec annexe). Signé à San José le 16 novembre 1979**

*Texte authentique : espagnol.*

*Enregistré par l'Espagne le 29 juin 1981.*

## [TRANSLATION—TRADUCTION]

**AIR TRANSPORT AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE REPUBLIC OF COSTA RICA AND THE GOVERNMENT OF THE KINGDOM OF SPAIN**

The Government of the Republic of Costa Rica and the Government of the Kingdom of Spain,

Recognizing the importance of air transport as a means of creating and strengthening friendship, understanding and co-operation between the peoples of the two countries;

Desiring also to apply to such transport the principles and provisions of the Convention on International Civil Aviation, signed at Chicago on 7 December 1944;<sup>2</sup>

Desiring to organize and strengthen scheduled air services between the two countries on the basis of reciprocal rights in order to strengthen co-operation in the field of international air transport;

Have agreed as follows:

*Article 1. DEFINITIONS*

For the interpretation and purposes of this Agreement and its annex, the terms specified below shall have the following meanings:

(a) The term "Agreement" shall mean this Agreement and its annex.

(b) The term "aeronautical authorities" shall mean, in the case of the Kingdom of Spain, the Subsecretariat of Civil Aviation of the Ministry of Transport and Communications and, in the case of the Republic of Costa Rica, the Ministry of Public Works and Transport or, in both cases, the person or agency authorized to perform the functions currently performed by these authorities.

(c) The term "designated airline" shall mean the airline designated by each Contracting Party to operate the agreed services on the routes specified in the annex to this Agreement, in accordance with the provisions of article 3 of this Agreement.

(d) The term "air service" shall mean any scheduled air flight performed by aircraft for the public carriage of passengers, cargo or mail.

(e) The term "international air service" shall mean an air service which passes through the air space over the territory of more than one State.

<sup>1</sup> Applied provisionally from 16 November 1979, the date of signature, and came into force definitively on 26 September 1981, the date of an exchange of diplomatic notes by which both Contracting Parties have notified one another of the fulfilment of their respective constitutional formalities, in accordance with article 20.

<sup>2</sup> 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.

(f) The term “stop for non-traffic purposes” shall mean a landing for any purpose other than taking on or discharging passengers, cargo or mail.

(g) The term “tariff” shall mean the price to be paid for the carriage of passengers, baggage and cargo and the conditions under which those prices apply, including costs and conditions of agency and other auxiliary services but excluding remuneration or conditions for the carriage of mail.

(h) The term “capacity of an aircraft” shall mean the payload of an aircraft expressed in terms of the number of passenger seats and the weight capacity for cargo and mail.

(i) The term “capacity offered” shall mean the capacity of the aircraft used for the operation of each of the agreed air services, multiplied by the frequency.

(j) The term “frequency” shall mean the number of round trips over a given period that an airline operates on a specified route.

(k) The term “agreed services” shall mean any scheduled international air services which, in accordance with the provisions of this Agreement, may be established on the specified routes.

(l) The term “specified routes” shall mean the routes established in the annex to this Agreement.

(m) The term “territory”, in relation to a State, shall mean the land area and territorial sea of that State, as well as the air space above.

## Article 2. TRAFFIC RIGHTS

(1) Each Contracting Party shall grant to the other Contracting Party the rights specified in this Agreement for the purpose of establishing and operating the agreed services on the routes specified in the annex to this Agreement. The airline designated by each Contracting Party shall, while operating an agreed service on a specified route, enjoy the following rights:

- (a) To fly without landing over the territory of the other Contracting Party;
- (b) To make stops for non-traffic purposes in the territory of the other Contracting Party;
- (c) To make stops at the points in the territory of the other Contracting Party which are specified in the route schedule in the annex to this Agreement, for the purpose of discharging and taking on international air traffic in passengers, mail and cargo coming from or going to the other Contracting Party, or from or to a third State, in accordance with the provisions of the annex to this Agreement.

(2) Nothing in this Agreement shall be deemed to confer on the designated airline of one Contracting Party rights of cabotage in the territory of the other Contracting Party.

### *Article 3. DESIGNATION OF AIRLINES*

(1) Each Contracting Party shall have the right to designate an airline to operate the agreed services on the specified routes and shall notify the other Contracting Party thereof in writing.

(2) On receipt of such notification, the other Contracting Party shall grant the corresponding operating permit without delay to the designated airline, in accordance with the provisions of paragraphs 3 and 4 of this article and paragraph 1 of article 4.

(3) The aeronautical authorities of one Contracting Party may require the designated airline of the other Contracting Party to satisfy them that it is able to fulfil the obligations prescribed by the laws and regulations normally and reasonably applied by those authorities to the operation of international air services, in accordance with the provisions of the Chicago Convention.

(4) Each Contracting Party shall have the right to withhold the operating permit referred to in paragraph 2 of this article, or to impose such conditions as it may deem necessary on the exercise by an airline of the rights specified in article 2, where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party which designated the airline, or in its nationals.

(5) When an airline has been so designated and authorized, it may begin at any time to operate the agreed services, provided that a tariff established in accordance with the provisions of article 6 of this Agreement is in force in respect of these services.

### *Article 4. REVOCATION OR SUSPENSION OF PERMITS*

(1) Each Contracting Party reserves the right to revoke the operating permit granted to an airline designated by the other Contracting Party, to suspend the exercise by that airline 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:

- (a) Where it is not satisfied that ownership and effective control of the airline are vested in the Contracting Party which designated the airline, or in its nationals;
- (b) Where the airline fails to comply with the laws and regulations of the Contracting Party granting those rights; or
- (c) Where the designated airline fails to operate the agreed services in accordance with the conditions laid down in this Agreement.

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

*Article 5.* EXEMPTION FROM CUSTOMS DUTIES  
AND CONTROL OF PASSENGERS IN TRANSIT

(1) Aircraft used in international air services by the designated airline of either Contracting Party, as well as usual equipment, fuel, lubricants and stores (including food, tobacco and beverages), on board such aircraft, shall be exempt, on entry into the territory of the other Contracting Party, from all customs duties, inspection fees and other duties or taxes provided that such equipment and supplies remain on board the aircraft until re-exported.

(2) The following shall also be exempt from the same duties and taxes, with the exception of charges for services rendered:

- (a) Aircraft stores taken on board in the territory of either Contracting Party, within the limits fixed by the authorities of the said Contracting Party, and intended for use on board aircraft of the other Contracting Party engaged in international air services;
- (b) Spare parts brought into the territory of either Contracting Party for the maintenance or repair of aircraft used in international air services by the designated airline of the other Contracting Party; and
- (c) Fuel and lubricants intended to supply aircraft used in international air services by the designated airline of the other Contracting Party, even if these supplies are used up during flight over the territory of the Contracting Party in which they were taken on board.

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

(3) The usual aircraft equipment, as well as the above-mentioned materials and supplies, may be unloaded in the territory of the other Contracting Party only with the approval of the customs authorities of that territory. In such cases, they may be placed under the supervision of the said authorities until they are re-exported or disposed of in any other duly authorized manner.

(4) Passengers in transit through the territory of either Contracting Party shall be subject to no more than a routine control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

*Article 6.* TARIFFS

(1) The tariffs to be charged by the designated airline of either Contracting Party for carriage to or from the territory of the other Party shall be fixed at reasonable levels, due regard being paid to all relevant factors, especially operating costs, reasonable profit and the tariffs of other airlines.

(2) The tariffs referred to in paragraph 1 of this article shall, if possible, be agreed on by the designated airlines following consultations with other airlines operating on all or part of the same route. The airlines shall reach such agreement, wherever possible, on the basis of the recommendations of the international agency, the regulations of which usually apply.

(3) The tariffs so agreed shall be submitted to the aeronautical authorities of both Contracting Parties for approval not less than 90 days before the date laid down for their entry into force. In special cases, this period may be reduced, subject to the agreement of the said authorities. The prior approval of the aeronautical authorities of both Parties shall be required for the entry into force of a tariff.

(4) If a tariff cannot be agreed on in accordance with paragraph 2 of this article, or if one aeronautical authority, during the period established in paragraph 3 of this article, informs the other of its disagreement with any tariff agreed on in accordance with the provisions of paragraph 2, the aeronautical authorities of the two Parties shall endeavour to fix the tariff by mutual consent.

(5) If the aeronautical authorities cannot agree on any tariff submitted to them under paragraphs 2, 3 and 4 of this article, the dispute shall be settled in accordance with the provisions of article 18 of this Agreement.

(6) A tariff established in accordance with the provisions of this article shall remain in force until a new tariff has been established. However, no tariff shall remain in effect by virtue of this paragraph for a period exceeding 12 months from the date on which it otherwise would have expired.

(7) The airlines designated by the Contracting Parties may not in any way alter the amount of or the rules of application for the tariffs in force.

#### *Article 7. APPLICATION OF LAWS AND REGULATIONS*

(1) The laws and regulations of each Contracting Party governing the entry into or departure from its territory of aircraft engaged in international traffic, or governing the operation of such aircraft while within its territory, shall apply to the aircraft of the designated airline of the other Contracting Party.

(2) The laws and regulations of each Contracting Party governing the entry into, stay in or departure from its territory of passengers, crews, baggage, mail and cargo, and also the procedures governing entry into and departure from the country, immigration and emigration, customs and health control, shall also apply in that territory to the operations of the designated airline of the other Contracting Party.

(3) For military reasons or in the interests of public safety, each Contracting Party may restrict or prohibit flights by aircraft of the designated airline of the other Contracting Party over certain parts of its territory, provided that such restrictions or prohibitions also apply to aircraft of the designated airline of the first Contracting Party or to airlines of third States which operate scheduled international air services.

#### *Article 8. CERTIFICATES AND LICENCES*

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

operating the routes defined in the annex to this Agreement, provided that the requirements according to which such certificates or licences were issued or validated are equal to or above the minimum standards which may be established in international civil aviation conventions. Each Contracting Party shall reserve the right, however, to refuse to recognize the validity, for flights over its own territory, of certificates of competency and licences granted to its own nationals by the other Contracting Party.

#### *Article 9. TRANSFER OF PROFITS*

Each Contracting Party undertakes to allow the other Contracting Party to transfer freely, at the official rate of exchange, the excess of income over expenditures acquired in its territory as a result of the carriage of passengers, baggage, mail and cargo by the designated airline of that other Contracting Party. Where transfers between the Contracting Parties are regulated by a special agreement, they shall be effected in accordance with that agreement.

#### *Article 10. USE OF AIRPORTS AND OTHER SERVICES*

Each Contracting Party may impose, or allow to be imposed, on the aircraft of the other Party fair and reasonable rates for the use of airports and other services. Nevertheless, each Contracting Party agrees that such rates shall not be higher than those applicable for the use of the said airports and services to aircraft engaged in similar international air services.

#### *Article 11. CAPACITY*

(1) The main object of the agreed services on any of the routes specified in the annex to this Agreement shall be to offer adequate capacity to and from the country to which the designated airline belongs.

(2) On common routes, the designated airlines shall take their mutual interests into account so as not to unduly affect their respective services.

(3) Both Contracting Parties recognize that fifth freedom traffic is complementary or subsidiary to principal third and fourth freedom traffic, the development of which is the primary objective of this Agreement.

(4) The right to take on and discharge in the respective territories of the Contracting Parties international traffic bound for or coming from third countries, pursuant to the provisions of article 2 (c) and the annex to this Agreement, may be exercised in accordance with the general principles of orderly development of international air traffic and in such a way that capacity is adapted to, *inter alia*:

- (a) Traffic demand between the country of origin and the countries of destination;
- (b) The requirements of an economic operation on the route;
- (c) The traffic demand of the areas through which the route passes.

(5) The frequency of the services of the designated airlines, the capacity offered by these services, and any changes in the type of aircraft used which represent substantial changes in the agreed services, shall be determined by agreement between the aeronautical authorities of the two Contracting Parties, either officially or at the proposal of the designated airlines.

#### *Article 12. STATISTICS*

The aeronautical authorities of each Contracting Party shall supply to the aeronautical authorities of the other Party, if they so request, such statistical reports as can be reasonably considered necessary for reviewing the capacity required on the agreed services by the designated airline of the other Contracting Party. Such reports shall include all data required to determine the volume of the traffic carried by the designated airlines on the agreed services.

The same procedure shall be followed when the aeronautical authorities of each Contracting Party request statistical reports from the designated airlines of either Contracting Party.

#### *Article 13. STAFF*

The designated airline of either Contracting Party may maintain in the territory of the other Party the technical and sales staff necessary for the normal operation of its commercial activities. Such staff must be nationals of one or other of the Contracting Parties.

#### *Article 14. CONSULTATIONS*

The aeronautical authorities of the Contracting Parties shall consult together periodically, in a spirit of close co-operation, with a view to ensuring the satisfactory application of the provisions of this Agreement and its annex.

#### *Article 15. AMENDMENTS*

(1) Should either Contracting Party consider it desirable to amend any provision of this Agreement, it may request a consultation with the other Contracting Party. Such consultation, which may take place through the aeronautical authorities, either orally or by correspondence, shall begin within a period of sixty (60) days from the date of the request. Any amendments so agreed shall be formalized by means of an exchange of diplomatic notes.

(2) Any amendments so adopted shall apply provisionally from the date of the exchange of notes and shall enter into force on a date agreed by the two Contracting Parties in a further exchange of notes, once they have obtained the approval which each of them requires in accordance with its respective constitutional procedures.

(3) Amendments to the annex to this Agreement may be made by direct agreement between the competent aeronautical authorities of the Contracting Parties and confirmed by an exchange of notes through the diplomatic channel.



*Article 16.* CONFORMITY WITH MULTILATERAL TREATIES

This Agreement and its annex shall be amended, in accordance with the provisions of article 15 of this Agreement, in order to bring them into line with any multilateral agreement which may be binding on the two Contracting Parties.

*Article 17.* TERMINATION

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. If such notice is given, the Agreement shall terminate twelve (12) months after the date on which the other Contracting Party received such notice, unless the notice is withdrawn by mutual agreement before that period expires. If the other Contracting Party does not acknowledge receipt of such notice, the latter shall be deemed to have been received fourteen (14) days after the date of its receipt by the International Civil Aviation Organization.

*Article 18.* SETTLEMENT OF DISPUTES

(1) If any dispute arises between the Contracting Parties concerning the interpretation or application of this Agreement, the Parties shall first endeavour to settle it by direct negotiation.

(2) If the Contracting Parties fail to reach a settlement by means of negotiation, the dispute may, at the request of either Contracting Party, be submitted for a ruling to a tribunal consisting of three arbitrators, one appointed by each Contracting Party and a third appointed by the two already designated. Each Contracting Party shall appoint an arbitrator within a period of sixty (60) days from the date on which either Contracting Party receives from the other Contracting Party, through the diplomatic channel, a note requesting arbitration of the dispute. The third arbitrator shall be appointed within a subsequent period of sixty (60) days. Should either Contracting Party fail to designate an arbitrator within the period specified, or if the third arbitrator is not designated within the period specified, either Contracting Party may request the President of the Council of the International Civil Aviation Organization to appoint an arbitrator or arbitrators, as the case may be. In such cases, the third arbitrator shall be a national of a third State and shall act as Chairman of the arbitral tribunal.

(3) The Contracting Parties undertake to abide by any ruling arrived at in accordance with paragraph 2 of this article.

*Article 19.* REGISTRATION

This Agreement and any amendment to it, as well as any exchange of notes relating, shall be registered with the International Civil Aviation Organization.

*Article 20.* ENTRY INTO FORCE

This Agreement shall apply provisionally from the date of its signature and shall enter into force when both Contracting Parties have notified one another, by an exchange of diplomatic notes, that their respective constitutional formalities have been fulfilled.

Unless one of the Contracting Parties indicates its intention of terminating it sooner, in accordance with the provisions of article 17, this Agreement shall remain in force for three (3) years from the date of its provisional application and shall be renewed automatically for further periods of three (3) years unless one of the Contracting Parties indicates its opposition to such renewal twelve (12) months prior to its current expiry date.

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

SIGNED at San José on 16 November 1979, in duplicate, in the Spanish language, both texts being equally authentic and valid.

For the Government  
of the Republic of Costa Rica:

[Signed]

RAFAEL ANGEL CALDERÓN  
FOURNIER

Minister for Foreign Affairs

For the Government  
of the Kingdom of Spain:

[Signed]

MANUEL DE AGUILAR Y OTERMÍN

Ambassador of Spain to Costa Rica

ANNEX TO THE AIR TRANSPORT AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF COSTA RICA AND THE GOVERNMENT OF THE KINGDOM OF SPAIN CONCERNING SCHEDULED AIR TRANSPORT BETWEEN THEIR RESPECTIVE TERRITORIES

(1) ROUTE SCHEDULE:

The agreed services on the specified routes referred to in this Agreement shall be as follows:

- (A) *Spanish Route*: Points in Spain—via intermediate points—to San José—and points beyond, in both directions.
- (B) *Costa Rican Route*: Points in Costa Rica—via intermediate points—to Madrid—and points beyond, in both directions.

*Note*: The intermediate points and points beyond not specified in routes (A) and (B) shall be determined by prior agreement between the aeronautical authorities of the two Contracting Parties.

(2) The designated airlines may, on all or some of their services, omit one or more points or change their order on the routes indicated in paragraph 1 of this annex, provided that the point of departure is situated in the territory of the Contracting Party which designated the airline in question.

(3) The designated airlines shall submit the timetables for the operation of the agreed air services for approval to the aeronautical authorities of the two Contracting Parties at least sixty (60) days prior to their entry into force. The aeronautical authorities must, within a period of thirty (30) days, expressly approve or reject the proposed timetables.

(4) The fifth freedom traffic rights to be exercised by the designated airlines of each Contracting Party shall be established, always on the basis of similar economic values, by agreement between the aeronautical authorities of the two Parties.

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