

No. 21212

**BRAZIL
and
PARAGUAY**

Agreement on scheduled air transport (with annex, route schedules and protocol of signature). Signed at Asunción on 26 June 1951

*Authentic texts: Portuguese and Spanish.
Registered by Brazil on 27 August 1982.*

**BRÉSIL
et
PARAGUAY**

Accord relatif aux transports aériens réguliers (avec annexe, tableaux de routes et protocole de signature). Signé à Asunción le 26 juin 1951

*Textes authentiques : portugais et espagnol.
Enregistré par le Brésil le 27 août 1982.*

[TRANSLATION — TRADUCTION]

AGREEMENT¹ ON SCHEDULED AIR TRANSPORT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF BRAZIL AND THE GOVERNMENT OF THE REPUBLIC OF PARAGUAY

The Governments of the United States of Brazil and of the Republic of Paraguay, considering:

- That it is desirable to stimulate and promote the development of air transport between the United States of Brazil and the Republic of Paraguay, for which it has become necessary to organize regular international air services in a safe and orderly manner;
- That scheduled international air services must be organized efficiently, without prejudice to local and regional interests;
- That it is the desire of both to reach a multilateral agreement which is applicable to the scheduled international air services of all nations;
- That, pending the conclusion of such a multilateral agreement, it is necessary to draw up an agreement to ensure scheduled air transport between the two countries, in accordance with the provisions of the Convention on International Civil Aviation, signed at Chicago on 7 December 1944;²

Have for that purpose named as their Plenipotentiaries:

His Excellency the President of the Republic of the United States of Brazil: His Excellency Mario Savard de Saint Brisson Marques, Ambassador Extraordinary and Plenipotentiary of the United States of Brazil to the Government of the Republic of Paraguay;

His Excellency the President of the Republic of Paraguay: His Excellency Dr. Bernardo Ocampos, Secretary of State in the Department of Foreign Affairs and Worship;

who, having presented their full powers, found to be in good and proper form, have agreed upon the following provisions:

Article I. The Contracting Parties grant each other the rights specified in this Agreement and its annex which are necessary for the establishment of the scheduled international air services described therein and hereinafter referred to as “agreed services”.

Article II. 1. Any of the agreed services may begin to operate immediately or subsequently, at the discretion of the Contracting Party to which such rights are granted, but not before:

(a) The Contracting Party to which those rights have been granted has designated one or more airlines of its own nationality for the route or routes specified;

¹ Came into force on 24 April 1954 by the exchange of the instruments of ratification, which took place at Asunción, in accordance with article XV.

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.

(b) The Contracting Party which grants the rights has granted the necessary operating licence to the airline or airlines designated by the other Contracting Party, such licence to be granted without delay, subject to the provisions of paragraph 2 of this article and article VI.

2. The designated airlines may be required to satisfy the aeronautical authorities of the Contracting Party which grants the rights that they are qualified to fulfil the conditions prescribed by the laws and regulations normally applied by those authorities to the operations of commercial airlines.

Article III. In order to prevent discriminatory practices and to ensure equality of treatment, the Contracting Parties have agreed as follows:

- (1) The Contracting Parties may impose or permit to be imposed fair and reasonable charges for the use of airports and other facilities. However, it is agreed between the Contracting Parties that such charges shall not exceed those which would be paid for the use of such airports and facilities by aircraft of its flag engaged in similar international services;
- (2) Fuel, lubricating oils and spare parts introduced into the territory of one Contracting Party, whether directly by a designated airline or on behalf of such airline, and intended solely for use by its aircraft, shall enjoy the same treatment as that granted to national airlines in international service or to airlines of the most favoured nation with respect to customs duties, inspection fees and other duties and charges established by the Contracting Party to whose territory they are introduced;
- (3) Exemption from customs duties, inspection fees and similar taxes or charges upon entry to or departure from the territory of the other Contracting Party shall be enjoyed by aircraft of the designated airlines of the other Contracting Party engaged in the operation of the "agreed services". The same exemption shall be applied in respect of fuel, lubricating oils and spare parts, regular equipment and aircraft stores while on such aircraft, even if they are used or consumed in flights over that territory.

Article IV. Certificates of airworthiness, licences and certificates of crew members issued or revalidated by one Contracting Party and still in force shall be recognized as valid by the other Contracting Party for the purposes of operating the "agreed services". Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flights over its territory, licences and certificates granted to its own nationals by another State.

Article V. 1. The laws and regulations of one Contracting Party relating to the admission to, stay in, or departure from its territory of aircraft engaged in international air navigation, or to the operation of such aircraft while within its Territory, shall be applied to the aircraft of the designated airlines of the other Contracting Party.

2. The laws and regulations of one Contracting Party relating to the admission to, stay in, or departure from its territory of passengers, crews or cargo of aircraft, such as the laws and regulations relating to entry, clearance, immigration, police, customs and health, shall be applied to the passengers, crews and cargo of aircraft of the designated airlines of the other Contracting Party.

Article VI. Each Contracting Party reserves the right to deny or revoke the exercise of rights granted to a designated airline of the other Contracting Party and specified in the annex to this Agreement in the event that:

- (1) It is not duly satisfied that substantial ownership or effective control of the airline in question is vested in nationals of the other Contracting Party;
- (2) The airline fails to comply with the laws and regulations referred to in article V or with the conditions on which the rights were granted, in accordance with this Agreement and its annex;
- (3) The aircraft brought into service are not crewed by nationals of the other Contracting Party, except in cases where navigational staff are being trained.

Article VII. For reasons of a military nature or of public security, either Contracting Party may uniformly restrict or prohibit aircraft of the designated airlines of the other Contracting Party from flying over certain parts of its territory, provided that such restriction or prohibition is also applied to aircraft of the designated airlines of the first Contracting Party or of third States operating scheduled international services. Such prohibited areas shall be of reasonable extent so as not to interfere unnecessarily with air navigation, and their boundaries shall be communicated as soon as possible to the other Contracting Party.

Each Contracting Party reserves the right, in exceptional circumstances or during a period of emergency, or in the interest of public security, and with immediate effect, temporarily to restrict or prohibit flying over the whole or any part of its territory, on condition that such restriction or prohibition shall be applicable to its national aircraft and the aircraft of third States.

Article VIII. If either of the Contracting Parties deems it advisable to modify the conditions set out in the annex to this Agreement or to exercise the right referred to in article VI, it may request consultation between the aeronautical authorities of the two Contracting Parties, such consultation to commence within a period of sixty (60) days from the date of the request.

When the said authorities agree to modify the annex, such modifications shall enter into force after they have been confirmed by an exchange of notes through the diplomatic channel.

Article IX. Any dispute between the Contracting Parties relative to the interpretation or application of this Agreement or its annex which cannot be settled through consultations or through the normal diplomatic channel shall be submitted to the Advisory Council of the International Civil Aviation Organization (I.C.A.O.) for consultation and opinion, or to arbitration by a tribunal. In the latter case, each Party shall appoint a representative and the President of the I.C.A.O. Council shall designate an arbitrator, selected from among the qualified persons included on the list maintained for that purpose in accordance with I.C.A.O. practice.

Article X. This Agreement may be denounced by either Contracting Party by notifying the other Contracting Party. The decision shall at the same time be communicated to the International Civil Aviation Organization. Once the notification has been given, this Agreement shall cease to have effect one (1) year after its receipt by the other Contracting Party, unless it has been withdrawn by mutual consent prior to the expiry of that period. If the other Contracting Party fails to acknowledge

receipt of the notification, it shall be deemed to have been received fourteen (14) days after it has been registered by I.C.A.O.

Article XI. In the event of the entry into force of a multilateral convention on regular international air transport which has been ratified by the two Contracting Parties, this Agreement and its annex shall be subject to any modification resulting from the multilateral convention.

Article XII. This Agreement, its annex and all documents relating to them shall be registered with the International Civil Aviation Organization.

Article XIII. This Agreement shall supersede all privileges, concessions or licences which have been granted for any reason by one of the Contracting Parties to airlines of the other Contracting Party.

Article XIV. For the purposes of implementing this Agreement and its annex:

(1) The term "aeronautical authorities" shall mean, in the case of the United States of Brazil, the Ministry of Air and, in the case of the Republic of Paraguay, the Ministry of National Defence, or, in either case, any duly authorized persons or bodies;

(2) The term "designated airline" shall mean any body corporate selected by one of the Contracting Parties to operate the "agreed services", and such designation shall be communicated in writing to the aeronautical authorities of the other Contracting Party, in accordance with the provisions of article II of this Agreement;

(3) The term "scheduled international air services" shall mean the international service operated by designated airlines with uniform frequency and in accordance with pre-established time-tables and routes approved by the Contracting Parties.

Article XV. Following completion of the required constitutional procedures of the Contracting Parties, this Agreement and its annex shall enter into force as from the exchange of the instruments of ratification.

IN WITNESS WHEREOF, the Plenipotentiaries have signed and sealed this Agreement and its annex, in duplicate in the Portuguese and Spanish languages, both texts being equally authentic, at Asunción, capital of the Republic of Paraguay, on 26 June 1951.

MARIO DE SAINT BRISSON

BERNARDO OCAMPOS

ANNEX

I

The Government of the United States of Brazil grants the Government of the Republic of Paraguay the right to operate air transport services to be provided by one or more airlines designated by the latter Government on the routes specified in schedule I of this annex.

II

The Government of the Republic of Paraguay grants the Government of the United States of Brazil the right to operate air transport services to be provided by one or more airlines designated by the latter Government on the routes specified in schedule II of this annex.

III

The airlines designated by the Contracting Parties under the terms of the Agreement and this annex shall enjoy in the territory of the other Contracting Party, on each of the routes specified in the attached schedules, the rights of transit and of stopping for non-traffic purposes at airports open to international traffic, as well as the right to take on and discharge international traffic in passengers, cargo and mail at the points enumerated in the above-mentioned schedules, under the conditions set forth in section IV. Cabotage in the territory of either Contracting Party shall be the exclusive right of its respective national airlines.

IV

It is understood between the Contracting Parties:

- (1) That the transport capacity afforded by the airlines designated by the two Contracting Parties shall be closely related to traffic requirements;
- (2) That the airlines designated by the two Contracting Parties shall be ensured fair and equitable treatment so that they may enjoy equal opportunity in the operation of the "agreed services";
- (3) That the airlines designated by the Contracting Parties shall take into consideration their mutual interests when operating common routes or portions of routes, so as not to affect unduly their respective services.
- (4) That the "agreed services" shall have as their primary objective the provision of capacity adequate to the traffic requirements between the country to which the airline belongs and the country for which the traffic is bound;
- (5) That the right of a designated airline to take on and discharge, at the specified points and on the specified routes, international traffic bound for or originating in third countries, shall be exercised in accordance with the general principles of the orderly operation of air transport accepted by both Contracting Parties, with a view to adapting the capacity to:
 - (a) Traffic requirements between the country of origin and the countries of destination;
 - (b) The requirements of the economic operation of the services in question; and
 - (c) Traffic requirements in the area over which the services pass, with due consideration for the interests of local and regional services.

V

The aeronautical authorities of the Contracting Parties shall consult each other at the request of one of them in order to ascertain whether the principles set forth in section IV of this annex are being observed by the airlines designated by the Contracting Parties and, in particular, in order to prevent any one of the designated airlines from obtaining more than its fair share of the traffic.

VI

1. Tariffs and rates shall be fixed at reasonable levels, due regard being paid to all relevant factors, particularly operating costs, reasonable profits, the rates charged by other airlines and the characteristics of each service, such as speed and comfort.

2. The tariffs and rates to be charged by the designated airlines of the two Contracting Parties between points in their territories mentioned in the attached schedules shall be submitted for approval to the aeronautical authorities before they can enter into force. The proposed tariffs and rates shall be submitted at least thirty (30) days prior to the anticipated date of entry into force; this period may be reduced in special cases, if so agreed by the aeronautical authorities in question.

3. The airlines designated by the Contracting Parties shall agree on the tariffs and rates for passengers and cargo to be charged on the common portions of their routes and shall in-

form the respective aeronautical authorities thereof, after consultation, if necessary, with airlines of third countries operating all or part of the same routes.

4. The recommendations of the International Air Transport Association (I.A.T.A.) shall be taken into account in fixing tariffs and rates.

5. Should the designated airlines be unable to reach agreement on the tariffs and rates to be charged, the aeronautical authorities of the two Contracting Parties shall endeavour to work out a satisfactory solution.

In the last resort, the procedure to be followed shall comply with the provisions of article IX of the Agreement.

VII

Any changes in the air routes specified in the attached schedules, except those which change the points served in the territory of the other Contracting Party, shall not be considered as modifications of the annex. The aeronautical authorities of either Contracting Party may therefore proceed unilaterally to make such changes, provided that the aeronautical authorities of the other Contracting Party are given notice thereof without delay.

If these authorities find that, having regard to the principles set forth in section IV of this annex, the interests of their designated airlines are adversely affected by the airlines of the other Contracting Party, in that traffic between their own territory and the new stop in a third country has already been established, the aeronautical authorities of the two Contracting Parties shall consult with a view to arriving at a satisfactory agreement.

VIII

The aeronautical authorities of the Contracting Parties shall, as soon as possible, transmit to each other information on the conditions under which all or part of the "agreed services" shall be operated by the respective designated airlines.

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Schedule I. PARAGUAYAN ROUTES TO BRAZIL AND CROSSING BRAZILIAN TERRITORY

(A) *Paraguayan routes to Brazilian territory:*

- (1) From Asunción to Rio de Janeiro via intermediate points in Paraguayan territory and Foz de Iguazu, Curitiba and São Paulo, in both directions;
- (2) From Asunción to São Paulo via intermediate points in Paraguayan territory and Ponta Porá, Campo Grande and Baurú, in both directions;
- (3) From Asunción to Corumbá via intermediate points in Paraguayan territory and Porto Murtinho, in both directions;

(B) *Paraguayan routes crossing Brazilian territory:*

From Asunción to Europe and countries in the Americas via intermediate points in Brazil, along reasonably direct routes to be fixed as appropriate by the aeronautical authorities of the two Contracting Parties, in both directions.

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*Schedule II. BRAZILIAN ROUTES TO PARAGUAY AND CROSSING PARAGUAYAN TERRITORY**(A) Brazilian routes to Paraguayan territory:*

- (1) From Rio de Janeiro to Asunción via intermediate points in Brazilian territory and Puerto Presidente Franco, in both directions;
- (2) From São Paulo to Asunción via intermediate points in Brazilian territory and Pedro Juan Caballero, in both directions;
- (3) From Corumbá to Asunción via intermediate points in Brazilian territory and Fuerte Olimpo and Concepción, in both directions;

(B) Brazilian routes crossing Paraguayan territory:

From Rio de Janeiro to Asunción, and continuing, along reasonably direct routes, to:

- (1) Points in the territory of Chile, in both directions;
- (2) Points in the territory of the Argentine Republic, in both directions.

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PROTOCOL OF SIGNATURE

In the course of the negotiations for the conclusion of the Agreement on scheduled air transport between the United States of Brazil and the Republic of Paraguay, signed in Asunción on today's date, the representatives of the two Contracting Parties reached agreement on the following points:

1. The facilities provided for in articles III and V of the Agreement shall be granted as speedily and as simply as is possible, so as to avoid any delay in the movement of aircraft engaged in international air transport, and this consideration shall be taken into account in the implementation of the regulations and procedures adopted by the customs, police, immigration and health authorities.

2. If personnel who are nationals of third States are admitted for training, as provided for in article VI of the Agreement, the other Contracting Party shall have the right to request that entry be denied to any crew members who, in its opinion, could be detrimental to public order.

3. Bearing in mind the provision of article XIII of the Agreement, and in order to avoid disruption of already established services, the provisional authorization granted to Panair do Brasil S.A. shall be maintained so that it may operate on the Rio de Janeiro-Santiago and Rio de Janeiro-Buenos Aires air routes, with stops in Asunción, until such time as the provisions of article XIV of the Agreement have been fulfilled.

4. In order to restore, as soon as possible, scheduled air services between the two States, with intermediate stops in Brazilian territory, the Government of the Republic of Paraguay will authorize the operation, on a provisional basis, by the designated airline or airlines of the Brazilian Government, of air services along the following routes:

- (a) From Rio de Janeiro to Asunción via São Paulo, Curitiba, Foz de Iguazu and Puerto Presidente Franco;
- (b) From São Paulo to Asunción via Campo Grande, Ponta Pora and Pedro Juan Caballero.

Asunción, 26 June 1951

MARIO DE SAINT BRISSON

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