

**No. 21282**

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**AUSTRIA  
and  
PORTUGAL**

**Air Transport Agreement (with annex). Signed at Vienna on  
20 June 1980**

*Authentic text: English.*

*Registered by the International Civil Aviation Organization on 26 October 1982.*

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**AUTRICHE  
et  
PORTUGAL**

**Accord relatif aux transports aériens (avec annexe). Signé à  
Vienne le 20 juin 1980**

*Texte authentique : anglais.*

*Enregistré par l'Organisation de l'aviation civile internationale le  
25 octobre 1982.*

## AIR TRANSPORT AGREEMENT<sup>1</sup> BETWEEN THE AUSTRIAN FEDERAL GOVERNMENT AND THE GOVERNMENT OF PORTUGAL

The Austrian Federal Government and the Government of Portugal, hereinafter called "the Contracting Parties",

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944,<sup>2</sup>

Desiring to promote mutual relations in the area of air transport,  
Have agreed as follows:

### *Article 1.* INTERPRETATION

For the purposes of this Agreement and of the Annex thereto:

(a) The term "the Convention" shall mean the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of 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, so far as those annexes and amendments have been adopted by both Contracting Parties;

(b) The term "aeronautical authorities" shall mean in the case of the Austrian Federal Government the Federal Minister of Transport or any other authority legally empowered to perform the functions exercised now by the said authority; and in the case of the Government of Portugal the Secretary of State for Transport or any person or body authorized to perform any functions being the responsibility of the said authority;

(c) The term "designated airline" shall mean an airline which has been designated by a Contracting Party for the purpose of operating the agreed services on the routes specified in the Annex to this Agreement and which has obtained an operating authorization in accordance with the provisions of Article 3 of this Agreement.

### *Article 2.* RIGHTS AND PRIVILEGES OF DESIGNATED AIRLINES

1. Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement, for the purpose of establishing scheduled international air services on the routes specified in the Annex thereto. Such services and routes are hereinafter called "the agreed services" and "the specified routes" respectively.

2. The airlines designated by each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following rights:

(a) To fly without landing across the territory of the other Contracting Party;

<sup>1</sup> Came into force on 26 November 1980, the date on which the two Contracting Parties notified each other of the completion of their respective constitutional formalities, in accordance with article 19 (2).

<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.

- (b) To make stops in the said territory for non-traffic purposes; and
- (c) To take on and to put down in international traffic passengers, mail and cargo at the points on the specified routes, subject to the provisions of this Agreement and the Annex thereto.

#### *Article 3.* DESIGNATION OF AIRLINES

1. Each Contracting Party shall have the right to designate an airline for the purpose of operating the agreed services on the specified routes. This designation shall be notified in writing by the competent authority of one Contracting Party to the competent authority of the other Contracting Party.

2. The Contracting Party having received the notification of designation shall, subject to the provisions of paragraphs 3 and 4 of this Article, without delay grant the appropriate operating authorization to the airline designated by the other Contracting Party. The granted operating authorization shall not be transferred or transmitted to another airline without consent of the Contracting Party which granted such authorization.

3. The aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied to the operation of international air services by such authorities in conformity with the provisions of the Convention.

4. Each Contracting Party shall have the right to refuse to grant the operating authorization referred to in paragraph 2 of this Article, or to impose such conditions as it may deem necessary on the exercise by a designated airline of the rights specified in Article 2 of this Agreement, if the said Contracting Party is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals.

5. When a designated airline has been authorized under paragraph 2 of this Article, it may begin at any time to operate each agreed service, provided that the conditions of operation of that service and the tariffs to be applied thereon have been approved in accordance with Articles 6 and 11 of the present Agreement.

#### *Article 4.* REVOCATION AND SUSPENSION OF RIGHTS

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

- (a) In any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of such Contracting Party, or
- (b) In the case of failure by that airline to comply with the laws or regulations of the Contracting Party granting these rights, or
- (c) In case the airline fails to operate in accordance with the conditions prescribed in this Agreement in the Annex thereto.

2. Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph 1 of this Article is essential to prevent further infringements of laws or regulations, such right shall be exercised only after

consultation with the other Contracting Party. In such a case the consultation shall begin within a period of thirty (30) days from the date of request made by either Contracting Party for the consultation.

*Article 5. MODE OF OPERATION*

1. There shall be fair and equal opportunity for the airlines of both Contracting Parties to operate the agreed services on the specified routes between their respective territories.

2. In operating the agreed services, the airline of each Contracting Party shall take into account the interests of the airline of the other Contracting Party so as not to affect unduly the services which the latter provides on the whole or part of the same routes.

3. The capacity to be provided by the designated airlines for the purpose of putting down and taking up international traffic in passengers, cargo and mail in accordance with the appropriate part of the Annex shall be maintained in equilibrium with the traffic requirements along the specified routes.

4. The total capacity shall be divided as far as possible equally between the designated airlines unless otherwise agreed upon in accordance with the provisions of paragraphs 7 and 8 hereunder.

5. The designated airlines shall agree on the frequency and capacity of the services to be offered on the specified routes, subject to the approval of the aeronautical authorities of both Contracting Parties. Such capacity shall be adjusted from time to time to traffic requirements and such adjustments shall also be submitted to the approval of the aeronautical authorities of both Contracting Parties.

6. In order to meet unexpected traffic demands of a temporary character, the designated airlines may, notwithstanding the provisions of paragraphs 3 and 4 above, agree between them to such temporary increases of capacity as are necessary to meet the traffic demand.

7. In so far as the designated airline of one Contracting Party may not wish, permanently or temporarily, to operate, in full or in part, the capacity to which it is entitled under the preceding paragraphs, that airline may arrange with the designated airline of the other Contracting Party, under terms and conditions to be agreed between them and submitted to the approval of their respective aeronautical authorities, for the second airline to operate additional capacity so as to maintain the full capacity agreed upon between them in accordance with the preceding paragraphs. It shall, however, be a condition of any such arrangements that, if the first designated airline at any time decides to commence to operate, or to increase the capacity of its services within the total capacity to which it is entitled, and gives reasonable advance notice thereof, the second designated airline shall withdrawn correspondingly by some or all of the additional capacity which it had been operating.

8. Whenever a service of a designated airline of a Contracting Party is operated on a route via intermediate points and/or to points beyond the territory of the other Contracting Party, a capacity additional to that established in accordance with paragraphs 3 to 6 above may be offered by that airline subject to agreement between the competent aeronautical authorities.

9. In the agreement referred to in paragraph 5 concerning frequency and capacity of services, the designated airlines shall also agree on the time-tables and on such other conditions of operation as are normally shown in time-tables (type of aircraft, seating accommodation, routing, days and hours of operation and flight number). The agreement thus reached between the airlines shall be submitted for approval to the aeronautical authorities of the two Contracting Parties as provided for in Article 6.

#### *Article 6. APPROVAL OF CONDITIONS OF OPERATION*

1. The time-tables as described in paragraph 9 of Article 5 shall be submitted to the aeronautical authorities of both Contracting Parties at least sixty (60) days before the proposed date of their introduction. The aeronautical authorities shall take a decision on the time-tables within thirty (30) days from the date of submission. In special cases, the time limit for submission may be reduced subject to the consent of the said authorities.

2. If the designated airlines cannot agree on the time-table the aeronautical authorities of the Contracting Parties shall endeavour to settle the problem.

3. Subject to the provisions of this Article, no time-table shall come into force, if the aeronautical authorities of the Contracting Parties have not approved it.

4. The time-tables established for a given season shall remain in force for corresponding seasons until new time-tables have been established in accordance with the provisions of this Article.

#### *Article 7. EXEMPTIONS FROM DUTIES, CHARGES AND TAXES*

1. Aircraft engaged in international services by the designated airline of either Contracting Party, as well as their regular equipment, supplies of fuel and lubricants, and aircraft stores (including food, beverages, tobacco and other articles for sale in limited quantities to passengers) on board such aircraft shall be exempt from customs duties, inspection fees and other duties or taxes on arriving in the territory of the other Contracting Party, provided this aircraft is re-exported and such equipment, supplies and stores remain on board this aircraft up to such time as they are re-exported.

2. There shall also be exempt from the same duties, fees and taxes with the exception of charges corresponding to the service performed:

- (a) Aircraft stores taken in the territory of either Contracting Party, within limits fixed by the authorities of the said Contracting Party, and destined for use on board outbound aircraft operated in an international service by the designated airline of the other Contracting Party;
- (b) Spare parts and regular equipment entered into the territory of one of the Contracting Parties and destined for the maintenance or repair of aircraft engaged in an international service by the designated airline of the other Contracting Party;
- (c) Fuel and lubricants destined to supply aircraft engaged in an international service by the designated airline of the other Contracting Party even when these supplies are to be used on the part of the flight performed over the territory of the Contracting Party in which they are taken on board.

3. If national laws or regulations of either Contracting Party so require, material referred to in paragraphs 1 and 2 of this Article shall be kept under customs control of the said Contracting Party.

*Article 8. UNLOADING OF REGULAR AIRBORNE EQUIPMENT,  
MATERIALS AND SUPPLIES*

The regular airborne equipment, as well as the materials and supplies retained on board the aircraft operated by the designated airline of either Contracting Party may be unloaded in the territory of the other Contracting Party only with the approval of the customs authorities of such territory. In such case, they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of with the consent of the same authorities.

*Article 9. PASSENGERS IN DIRECT TRANSIT*

Passengers in direct transit across the territory of either Contracting Party shall be subject to no more than a simplified control in so far as security requirements so permit. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

*Article 10. APPLICATION OF NATIONAL LAWS AND REGULATIONS*

1. The laws and regulations of each Contracting Party governing the admission to, remaining in and departure from its territory of aircraft engaged in international air services and the operation and navigation of aircraft while within the limits of its territory, shall also be applied to the aircraft of the designated airline of the other Contracting Party.

2. The laws and regulations of each Contracting Party governing the admission to, remaining in and departure from its territory of passengers, crews, mail and cargo transported on board aircraft and in particular those regarding passports, customs, currencies and sanitary control shall be applied to passengers, crews, mail and cargo taken on board the aircraft of the designated airline of the other Contracting Party.

*Article 11. TARIFFS*

The procedure to be used by the Contracting Parties for the establishment of tariffs, together with the definition of the term "tariff", shall be in accordance with the terms of Article 2 of the International Agreement on the Procedure for the Establishment of Tariffs for Scheduled Air Services, prepared by the European Civil Aviation Conference and opened for signature at Paris on the tenth day of July, 1967.<sup>1</sup>

*Article 12. STATISTICS*

The designated airlines of both Contracting Parties shall submit to the aeronautical authorities of each Contracting Party at their request statistical information relating to the use of the capacity offered by the said airlines on the agreed services between their respective territories.

<sup>1</sup> United Nations, *Treaty Series*, vol. 696, p. 31.

*Article 13. TRANSFER OF RECEIPTS*

Each Contracting Party grants to the designated airline of the other Contracting Party the right of transfer of the excess of receipts over expenditure earned by that airline in its territory in connection with the carriage of passengers, mail, cargo and baggage. Such transfer will be carried out in conformity with the provisions of the payment agreement which may be in force between both countries. In the absence of the appropriate provisions of a payment agreement, the above mentioned transfer shall be made in convertible currencies. The procedure for the transfer shall conform with national currency regulations.

*Article 14. CONSULTATIONS*

In a spirit of close cooperation, the aeronautical authorities of the Contracting Parties shall consult each other from time to time with a view to ensuring the implementation of, and satisfactory compliance with, the provisions of the present Agreement and the Annex thereto.

*Article 15. SETTLEMENT OF DISPUTES*

1. Any disagreement between the Contracting Parties relating to the interpretation and application of this Agreement or its Annex which cannot be settled directly by the aeronautical authorities of the Contracting Parties between themselves within a period of three (3) months after having arisen, shall be referred to arbitration, the mode of which will be established via diplomatic channels. The Contracting Parties undertake to submit to the arbitrator's award.

2. The costs of arbitration procedure shall be determined in the arbitrator's award and shall be equally shared by the two Contracting Parties.

*Article 16. AMENDMENTS*

1. Either Contracting Party may at any time propose to the other Contracting Party any amendment which it considers desirable to bring to this Agreement or to its Annex. The consultation between the Contracting Parties concerning the proposed amendments shall begin within a period of sixty (60) days from the date of presentation of the request for such consultation by one Contracting Party.

2. Amendments to the Annex may be agreed upon by the aeronautical authorities of the Contracting Parties.

3. Any amendments to this Agreement or its Annex pursuant to paragraph 1 or 2 of this Article shall come into effect sixty (60) days after an exchange of diplomatic notes between the Contracting Parties.

*Article 17. EFFECT OF MULTILATERAL AGREEMENTS*

The present Agreement and its Annex shall be deemed amended in conformity with a multilateral air transport agreement which may become binding on both Contracting Parties.

*Article 18. TERMINATION*

Either Contracting Party may at any time give written notice through diplomatic channels to the other Contracting Party of its decision to terminate the present Agreement; such notice shall be simultaneously communicated to the

International Civil Aviation Organization. In such case the Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of acknowledgement of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

*Article 19.* ENTRY INTO FORCE

1. This Agreement is subject to approval according to the respective constitutional rules of the Contracting Parties.

2. The Agreement shall come into force on the date when the two Contracting Parties shall have notified each other of the completion of their respective constitutional formalities.

DONE in duplicate at Vienna on this 20th day of June 1980 in the English language.

For the Austrian Federal Government:

WILLIBALD P. PAHR

For the Government of Portugal:

DIOGO F. DO AMARAL

ANNEX

SECTION I

1. The Government of Portugal designates for the operation of the agreed services referred to in Section II paragraph 1: Transportes Aereos Portugueses, E.P. (TAP-Air Portugal).

2. The Austrian Federal Government designates for the operation of the agreed services referred to in Section II paragraph 2: Austrian Airlines.

SECTION II

1. Routes to be operated in both directions by the airline designated by the Government of Portugal: Points in Portugal – intermediate points – Vienna – points beyond.

2. Routes to be operated in both directions by the airline designated by the Austrian Federal Government: Points in Austria – intermediate points – Lisbon – points beyond.

3. To operate the services referred to in paragraph 1 of this Section, the airline designated by the Government of Portugal shall have the right:

(a) To put down in the territory of Austria international traffic in passengers, cargo and mail taken on in the territory of Portugal;

(b) To take on in the territory of Austria international traffic in passengers, cargo and mail destined for the territory of Portugal;

(c) To omit at its option one or more intermediate points or points beyond; such omission to be announced to the public in due time.



4. To operate the services defined in paragraph 2 of this Section the airline designated by the Austrian Federal Government shall have the right:

- (a) To put down in the territory of Portugal international traffic in passengers, cargo and mail taken on in the territory of Austria;
- (b) To take on in the territory of Portugal international traffic in passengers, cargo and mail destined for the territory of Austria;
- (c) To omit at its option one or more intermediate points or points beyond; such omission to be announced to the public in due time.

### SECTION III

1. The designated airline of one Contracting Party may have the right to take on or put down in the territory of the other Contracting Party international traffic in passengers, cargo and mail destined for or originating at intermediate point on the routes specified in Section II, such intermediate points to be established by mutual agreement between the designated airlines and submitted to the approval of the aeronautical authorities of the Contracting Parties.

2. The exercise of such right shall be subject to an agreement between the designated airlines to be submitted to the approval of the aeronautical authorities of the two Contracting Parties.

### SECTION IV

1. The designated airline of one Contracting Party may have the right to take on or put down in the territory of the other Contracting Party international traffic in passengers, cargo and mail destined for or originating at points beyond the said territory, such points beyond to be established by mutual agreement between the designated airlines and submitted to the approval of the aeronautical authorities of the Contracting Parties.

2. The exercise of such rights shall be subject to an agreement between the designated airlines to be submitted to the approval of the aeronautical authorities of the two Contracting Parties.

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