

**No. 22125**

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**BELGIUM  
and  
BRAZIL**

**Agreement on regular air transport (with annex, protocol of signature and route schedules). Signed at Brussels on 19 September 1980**

*Authentic texts: French, Dutch and Portuguese.*

*Registered by Belgium on 30 July 1983.*

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**BELGIQUE  
et  
BRÉSIL**

**Accord sur les transports aériens réguliers (avec annexe, protocole de signature et tableaux des routes). Signé à Bruxelles le 19 septembre 1980**

*Textes authentiques : français, néerlandais et portugais.*

*Enregistré par la Belgique le 30 juillet 1983.*

## [TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE KINGDOM OF BELGIUM AND THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL ON REGULAR AIR TRANSPORT

The Government of the Kingdom of Belgium and the Government of the Federative Republic of Brazil,

Hereinafter called “the Contracting Parties”,

Being Parties to the Convention on International Civil Aviation signed at Chicago on 7 December 1944<sup>2</sup>,

Desiring to conclude an Agreement on regular air transport supplementary to that Convention, with a view to the establishment of air services between their respective territories and beyond.

Have agreed as follows:

*Article I. DEFINITIONS*

With a view to the application of this Agreement and of any annex thereto:

(a) The term “Convention” means the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944, including any annex thereto adopted in conformity with article 90 of the Convention and any amendment to those annexes or to the Convention in conformity with articles 90 and 94, which have been adopted by the two Contracting Parties;

(b) The term “aeronautical authorities” means, in the case of the Federative Republic of Brazil, the Minister of Aeronautics and any person or organ authorized to exercise all the functions now exercised by the Minister or similar functions and, in the case of the Kingdom of Belgium, the Minister responsible for civil aviation or any person or organ authorized to exercise all the functions now exercised by the Minister or similar functions;

(c) The term “designated airline” means an airline which has been designated and authorized in accordance with article 2 of this Agreement;

(d) The word “territory” as regards a State has the meaning given to it by article 2 of the Convention;

(e) The terms “air service”, “international air service”, “airline” and “technical stop” have respectively the meaning assigned to them in article 96 of the Convention. The term “air service” has the meaning assigned to it by the definition of regular air service, adopted by the Council of ICAO in 1952, with the notes adopted by the Second Air Transport Conference;

<sup>1</sup> Came into force on 15 December 1982, the date of the last of the notifications (effected on 26 January 1981 and 15 December 1982) by which the Contracting Parties informed each other of the completion of their constitutional formalities, in accordance with article 13.

<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 terms “aircraft equipment”, “aircraft stores” and “spare parts” have the meaning given to them in annex 9 of the Convention, which was adopted by the two Contracting Parties;

(g) The term “tariff” means the price to be paid for the carriage of passengers and cargo and the conditions under which this price applies, including prices and costs for agency and other auxiliary services, but excluding remuneration and conditions for the carriage of postal freight.

#### *Article 2. DESIGNATION OF AIRLINES*

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 the rights have been granted has designated an airline of its own nationality to operate the routes specified;
- (b) The Contracting Party which grants the rights has issued an operating licence to the airline in question, subject to the provisions of paragraph 2 of this article and the provisions of article 6.

2. The aeronautical authorities of one of the Contracting Parties may require the designated airline of the other Contracting Party to provide evidence of its qualifications and to show that it fulfils the conditions prescribed by the laws and regulations normally applicable to international airlines.

3. The Contracting Parties reserve the right to replace the originally designated airline with another national airline. All the provisions of this Agreement and its annex shall apply to the newly designated airline.

#### *Article 3. AIR NAVIGATION FACILITIES*

1. In order to prevent discriminatory practices and to ensure equality of treatment, it has been decided that:

- (I) The taxes and other duties which one of the Contracting Parties may impose or permit to be imposed on the airline designated by the other Contracting Party for the use of airports and other facilities shall not be higher than those taxes and duties which would be paid for the use of such airports and facilities by aircraft of its flag engaged in similar international services.
- (II) Fuel, lubricating oils and spare parts introduced into the territory of one Contracting Party or taken on board aircraft of the other Contracting Party in that territory, whether directly by an airline designated by the latter or on behalf of such an airline, and intended solely for use by its aircraft, for the agreed services shall enjoy the treatment as favourable as that granted to national airlines providing international air transport, with respect to customs duties, inspection fees or other national duties and taxes.
- (III) Any aircraft of one of the Contracting Parties engaged in the agreed services, and the fuels, lubricating oils, normal equipment and spare parts for the maintenance and repair of aircraft in service, together with the aircraft stores, including food, drink and tobacco, remaining on board such aircraft, shall enjoy exemption from customs duties, inspection fees and similar duties or taxes in the territory of the other Contracting Party, even if they are used or consumed on flights over that territory.

2. The goods enumerated in the above paragraph and enjoying the exemption established therein may not be unloaded from the aircraft within the territory of the other Contracting Party without the consent of its customs authorities and when not used by the airline and shall be subject to the control of such authorities.

3. Passengers, baggage and cargo in transit through the territory of a Contracting Party and remaining in the airport area reserved for them shall be subject only to the control established for that area. Baggage and cargo in direct transit shall be exempt from customs duties, taxes and charges.

4. The supply of fuels and lubricating oils in the territory of the Contracting Parties to aircraft engaged in the agreed services, shall be authorized, in accordance with the treatment given to the national airline engaged in similar service, provided that it is assured of reciprocity of treatment in the territory of the other Party.

#### *Article 4. OBSERVATION OF LAWS AND REGULATIONS*

1. The laws and regulations of each Contracting Party relating to the entry into, stay in and 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 apply to the aircraft of the other Contracting Party and shall be observed by such aircraft with regard to the entry into, stay in and departure from the territory of that Contracting Party.

2. The laws and regulations of a Contracting Party relating to the entry into, stay in and departure from its territory of passengers, crew or cargo, including the formalities relating to entry, immigration, passports, customs and quarantine, shall be observed at the entry into, stay in or departure from the territory of that Contracting Party.

#### *Article 5. CERTIFICATES AND LICENCES*

1. Certificates of airworthiness, certificates of competency and licences issued or revalidated by one Contracting Party shall, if unexpired, be recognized as valid by the other Contracting Party for the operation of the routes and services approved under this Agreement, provided that the requirements for the issue or revalidation of the certificates or licences are the same or higher than the minimum standards laid down in the Convention.

2. Each Contracting Party reserves the right not to recognize for purposes of flights over its territory, the certificates of competency and licences issued to its own nationals by the other Contracting Party.

#### *Article 6. REVOCATION, SUSPENSION AND ESTABLISHMENT OF CONDITIONS*

1. Each Contracting Party reserves the right to withhold or revoke the operating permit of an airline designated by the other Contracting Party when it is not satisfied that substantial ownership and effective control of that airline are vested in nationals of the other Contracting Party or to establish the conditions it deems appropriate for its operation as a commercial airline.

2. The designated airline may be fined by the authorities of the other Contracting Party in the manner prescribed in its legal operating permit or have its operating permit totally or partially suspended for a period of 1 (one) month to 3 (three) months;

- (a) In cases of non-compliance with laws and regulations specified in article 5 of this agreement and other governmental norms established for the operation of the designated airlines;
  - (b) When the aircraft flight crews employed in the agreed services are not nationals of one or the other of the Contracting Parties, except in cases of training of flight personnel by instructors duly authorized by the responsible agencies of the Contracting Party designating the airline, and during the training period.
3. In cases of recurrence of the violations referred to in the above paragraph, the permit may be revoked.
  4. The revocation referred to in paragraphs 1 and 3 of this article shall be effected after consultation with the other Contracting Party. The consultation shall take place within 60 (sixty) days following the notification in question.

#### *Article 7. CONSULTATIONS*

1. In a spirit of close co-operation, the aeronautical authorities of the two Contracting Parties shall consult each other informally and periodically with a view to ensuring the application and satisfactory completion of the provisions of this Agreement and its annexes.

2. In order to discuss the application, interpretation or modification of this Agreement, its annex, the route schedule and the Protocol of signature, one of the Parties may request, at any time, that consultations should be held within 60 (sixty) days from the date of the respective notification and its results shall become effective as follows:

- (a) The amendments to the text of this Agreement shall become effective in accordance with article 13.
- (b) The amendments to the annex, the route schedule and the Protocol of signature will become effective after their confirmation by an exchange of diplomatic notes.

#### *Article 8. ARBITRATION*

1. If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement, the Contracting Parties shall, in the first instance, endeavour to settle it by negotiations between the Parties.

2. (a) If the Contracting Parties fail to reach a settlement by negotiations between themselves, they may agree to refer the dispute to the decision of a person or of a body, if they fail to reach an agreement in this manner, the dispute, at the request of one of the two Parties, shall be submitted for decision by a Tribunal of three arbitrators; each Contracting Party shall designate one arbitrator and a third shall be designated by the two arbitrators already designated. Each Contracting Party shall designate an arbitrator within a period of sixty (60) days from the date of receipt by either Contracting Party from the other of a notice through the diplomatic channel requesting arbitration of the dispute and the third arbitrator shall be designated within a further period of sixty (60) days.

(b) If either of the Contracting Parties fails to designate an arbitrator within the period specified, or if the third arbitrator is not designated within the period specified, the President of the Council of the International Civil Aviation Organization may be

requested by either Contracting Party to designate an arbitrator or arbitrators, as the case requires.

(c) In both cases, the third arbitrator shall be a national of a third State and shall act as President of the Tribunal.

3. Each of the Contracting Parties shall pay the expenses of the arbitrator it has designated as well as the expenses of other persons necessary for the activities of that arbitrator; the two Contracting Parties shall pay an equal share of all the other expenses arising from the activities of the Tribunal, including those of the President.

4. The Contracting Parties shall spare no effort, within the limits of their powers, to carry out the arbitral decisions.

#### *Article 9.* EFFECTS OF A MULTILATERAL AGREEMENT ON THIS AGREEMENT

If a multilateral air transport agreement is concluded and ratified by the two Parties, this Agreement shall be amended so that its provisions comply with those of the multilateral agreement.

#### *Article 10.* DENUNCIATION OF THE AGREEMENT

1. This Agreement shall remain in force for an indefinite period.

2. Either of the Contracting Parties may, at any time, notify the other Contracting Party of its intention to denounce this Agreement. The notification shall be communicated simultaneously to the International Civil Aviation Organization. Once the notification has been made, this Agreement shall terminate twelve (12) months after the receipt of the notification by the other Contracting Party, unless the notification of denunciation is withdrawn by common agreement before the expiry of this period. If receipt of the notice is not acknowledged by the Contracting Party, the notice shall be deemed to have been received fourteen (14) days after its receipt by the International Civil Aviation Organization.

#### *Article 11.* REGISTRATION OF THE AGREEMENT BY ICAO

This Agreement and its amendments, including any exchange of notes, shall be registered by either of the Contracting Parties, with the International Civil Aviation Organization.

#### *Article 12.* REVOCATION OF PERMITS

This Agreement shall replace the permits, privileges and concessions existing on the date of its entry into force and granted in whatever manner, by one of the Contracting Parties to the airline of the other Contracting Party.

#### *Article 13.* ENTRY INTO FORCE

This Agreement shall enter into force after the completion of the constitutional formalities by each of the Contracting Parties as notified through the diplomatic channel and from the date of the last of these notifications.

IN WITNESS WHEREOF, the undersigned, duly authorized for this purpose, have signed this Agreement.

DONE in Brussels, on 19 September 1980, in duplicate, in the French, Dutch and Portuguese languages, the three texts being equally authentic.

For the Government  
of the Kingdom of Belgium:  
CHARLES-FERDINAND NOTHOMB

For the Government  
of the Federative Republic of Brazil:  
RAMIRO ELYSIO SARAIVA GUERREIRO

## ANNEX

### SECTION I

#### *Concession and rights*

Each Contracting Party shall grant to the other Contracting Party the rights specified in this Agreement with a view to the establishment of international air services on the routes listed in the route schedule of this Agreement, hereinafter designated respectively by the terms "agreed services" and "specified routes".

### SECTION II

#### *Rights and authorizations*

1. In accordance with the provisions of this Agreement, the airline of each Contracting Party shall have the following rights:

- (a) To pick up and set down passengers, cargo and postal freight coming from or destined for the territory of the other contracting Party.
- (b) Overflight of the territory of one of the Contracting Parties by the airline designated by the other Contracting party, with or without a technical stop on the routes included in the route schedule.

2. The provisions of this section shall be subject, in the course of their application, to the conditions laid down in section III below.

### SECTION III

#### *Capacity*

1. The total capacity provided on the agreed services by the airlines designated by the Contracting Parties shall be agreed or approved by the aeronautical authorities of the Contracting Parties before the beginning of operations and subsequently in accordance with the foreseeable demand of air traffic.

2. The agreed services effected by the airlines designated by the Contracting Parties shall have as their primary objective the provision of capacity adequate to meet traffic requirements between the territories of the two Contracting Parties, with a reasonable coefficient of utilization.

3. Each Contracting Party shall grant the airlines designated by the two Contracting Parties just and equitable treatment in carrying out the agreed services between their respective territories so that each may achieve equality and mutual profit, in principle by the equitable division of total capacity between the two Parties.

4. Each Contracting Party and its designated airline shall take into account the interests of the other Contracting Party and of its designated airline so as not to affect unduly the services operated by the latter.

5. If the Contracting Parties fail to agree on the revision of the capacity provided on the agreed services, the capacity which may be provided by the enterprises designated by the Contracting Parties shall not exceed the total capacity, including seasonal variations, which has been previously agreed upon.

#### SECTION IV

##### *Tariffs*

1. The tariffs to be applied by the airline of one Contracting Party for transport from or to the territory of the other Contracting Party shall be established at a reasonable level, due consideration being given to all relevant factors, including operating costs, a reasonable profit and the tariffs of other airlines.

2. The tariffs mentioned in paragraph 1 of this section shall be agreed upon, if possible by the airlines designated by the two Contracting Parties in consultation with other airlines operating over the whole or part of the route and this agreement shall be obtained, as far as possible, through the IATA tariffs mechanism.

3. The tariffs thus agreed shall be submitted for the approval of the aeronautical authorities of the Contracting Parties at least thirty (30) days before the date proposed for their entry into force; in special cases, this period may be reduced if so agreed by the authorities in question.

4. If the designated airlines cannot reach agreement on one of these tariffs, or if for any reason the tariffs may not be fixed in conformity with paragraph 2 of this section, or if during the first fifteen (15) of the thirty (30) days mentioned in paragraph 3 of this section the aeronautical authorities of a Contracting Party make known their disagreement on any one of the tariffs established in conformity with paragraph 2 of this section, the aeronautical authorities of the Contracting Parties shall strive to determine the tariff by agreement between themselves.

5. If the aeronautical authority of a Contracting Party cannot agree to a tariff submitted to it under the terms of paragraph 3 of this section or on the establishment of a tariff in conformity with paragraph 4, this tariff shall not enter into force.

6. The tariffs established in conformity with this section shall remain in force until new tariffs are established in conformity with the terms of this same section.

#### SECTION V

##### *Statistics*

The aeronautical authorities of either Contracting Party shall provide the aeronautical authorities of the other Party, on request, periodically or at any time, with the statistics that may be reasonably requested for verification as to how the capacity provided under the terms of the capacity clause by the airline designated by the other Contracting Party is being used. These statistics should contain all the elements necessary to determine the volume of traffic, as well as its points of origin and destination.

#### SECTION VI

##### *Timetables and frequencies*

The timetables should indicate the type, model and configuration of the aircraft employed, as well as the frequency of services and stops and shall be submitted by the designated airline of each Contracting Party to the aeronautical authorities of the other Contracting Party thirty (30) days at least before the date on which they are to become effective. These timetables shall be approved within the above-mentioned period unless they involve alteration of stops or of capacity which are not in conformity with the provisions of this annex.

#### SECTION VII

##### *Alterations in the route schedules*

1. The following alterations of routes shall not be dependent upon advanced notice between the Contracting Parties, notification from one aeronautical authority to the other being sufficient;



- (a) Inclusion or suppression of stops in the territory of the Contracting Party which designated the airline;
  - (b) Omission of stops in the territory of the other Contracting Party and of third countries.
2. The alteration of agreed routes by inclusion of a stop not provided for in the route schedule outside of the territory of the Contracting Party which designated the airline shall be subject to prior agreement between the aeronautical authorities of the two Parties.

### PROTOCOL OF SIGNATURE

In the course of the negotiations held at Rio de Janeiro from 22 to 23 April 1980, the delegations of the two Contracting Parties agreed on the following:

- (1) The airline designated by Belgium may operate:
  - (a) A weekly flight with aircraft of the DC-10 type or similar aircraft, whose characteristics are described in the registration certificate of the aircraft, authorized to pick up or set down, in Brazilian territory, 150 passengers, coming from or destined for Belgium, on each flight;
  - (b) A weekly flight, with the aforementioned aircraft, with an exclusively technical stop in Brazilian territory. This commercial flight may also take on or put down in Brazilian territory 5,000 kilogrammes of cargo, coming from or destined for Belgium, on each flight.
- (2) The airline designated by Brazil may operate:
  - (a) A weekly flight, with aircraft of the DC-10 type or similar, whose characteristics are described in the registration certificate of the aircraft, authorized to pick up or set down in Belgian territory, 150 passengers, coming from or destined for Brazil, on each flight;
  - (b) A weekly flight with the above-mentioned aircraft, with an exclusively technical stop in Belgian territory. This commercial flight may also pick up or set down in Belgian territory 5,000 kilogrammes of cargo, coming from or destined for Brazil, on each flight.
- (3) The Contracting Parties recognized that the rights granted in sections II and III of the annex to the Air Transport Agreement do not apply to traffic between the territory of the other Party and third countries not included in the route schedule (sixth freedom).
- (4) The right concerning supplies of fuels and lubricating oils referred to in article 3, paragraph II, of this Agreement may be exercised by the airline designated by one of the Contracting Parties if this same right is exercised reciprocally by the airline of the other Contracting Party, even if it does not carry out the agreed services.
- (5) The airline designated by Belgium may land at Recife Airport on its southerly flight to take on passengers on the service it operates with commercial rights in Brazil, while respecting the total limit indicated in paragraph 1 of this Protocol for its operations in Brazilian territory.
- (6) The Contracting Parties shall grant to each other the right for the designated airline to transfer the excess of revenues over expenditures in accordance with the exchange formalities in force in the territory of each Contracting Party, which shall grant the necessary facilities for this purpose. These transfers shall be made at the market exchange rate in force, applicable to such payments.

(7) The definition of “regular air service” referred to in article 1 (e) is as follows: “A series of flights that possesses all the following characteristics:

- (a) It passes through the airspace over the territory of more than one State;
- (b) It is performed by an aircraft for the transport of passengers, mail or cargo for remuneration, in such a manner that each flight is open to use by members of the public;
- (c) It is operated, so as to serve traffic between two or more points, either
  - (1) According to a published timetable, or
  - (2) With flights so regular or frequent that they constitute a recognizably systematic series”.

The notes for the application of this definition are those adopted by the Second Air Transport Conference held at Montreal from 12 to 28 February 1980.

(8) The Contracting Parties agreed on the possibility of reconsidering, at the request of one of them, the norms relating to fifth-freedom rights when, for these purposes, the interests of the two Contracting Parties coincide.

(9) The Contracting Parties undertook to authorize, within the limits of their administrative powers, in accordance with the terms of the Agreement and its annex, the operations of the designated airlines when the said airlines have fulfilled the requirements of the Parties, for their operation in the territory of the latter.

(10) In the case of the employment by a designated airline of a foreign crew member in the operation of the agreed services, his aeronautical authority shall transmit to the aeronautical authorities of the other Party all the pertinent data and he may serve as a crew member on the aircraft of the designated airline unless there is opposition to such employment.

(11) The Belgian authorities asked for an indication of the manner in which the Parties would consider possible requests for increased capacity when traffic demand was higher than the capacity authorized in paragraphs 1 and 2 of this Protocol; such an increase might take the form of additional flights and charter flights to respond to demand in certain circumstances, including the use of the commercial flight with a technical stop in Brazil; the authorities of the two Parties stated that such requests would be considered on a case-by-case basis in accordance with the norms and regulations of each country, with the good will and in the spirit of co-operation existing between Brazil and Belgium.

DONE at Brussels on 19 September 1980, in duplicate, in the French, Dutch and Portuguese languages, the three texts being equally authentic.

For the Government  
of the Kingdom of Belgium:  
CHARLES-FERDINAND NOTHOMB

For the Government  
of the Federative Republic of Brazil:  
RAMIRO ELYSIO SARAIVA GUERREIRO

## ROUTE SCHEDULE OF BRAZIL

<i>Points of departure</i>	<i>Intermediate points</i> (1) (3) (4)	<i>Points in Belgium</i> (4)	<i>Points beyond Belgium</i> (1) (2) (3) (4)
Points in Brazil	One point on the Western coast of Africa	Brussels, Liege and Ostend	Three points

## NOTES:

- (1) Exclusively technical stops with regard to Belgium.
- (2) These points may be served, wholly or partially, before or after Brussels.
- (3) The Brazilian authorities will notify the Belgian authorities of these points before the beginning of service.
- (4) The omission of stops is regulated by section VII of the annex.

## ROUTE SCHEDULE IN BELGIUM

<i>Points of departure</i>	<i>Intermediate points</i> (1) (3)	<i>Points in Brazil</i>	<i>Points beyond Brazil</i> (1) (2) (3)
Points in Belgium	Dakar	Rio de Janeiro	Montevideo, Buenos Aires and Santiago, Chile

## NOTES:

- (1) Exclusively technical stops with regard to Brazil.
  - (2) The stop at Montevideo may be served before or after Buenos Aires.
  - (3) The omission of stops is regulated by section VII of the annex.
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