

No. 805

UNITED STATES OF AMERICA
and
BRAZIL

Air Transport Agreement (with annex and protocol of signature). Signed at Rio de Janeiro, on 6 September 1946

Official texts : English and Portuguese.

Registered by the United States of America on 26 May 1950.

ÉTATS-UNIS D'AMÉRIQUE
et
BRÉSIL

Accord relatif aux transports aériens (avec annexe et protocole de signature). Signé à Rio-de-Janeiro, le 6 septembre 1946

Textes officiels anglais et portugais.

Enregistré par les Etats-Unis d'Amérique le 26 mai 1950.

No. 805. AIR TRANSPORT AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED STATES OF BRAZIL. SIGNED AT RIO DE JANEIRO, ON 6 SEPTEMBER 1946

The Government of the United States of America and the Government of the United States of Brazil, considering :

—that the ever-growing possibilities of commercial aviation are of increasing importance;

—that this means of transportation because of its essential characteristics, permitting rapid connections, provides the best means for bringing nations together;

—that it is desirable to organize in a safe and orderly form regular international air services, without prejudice to national and regional interests, having in mind the development of international co-operation in the field of air transport;

—that it is necessary to conclude an agreement to secure regular air communications between the two countries;

have appointed for this purpose their Plenipotentiaries as follows :

The President of the United States of America, His Excellency William Douglas Pawley, Ambassador Extraordinary and Plenipotentiary in Brazil, and His Excellency James McCauley Landis, Chairman of the Civil Aeronautics Board;

The President of the United States of Brazil, His Excellency Samuel de Sousa-Leão Gracie, Acting Minister for Foreign Affairs and His Excellency Major-Brigadier Armando Figueira Trompowsky de Almeida, Minister of State for Aeronautics;

who, after having exchanged their full powers, found to be in good and due form, agreed upon the following articles :

Article I

The Contracting Parties grant each other the rights specified in the Annex hereto, in order that there may be established the regular air services described therein (hereinafter referred to as "agreed services").

¹ Came into force on 6 October 1946, thirty days after the date of signature, in accordance with article XIV.

Article II

1—Each of the agreed services may be inaugurated immediately or at a later date, at the option of the Contracting Party to whom the rights have been granted, but not before :

(a) the Contracting Party to whom the rights have been granted shall have designated an airline or airlines for the route or routes specified;

(b) the Contracting Party granting the rights shall have given the necessary operating permission to the airline or airlines concerned (which it shall do without delay, in accordance with the provisions of paragraph 2 of this article and of Article VI).

2—The airlines so designated may be required to satisfy the aeronautical authorities of the Contracting Party granting the rights, that they are in a position to fulfill the requirements prescribed by the laws and regulations normally applied by these authorities to the operation of commercial airlines.

Article III

1—The charges which either of the Contracting Parties impose or permit to be imposed on the airline or airlines designated by the other Contracting Party for the use of airports and other facilities shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services.

2—Fuel, lubricating oils, and spare parts introduced into the territory of one Contracting Party or placed on board airplanes in its territory by the other Contracting Party, either for its own account or for the airlines designated by it, solely for use by the aircraft of the other Contracting Party, shall enjoy, with respect to customs duties, inspection fees and other charges imposed by the first Contracting Party, treatment not less favorable than that granted to the national airlines engaged in international air transport services or to the airlines of the most favored nation.

3—Aircraft of one of the Contracting Parties used in the operation of the agreed services and the supplies of fuel, lubricating oils, spare parts, normal equipment and aircraft stores retained on board such aircraft shall enjoy exemption from customs duties, inspection fees, and similar duties or charges in the territory of the other Contracting Party, even though these supplies be used by such aircraft on flights within that territory.

Article IV

Certificates of airworthiness, certificates of competency and licenses issued or validated by one of the Contracting Parties and still in force, shall be recognized as valid by the other Contracting Party for the purpose of the operation of the agreed services. Each Contracting Party reserves the right however to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licenses granted to their own nationals by another State.

Article V

1—The laws and regulations of one Contracting Party, relative to the entry into its own territory, or departure therefrom of aircraft employed in international air navigation or to the operation of such aircraft within its own territory, shall be applied to aircraft of the airline or airlines of the other Contracting Party.

2—The laws and regulations of one Contracting Party as to the admission into its own territory or the departure therefrom of passengers, crew or cargo of aircraft (i.e., regulations relative to entry, clearance, immigration, passports, customs and quarantine) shall be applied to passengers, crew and cargo of aircraft of the airline or airlines designated by the other Contracting Party, within the territory of the first Contracting Party.

Article VI

Each of the Contracting Parties reserves the right to withhold or revoke the exercise of rights specified in the Annex of the present Agreement by an airline designated by the other Contracting Party when it is not satisfied that substantial ownership and effective control of the airline under reference is in the hands of nationals of the other Contracting Party, or in case of failure by that airline to comply with the laws or regulations referred to in Article V above, or to fulfill the conditions under which the rights are granted in accordance with this Agreement and its Annex, or when planes put in operation are not manned by nationals of the other Contracting Party, except in cases where air crews are being trained.

Article VII

The present Agreement shall be registered with the Provisional International Civil Aviation Organization established by the Interim Agreement on International Civil Aviation signed in Chicago on December 7, 1944,¹ or its successor.

¹ International Civil Aviation Conference, Chicago, Illinois, 1 November to 7 December 1944. *Final Act and Related Documents*, United States of America. Department of State publication 2282, Conference Series 64.

Article VIII

If either of the Contracting Parties considers it desirable to modify the terms of the Annex to this Agreement, as well as to exercise the rights specified in Article VI, it may request consultation between the aeronautical authorities of the two Contracting Parties, such consultation to be initiated within a period of 60 days from the date of the request. When these authorities agree that the Annex should be modified, or choose to exercise the rights set forth in Article VI, such decisions shall enter into force after having been confirmed by an exchange of notes through diplomatic channels.

Article IX

Except as otherwise provided in this Agreement, or its Annex, any dispute between the Contracting Parties relative to the interpretation or application of this Agreement, or its Annex, which cannot be settled through consultation shall be submitted for an advisory report to the Interim Council of the Provisional International Civil Aviation Organization (in accordance with the provisions of Article III, Section 6 (8) of the Provisional Agreement on International Civil Aviation signed at Chicago on December 7, 1944) or to its successor, unless the Contracting Parties agree to submit the dispute to an Arbitration Tribunal designated by agreement between the same Contracting Parties, or to some other person or body. The Contracting Parties will use their best efforts under the powers available to them to put into effect the opinion expressed in any such report.

Article X

If a general multilateral aviation convention, accepted by both Contracting Parties, enters into effect, this Agreement shall be modified in such a way so that its provisions will conform to those of the convention under reference.

Article XI

For the purposes of the present Agreement, and its Annex, except where the text provides otherwise :

(a) the term "aeronautical authorities" shall mean in the case of the United States of America the Civil Aeronautics Board and any person or agency authorized to perform the functions exercised at the present time by the Civil Aeronautics Board and, in the case of the United States of Brazil, the Air Minister and any person or agency authorized to perform the function exercised at present by the said Minister.

(b) the term "designated airlines" shall mean those airlines that the aeronautical authorities of one of the Contracting Parties have communicated in writing to the aeronautical authorities of the other