

## MEMORANDUM OF CONSULTATIONS

Delegations representing the Governments of the Federative Republic of Brazil and the United States of America met on June 24-26, 2008, in Washington, to discuss various issues related to the March 21, 1989 Air Transport Agreement between the Federative Republic of Brazil and the United States of America, as amended ("the Agreement"). The consultations took place in a cordial, professional, and positive atmosphere. Delegation lists are included as Attachment A.

The following topics constituted the working agenda: routes and traffic rights, frequencies for both scheduled and charter services, designations, code-sharing, pricing (tariffs), and parking fees, as well as intermodal operations.

The delegations reached agreement ad referendum on an amendment to Article 8 of the Agreement and revised Annexes I and II to replace the existing Annexes I and II to the Agreement. The amendment to Article 8 and the revised annexes are included as Attachment B. The delegations intend to recommend to their respective governments that the Agreement be amended in accordance with Attachment B through an exchange of diplomatic notes. The delegations further intend to recommend that their respective governments apply the terms of the attached amendments to Article 8 and Annexes I and II on the basis of comity and reciprocity pending the exchange of diplomatic notes bringing them into force.

With regard to footnote 5 to revised Annex I, in response to a question from the U.S. delegation, the Brazilian delegation explained that the Government of Brazil is actively working, in coordination with industry, to address current infrastructure constraints at Sao Paulo's Guarulhos airport. The Brazilian delegation confirmed that, when new capacity becomes available to Brazilian or third-country carriers at Guarulhos, U.S. carriers will be able to use their new frequencies there.

The Brazilian delegation proposed an amendment to Article 7 (Security). The U.S. delegation indicated that it would not be possible to accept the proposed change.

The U.S. delegation raised with the Brazilian delegation the continuing concerns of U.S. carriers with regard to the cost of doing business in Brazil, the proposed increase in aircraft parking fees in Sao Paulo, the ATAERO tax, difficulties they encounter obtaining appropriate tax exemptions under Article 9 of the Agreement, and visa issues. On the parking fee issue, the Brazilian delegation assured the U.S. delegation that no new measures will be implemented until the full public consultation process currently underway is concluded.

The Brazilian delegation expressed its ongoing concern regarding procedures for transit visas through the United States and their effect on Brazilian carriers. In response, the U.S. delegation provided an update on the success of various initiatives taken by the

United States to facilitate and expedite the issuance of visas to qualified applicants from Brazil.

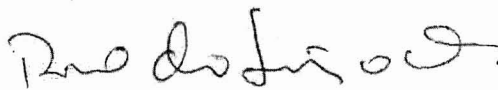
The delegations expressed their mutual intent to meet again before the end of 2010 to discuss further broad-based expansion of air service opportunities and to continue elimination of restrictions on U.S. and Brazilian air carrier operations.

For the delegation of the United States of America

For the delegation of the Federative Republic of Brazil



Terri L. Robl



Ronaldo Seroa da Motta

Washington, June 26, 2008

U.S. Delegation List

Government Representatives

Ms. Terri Robl, Head of Delegation  
Director, Office of Aviation Negotiations  
U.S. Department of State

Ms. Kathleen Milton  
Attorney-Adviser  
U.S. Department of State

Ms. Y. Viki Limaye-Davis  
International Transportation/Commercial Officer  
Office of Aviation Negotiations  
U.S. Department of State

Mr. David Schnier  
Brazil Desk Officer  
Bureau of Western Hemisphere Affairs  
U.S. Department of State

Mr. Stephen Meiners  
Brazil Desk Officer  
Bureau of Western Hemisphere Affairs  
U.S. Department of State

Ms. Mary Street  
Assistant Director  
Office of International Aviation  
U.S. Department of Transportation

Mr. Brian Hedberg  
Aviation Negotiator  
Office of International Aviation  
U.S. Department of Transportation

Mr. Lawrence Myers  
Office of the General Counsel  
U.S. Department of Transportation

Ms. Angela Cupas  
Intern/Observer  
U.S. Department of Transportation

Mr. Eugene Alford  
Air Transportation Specialist  
International Trade Administration  
U.S. Department of Commerce

Mr. Lauro De Barros  
Interpreter

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Mr. Gerald Cardoso  
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Associations and Industry

Ms. Cecilia Bethke  
Air Transport Association

Ms. Rachel Welford  
Intern/Observer, Air Transport Association

Mr. Robert Coffman  
Allied Pilots Association

Mr. Paul Doell  
National Air Carrier Association

Captain Kevin Henry  
Southwest Airlines Pilot's Association

Ms. Diane Peterson  
Airports Council International - North America

Mr. Michael Wascom  
American Airlines

Mr. Russell Pommer  
Atlas Air Cargo

Mr. Daniel Weiss  
Continental Airlines

Ms. Sametta Barnett  
Delta Air Lines

Ms. Reagan Highfill  
Delta Air Lines

Mr. James Davis  
Federal Express

Mr. Jeffrey Goodell  
Jet Blue

Mr. Jeffrey Morgan  
Northwest Airlines

Mr. Kevin Montgomery  
Polar Air Cargo

Mr. Benjamin Slocum  
US Airways

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Mr. Oracio Marquez  
United Airlines

Mr. Charles Smith  
Intern/Observer, United Airlines

Ms. Dana Richardson  
United Parcel Service

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**Brazil Delegation List**

Government Representatives

Mr. Ronaldo Seroa da Motta, Head of Delegation  
Director  
National Civil Aviation Agency (ANAC)

Brigadier Eliezer Negri  
Superintendent of International Relations  
ANAC

Mr. Roque Felizardo da Silva Neto  
Manager, International Markets Analysis  
ANAC

Mr. Marcelo Marinho  
Air Transport Advisor  
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Mr. Alexandre Jorge de Lima  
Ministry of Foreign Relations

Ms. Jeanine Pires  
President, Brazilian Tourist Board  
Ministry of Tourism

Mr. José Luiz Vianna da Cunha  
Director of Leisure and Incentive Tourism  
Ministry of Tourism

Mr. Carlos H.M. de Abreu e Silva  
Minister Counselor  
Embassy of Brazil

Mr. Daniel Roberto Pinto  
First Secretary  
Embassy of Brazil

Associations and Industry

Ms. Tatiana Silva Blanco  
Master Top Linhas Aéreas

Mr. Ricardo Bezerra da Silva  
TAM Linhas Aéreas

Mr. Carlos de Sant'anna Cesar  
VRG Linhas Aéreas

Ms. Anelise Martins da Silva  
VARIGLOG

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Article 8 of the Agreement shall be amended to add the following text as paragraph (10):

(10) Notwithstanding any other provision of this Agreement, airlines and indirect providers of cargo transportation of both Contracting Parties shall be permitted, without restriction, to employ in connection with international air transportation any surface transportation for cargo to or from any points in the territories of the Contracting Parties or in third countries, including transport to and from all airports with customs facilities, and including, where applicable, the right to transport cargo in bond under applicable laws and regulations. Such cargo, whether moving by surface or by air, shall have access to airport customs processing and facilities. Airlines may elect to perform their own surface transportation or to provide it through arrangements with other surface carriers, including surface transportation operated by other airlines and indirect providers of cargo air transportation. Such intermodal cargo services may be offered at a single, through price for the air and surface transportation combined, provided that shippers are not misled as to the facts concerning such transportation.

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ANNEX I  
SCHEDULED SERVICES

Section I – Routes

(1) Airlines of one Contracting Party whose designation is made pursuant to this Annex shall, in accordance with the terms of their designation, be entitled to perform international air transportation (a) between the points on the following routes and (b) between points on such routes and points in third countries through points in the territory of the Contracting Party which has designated the airline.

A. Routes for the airlines designated by the Government of the United States:

(1) From a point or points in the United States, via intermediate points, to Manaus, Brasilia, Rio de Janeiro, Sao Paulo, Recife, Porto Alegre, Belem, Belo Horizonte, Curitiba, Fortaleza, Salvador, and three (3) additional points in Brazil,<sup>1</sup> and beyond Brazil to Argentina, Uruguay, Paraguay and Chile.

(2) From a point or points in the United States, via intermediate points, to thirty (30) points in Brazil (in addition to those mentioned in (1) above) to be served on a code-share basis only.<sup>1</sup>

B. Routes for airlines designated by the Government of the Federative Republic of Brazil:

(1) From a point or points in Brazil, via intermediate points, to New York, Atlanta, Miami, Orlando, Detroit, Washington/Baltimore, Houston, Chicago, Los Angeles, San Francisco, and Boston, and

(a) beyond New York, Atlanta, Miami, Orlando, Detroit, Washington/Baltimore, Houston, Chicago, Los Angeles, San Francisco, and Boston, to a point or points in Germany, Switzerland, Belgium, and the Netherlands;

(b) beyond New York, Atlanta, Miami, Orlando, Detroit, Washington/Baltimore, Houston, Chicago, Los Angeles, San Francisco, and Boston, to a point or points in Canada;

(c) beyond New York, Atlanta, Miami, Orlando, Detroit, Washington/Baltimore, Houston, Chicago, Los Angeles, San Francisco, and Boston, to a point or points in Taiwan, Macau, Seoul, Beijing, and Bangkok;<sup>2</sup>

(d) beyond Los Angeles, to a point or points in Japan;

(e) effective March 1, 2009, for all-cargo operations and/or all-cargo services provided under code-share arrangements, beyond four (4) points in the United States<sup>3</sup> to a point or points in Japan;

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<sup>1</sup> The points are to be selected by the Government of the United States, with notification to the Government of Brazil, and may be changed as often as desired, upon 30 days' notice to the Government of Brazil.

<sup>2</sup> Services to or from these points may not be combined with service to or from Japan. Until October 1, 2009, service to or from Beijing must be served with combination service only. Seoul, Beijing, and Bangkok may only be served beyond Los Angeles and San Francisco.

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(f) effective March 1, 2009, for combination services provided under code-share arrangements, beyond three (3) points in the United States<sup>3</sup> to a point or points in Japan. Effective March 1, 2011, combination operations may be conducted beyond these points in the United States to Japan.

(2) From a point or points in Brazil, via intermediate points, to San Juan, Puerto Rico, and beyond to a point or points in third countries.

(3) From a point or points in Brazil, via intermediate points, to thirty (30) points in the United States (other than those mentioned in (1) above) to be served on a code-share basis only.<sup>3</sup>

(2) Each designated airline may, on any or all flights, and at its option, operate flights in either or both directions and without directional or geographic limitation, serve points on the routes in any order, and omit stops at any point or points outside the territory of the Contracting Party which has designated that airline without loss of any right to carry traffic otherwise permissible under this agreement.

(3) On any segment or segments of the routes described in Section I (1) A and B above, each designated airline may perform international air transportation without any limitation as to the use of multiple flight numbers and as to change, at any point on the routes, in type or number of aircraft operated, provided that in the outbound direction the transportation beyond the change of gauge point is a continuation of the transportation from the territory of the Contracting Party which has designated the airline and, in the inbound direction, the transportation to the territory of the Contracting Party which has designated the airline is a continuation of the transportation from behind the change of gauge point. The Contracting Parties agree that, among acceptable practices, each designated airline may transfer passengers from one of its own flights to another connecting flight or flights of the same airline provided such connections constitute continuing service and transport the passengers between points of origin and destination that the designated airline is authorized to serve on its routes.

(4) Each designated airline may, in the operation of services authorized by this Agreement, use its own aircraft or aircraft that are leased, chartered or interchanged, observing the norms and regulations of each Contracting Party.

(5) In operating or holding out the authorized services on the agreed routes, any designated airline of one Contracting Party may enter into cooperative marketing arrangements such as blocked-space, code sharing, leasing or aircraft interchange arrangements with:

A. an airline or airlines of either Contracting Party;

B. an airline or airlines of a third country, as provided in the paragraphs below:

(1) Beyond points: Code sharing with a third-country airline to points beyond shall be permitted. Each participating airline will be allowed to display its own code on the entire route.

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<sup>3</sup> The points are to be selected by the Government of the Brazil, with notification to the Government of the United States, and may be changed as often as desired, upon 30 days' notice to the Government of the United States.

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(2) Intermediate points: Code sharing with a third-country airline involving intermediate points may only be operated to or from points in the Northeast region of Brazil.<sup>4</sup> Each participating airline will be allowed to display its own code on the entire route.

C. a surface transportation provider of any country;

provided that all participants in such arrangements 1) hold the appropriate authority and 2) meet the requirements normally applied to such arrangements.

#### Section II - Capacity

(1) Each airline will file schedules with the aeronautical authorities of the other Contracting Party at least 45 days in advance of the proposed effective date of the schedule. Such schedules will become effective on the proposed effective date, provided they conform to the terms of this Annex. Schedules may be filed less than 45 days in advance of the proposed effective date, with special permission. With respect to changes such as changes in the day or hour of operations, short-term changes of equipment type for operational reasons, changes in itinerary on authorized routes, and capacity and equipment substitution changes that do not exceed the airline's authorized capacity levels, the airline shall notify the aeronautical authorities of the other Contracting Party in advance of the change, but no approval or special permissions shall be required.

(2) The designated airlines of each Contracting Party may operate combination service over the routes specified in Section I of this Annex as follows:

A. until June 30, 2008, one hundred and five (105) frequencies per week.

B. effective July 1, 2008, an additional twenty-one (21) frequencies per week, limited to points in the North, Northeast, and Mid-west regions of Brazil<sup>4</sup> and/or Belo Horizonte.

C. effective June 1, 2009, an additional seven (7) frequencies per week, limited to points in the North, Northeast, and Mid-west regions of Brazil<sup>4</sup> and/or Belo Horizonte and/or Rio de Janeiro.

D. effective October 1, 2009, an additional seven (7) frequencies per week.<sup>5</sup>

E. effective October 1, 2010, an additional fourteen (14) frequencies per week.<sup>5</sup>

(3) The designated airline(s) of each Contracting Party may operate all-cargo service over the routes specified in Section I of this Annex as follows:

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<sup>4</sup> For purposes of this Agreement, the regions of Brazil are comprised as follows: North – the states of Acre, Amapá, Amazonas, Pará, Rondônia, Roraima and Tocantins; Northeast - the states of Maranhão, Piauí, Ceará, Rio Grande do Norte, Paraíba, Pernambuco, Alagoas, Sergipe and Bahia; Midwest - the states of Goiás, Mato Grosso and Mato Grosso do Sul, and the Federal District.

<sup>5</sup> The frequencies provided (D) and (E) may not be used for services between Guarulhos International Airport and points in the United States until the regulatory constraints in place as of June 26, 2008, related to infrastructure at that airport are removed. For carriers of Brazil this restriction will only apply when Guarulhos is the last point of departure from Brazil or first point of arrival in Brazil.

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A. thirty-five (35) all-cargo frequencies per week; and

B. effective October 1, 2010, an additional seven (7) all-cargo frequencies.

(4) For the all-cargo services the number of flights are expressed as units representing wide-body freighters. One or more freighters may be substituted by narrow-body freighters in ratio of two (2) narrow-body frequencies equal one (1) wide-body frequency.

(5) Each Contracting Party will grant approval of applications for extra-section combination flights by the airlines of the other Contracting Party, in addition to the frequencies authorized in paragraph 2 of this section, to meet peak-season passenger traffic demand. The peak-season periods are considered the periods June 15 through August 15 and December 15 through February 28.

(6) Each Contracting Party will grant approval of applications for extra-section all-cargo flights by the airlines of the other Contracting Party, in addition to the frequencies authorized in paragraph 3 of this section, to meet periods of peak or unusual cargo demand.

(7) Each Contracting Party may allocate or redistribute the authorized quotas of all-cargo and combination frequencies at its discretion, with the understanding that if any of its designated airlines suspends services, either temporarily or permanently, the Contracting Party may reallocate those quotas to its other airlines. Frequencies of airlines performing combination services may be transferred only to other designated airlines performing combination services. All-cargo frequencies may be transferred only as all-cargo frequencies to any of the airlines designated under this Annex, notwithstanding the terms of its designation.

(8) For purposes of this section, code-sharing services shall be counted as follows: airlines of either Contracting Party offering services by placing their code on an aircraft operated by an airline of either Contracting Party or of a third country shall not be counted against the frequency limitation stated in this section.

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Annex II

CHARTERS

(1) Both Contracting Parties agree that combination (passenger and cargo) and all-cargo charters aid in the development of air transportation. Both Parties further agree that each Contracting Party shall authorize third and fourth freedom charter operations between any point or points in the territory of one Party and any point or points in the territory of the other Party that are performed by airlines designated in accordance with this Annex under Article 3 of the Agreement as follows:

	Roundtrip Flights	
	Combination	All-Cargo
Effective Immediately	250	1000
Effective July 1, 2010	250	1250

(2) Each designated airline can establish the charter price directly with the charterer, observing the regulations in force in the territory of the Contracting Party where the traffic originates.

(3) Applications for charter flights in excess of the number established in paragraph (1) above by airlines designated by either Contracting Party shall be treated sympathetically by the other Contracting Party.

(4) Each designated airline may, in the operation of services authorized by this Agreement, use its own aircraft or aircraft that are leased, chartered or interchanged, observing the norms and regulations of each Contracting Party.

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