

AGREEMENT TO AMEND
THE AIR TRANSPORT AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF THE FRENCH REPUBLIC
SIGNED AT WASHINGTON JUNE 18, 1998

The Government of the United States of America and the Government of the French Republic (hereinafter, "the Parties");

Desiring to amend the Air Transport Agreement between the Government of the United States of America and the Government of the French Republic, with Annexes, signed at Washington June 18, 1998, as amended by the Agreement to Amend the Air Transport Agreement between the Government of the United States of America and the Government of the French Republic, signed at Washington October 10, 2000 ("the 1998 Agreement");

Have agreed as follows:

ARTICLE 1

The 1998 Agreement shall be amended as follows:

1. The preamble of the 1998 Agreement is amended by inserting the word "minimum" between "appropriate" and "government" in the second sentence.
2. Article 3 is amended in paragraph 1 by substituting "Annex II" for "Annex III".
3. Article 8, paragraph 3, is amended by deleting the second sentence and replacing it with:

These rights shall be subject only to constraints resulting from considerations of airport safety and, for airports located in France, bases for exemption provided in European Union Council Directive 96/67/EC and the French legislation implementing that directive.

4. Article 8 is further amended by moving Section 4 of Annex I to this Article and numbering it as paragraph 9.
5. Article 11 is amended in paragraph 2 by deleting the phrase "consistent with the rights granted in this Agreement" in the first sentence, and by deleting the phrase "or as otherwise specified in this Agreement" in the second sentence.
6. Article 11 is further amended by rewriting paragraph 4 to read:

Neither Party shall require the filing of schedules, programs for charter flights, or operational plans by airlines of the other Party for approval, except as may be required on a non-discriminatory basis to enforce the uniform

conditions foreseen by paragraph 2 of this Article or as may be specifically authorized in an Annex to this Agreement. If a Party requires filings it shall minimize the administrative burdens of filing requirements and procedures on air transportation intermediaries and on designated airlines of the other Party.

7. Article 11 is further amended by deleting paragraph 5.

8. Article 12 is amended by rewriting paragraph 1 (d) to read:

protection of airlines from abuses of a dominant position resulting from prices that are unjustifiably low, taking account of the costs to the initiating airline of providing the services or facilities to which they relate, where evidence exists as to an intent to eliminate competition.

9. Article 12 is further amended by rewriting paragraph 2 to read:

Neither Party shall require filings for tariffs by the airlines of the other Party for approval, except as may be required on a non-discriminatory basis. Notification or filing by the airlines of both Parties may be required no more than fifteen (15) days before the proposed date of effectiveness. Notification or filing may be permitted on shorter notice. Except as may be necessary to implement the rights under this Agreement, neither Party shall require the notification or filing by airlines of the other Party of prices charged by charterers to the public, except as may be required on a non-discriminatory basis.

10. Article 12 is further amended by rewriting paragraph 3 to read:

Neither Party shall take unilateral action to prevent the inauguration or continuation of a price proposed to be charged or charged by:

(a) an airline of either Party for international air transportation between the territories of the Parties, or

(b) an airline of one Party for international air transportation between the territory of the other Party and any other country,

including in both cases transportation on an interline or intraline basis, provided that in the case of services to or from third countries to which Council Regulation (EEC) no. 2409/92 of 23 July, 1992 applies on the date that this Agreement is signed, or to which a not more restrictive successor regulation applies, such price is not specifically prohibited under that regulation.

11. Article 13 is amended in Part B, paragraph 5 by substituting "thirty (30)" for "twenty (20)".

12. Article 13 is further amended in Part C, paragraph 2 by substituting "twenty (20)" for "ten (10)".

13. Article 14 is amended in Part A by substituting "fifty (50)" for "forty (40)" in paragraph 2 (a) and by substituting "eighty-five (85)" for "seventy-five (75)" in paragraph 2 (b).

14. Article 14 is further amended in Part A, paragraph 4 (a), by substituting "thirty (30)" for "twenty (20)" in the first sentence and substituting "forty-five (45)" for "twenty (20)" in the second sentence.

15. Article 14 is further amended in Part A, paragraph 4 (b) by substituting "thirty (30)" for "twenty (20)".

16. Annex I, Scheduled Air Transportation, is amended by rewriting Section 1 to read:

Section 1

Routes

Airlines of each Party designated under this Annex shall, in accordance with the terms of their designation, be entitled to perform scheduled international air transportation between points on the following routes:

A. Routes to be served by the Combination and Cargo Airlines of the United States:

1. U.S. - Metropolitan France Routes:

(a) From points behind the United States via the United States and intermediate points to a point or points in France and beyond.

(b) For all-cargo service or services, between France and any point or points.

2. From points behind the United States via the United States and intermediate points to French Departments of America and beyond¹;

¹ Airlines designated by the United States may exercise fifth-freedom traffic rights on combination and all-cargo services on this Route only to a total of ten (10) points in the Western Hemisphere to be selected and changed by the Government of the United States by diplomatic note to the French Government.

3. From points behind the United States via the United States to New Caledonia and/or Wallis and Futuna²;

4. From points behind the United States via the United States and intermediate points to French Polynesia and beyond³;

5. From points behind the United States via the United States and intermediate points to Saint-Pierre and Miquelon and beyond⁴.

B. Routes to be served by the Combination and Cargo Airlines of the French Republic

1. Metropolitan France - U.S. Routes

(a) From points behind France via France and intermediate points to a point or points in the United States and beyond.

(b) For all-cargo service or services, between the United States and any point or points.

2. From points behind the French Departments of America via the French Departments of America and intermediate points to the United States and beyond⁵;

² The issue of intermediate and beyond operations on Route 3 may be discussed at a mutually acceptable time.

³ A separate agreement on intermediate and beyond points on Route 4 shall be concluded by an exchange of diplomatic notes.

⁴ Airlines designated by the United States may exercise fifth-freedom traffic rights on combination and all-cargo services on this Route only to a total of ten (10) points in the Western Hemisphere to be selected and changed by the Government of the United States by diplomatic note to the French Government.

⁵ Airlines designated by France may exercise fifth-freedom traffic rights on combination and all-cargo services on this Route only to a total of ten (10) points in the Western Hemisphere to be selected and changed by the French Government by diplomatic note to the Government of the United States.

3. From points behind New Caledonia and/or Wallis and Futuna via New Caledonia and/or Wallis and Futuna to the United States⁶;

4. From points behind French Polynesia via French Polynesia and intermediate points to the United States and beyond⁷;

5. From points behind Saint-Pierre and Miquelon via Saint-Pierre and Miquelon and intermediate points to the United States and beyond⁸.

17. Annex I is further amended in Section 2 by adding ", with the exception of all-cargo services," after "provided that" at the end of that section.

18. Annex I is further amended in Section 3 by adding ", with the exception of all-cargo services," after "provided that".

19. Annex I is further amended by renumbering Section 5 as Section 4 and rewriting it to read:

In conjunction with operations on Routes A 2, 3, 4 and 5 and B 2, 3, 4 and 5 in Section 1 of this Annex, designated airlines shall be entitled to operate combination and all-cargo services to any third-country point or points not available for fifth-freedom traffic rights under Section 1 of Annex I, without traffic rights between the territory of the other Party and any such point or points.

⁶ The issue of intermediate and beyond points on Route 3 may be discussed at a mutually acceptable time.

⁷ A separate agreement on intermediate and beyond points on Route 4 shall be concluded by an exchange of diplomatic notes.

⁸ Airlines designated by France may exercise fifth-freedom traffic rights on combination and all-cargo services on this Route only to a total of ten (10) points in the Western Hemisphere to be selected and changed by the French Government by diplomatic note to the Government of the United States.

20. Annex II, All-Cargo Services, is amended by deleting it in its entirety.

21. Annex III is renumbered as Annex II and is rewritten as follows:

Annex II

Charter Air Transportation

Section 1

A. Airlines of each Party designated under this Annex shall, in accordance with the terms of their designation, have the right to carry international charter traffic of passengers (and their accompanying baggage) and/or cargo (including, but not limited to, freight forwarder, split, and combination (passenger/cargo) charters):

1. Between any point or points in the territory of the Party that has designated the airline and any point or points in the territory of the other Party; and

2. Between any point or points in the territory of the other Party and any point or points in a third country or countries, provided that, except with respect to cargo charters, such service constitutes part of a continuous operation, with or without a change of aircraft, that includes service to the homeland for the purpose of carrying local traffic between the homeland and the territory of the other Party.

B. In the performance of services covered by this Annex, airlines of each Party designated under this Annex shall also have the right: (1) to make stopovers at any points whether within or outside of the territory of either Party; (2) to carry transit traffic through the other Party's territory; (3) to combine on

the same aircraft traffic originating in one Party's territory, traffic originating in the other Party's territory, and traffic originating in third countries; and (4) to perform international air transportation without any limitation as to change, at any point on the route, in type or number of aircraft operated; provided that, except with respect to cargo charters, in the outbound direction, the transportation beyond such point is a continuation of the transportation from the territory of the Party that has designated the airline and in the inbound direction, the transportation to the territory of the Party that has designated the airline is a continuation of the transportation from beyond such point.

C. Each Party shall extend favorable consideration to applications by airlines of the other Party to carry traffic not covered by this Annex on the basis of comity and reciprocity.

Section 2

A. Any airline designated by either Party performing international charter air transportation originating in the territory of either Party, whether on a one-way or round-trip basis, shall have the option of complying with the charter laws, regulations, and rules either of its homeland or of the other Party. If a Party applies different rules, regulations, terms, conditions, or limitations to one or more of its airlines, or to airlines of different countries, each designated airline shall be subject to the least restrictive of such criteria.

B. However, nothing contained in the above paragraph shall limit the rights of either Party to require airlines designated under this Annex by either Party to adhere to requirements relating to the protection of

passenger funds and passenger cancellation and refund rights.

Section 3

Except with respect to the consumer protection rules referred to in the preceding paragraph, neither Party shall require an airline designated under this Annex by the other Party, in respect of the carriage of traffic from the territory of that other Party or of a third country on a one-way or round-trip basis, to submit more than a declaration of conformity with the applicable laws, regulations and rules referred to under section 2 of this Annex or of a waiver of these laws, regulations, or rules granted by the applicable aeronautical authorities.

22. Annex IV, Computer Reservation Systems, is renumbered as Annex III and is rewritten to read:

ANNEX III

**Principles of Non-Discrimination Within
and Competition among Computer Reservations Systems**

1. The Parties recognize that computer reservations systems (CRS) operations are an important aspect of the ability of an airline to compete. Specifically, the Parties note that CRS operations are regulated at the date of this agreement:

- in France, under European Community Regulation 2299/89, 24 July 1989, as amended by Regulation 3089/93 of 29 October 1993 and by Regulation 323/1999, 8 February 1999; and
- in the United States, under 14 CFR Part 255.

2. The Parties agree that, consistent with the laws and regulations of the Parties in effect on the date that this Agreement is signed, the following principles shall be followed with respect to CRS operations in international aviation on a non-discriminatory basis:

(a) CRSs shall have integrated primary displays for which:

(i) information regarding international air services, including the construction of connections on those services, shall be edited and displayed based on non-discriminatory and objective criteria that are not influenced, directly or indirectly, by airline or market identity, and that apply uniformly to all participating airlines;

(ii) CRS data bases shall be as comprehensive as possible and CRS vendors shall not delete information from their data bases until it has been superseded;

(iii) CRS vendors shall not manipulate information given by participating airlines in a manner which would lead to the provision of inaccurate, misleading or discriminatory information; and the information provided by participating airlines shall be clear and concise (for example flights for which the code displayed is not that of the operating airline (i.e. code share), flights involving a change of aircraft, and flights with stops shall be clearly identified as having those characteristics);

(iv) All CRSs that are available to travel agents who directly distribute information about airline services to the traveling public in either Party's territory shall not only be obligated to, but shall also be entitled to, operate in conformance with the CRS rules that apply in the territory where the CRS is being operated;

(b) Travel agents shall be allowed to use any of the secondary displays available through the CRS for an individual transaction so long as the travel agent makes a request for that display to meet a specific request by a consumer.

(c) All airlines willing to pay any applicable non-discriminatory fee shall be permitted to participate in each vendor's CRS. All distribution facilities that a system vendor provides shall be offered on a non-discriminatory basis to participating airlines. CRS vendors shall display, on a non-discriminatory, objective, airline-neutral basis, the international air services of participating airlines in all markets in which they wish to sell those services. Upon request, a CRS vendor shall disclose details of its data base update and storage procedures, its criteria for editing and ranking information, the weight given to such criteria, and the criteria used for selection of connect points and inclusion of connecting flights.

(d) CRS vendors of one Party operating in the territory of the other Party shall be entitled to bring in, maintain, and make freely available, their CRSs to travel agencies or travel companies and other subscribers whose principal business is the distribution of travel-related products in the territory of the other Party, if the CRS complies with these principles.

(e) In the territory of one Party, CRS vendors of the other Party shall not be subject to more stringent or restrictive requirements, with respect to access to and use of communications facilities, selection and use of technical CRS hardware and software, and the technical installation of CRS hardware, than those imposed on the first Party's own CRS vendors.

(f) CRSs in use in the territory of one Party shall be entitled to effective and unimpaired access in the territory of the other Party provided that they comply with the standards and laws in force in that territory, which shall be non-discriminatory. One aspect of this is that a designated airline shall participate in such a system as fully in its homeland territory as it does in any system offered to travel agents in the territory of the other Party. Owners/operators of CRSs of one Party shall have the same opportunity to own/operate CRSs that conform to these principles within the territory of the other Party, as do owners/operators of that Party. Airlines and CRS vendors of one Party shall not discriminate against travel agents in their homeland territory because of their use or possession of a CRS also operated in the territory of the other Party.

23. Annex V, Transitional Arrangements for Scheduled Combination Air Services, is amended by deleting it in its entirety.

ARTICLE 2

This Agreement shall enter into force on the date of signature.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Washington this twenty-second day of January, 2002 in two originals, in the English and French languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
THE FRENCH REPUBLIC: