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DEPARTMENT OF STATE, WASHINGTON

Embassy, RIO DE JANEIRO

February 13, 1964.

Laws Governing Subsidies to Brazilian International Airlines.

CHRP, D-16

There is enclosed as of interest to the Department six copies of Decree nº 53,385 of December 31, 1963 and accompanying regulations which refer to Law nº 4,200 of February 5, 1963 which establish the terms under which international airlines may obtain subsidies from the Brazilian Government. Also enclosed are free translations of the foregoing.

Six copies of Law nº 4,200 of February 5, 1963 and a free translation are also attached since it appears from the records of the Embassy that the law was not forwarded at the time of its publication.

For the Ambassador:

Ray H. Crane,  
Second Secretary

Enclosures: as stated.

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RBEIwood

FREE TRANSLATION

LAW 4,200 of February 5, 1963.

Establishes norms for assistance to the air transport industry.

The President of the Republic makes it known that the National Congress and he approve the following Law:

The National Congress decrees:

CHAPTER I

Subsidies and Contribution

Art. 1 - The Union will grant, in accordance with the text and conditions established in this law the following direct subsidies to the national concessionaires of regular airlines:

- a) kilometric subsidy to those lines which form the National Integration Plan
- b) kilometric subsidy to international airlines
- c) financial contribution for reequipping.

Sole Paragraph - There shall also be granted beginning calendar year 1963 an annual subsidy to the duly registered air taxi companies.

CHAPTER II

The National Integration Plan

Art. 2 - The Ministry of Air is authorized to prepare and review whenever necessary a National Integration Plan composed of domestic airlines with present deficit or considered as being antieconomic but which are of great national interest at the discretion of the Executive Power.

Sole Paragraph - There shall also be included in the National Integration Plan the airlines which form the Amazon network.

Art. 3 - In the preparation of the National Integration Plan the Ministry of Air shall take into consideration primarily the following factors:

- a) public interest in the airline
- b) the present inconvenience in the execution of the services with other type of superior equipment or the impracticability of the execution of the services with such equipment
- c) the replacement of equipment due to increase in traffic density and gradual improvement of the infrastructure
- d) the establishment of adequate tariffs considering the economic conditions of the region.

**Art. 4** - The kilometric subsidy established for the airlines of the National Integration Plan shall be fixed annually by the Ministry of Air taking into consideration the following factors:

- a) operation costs
- b) percentual utilization by passengers as compared with the economic reality of the region served.

**Sole Paragraph** - Except when imperative the effective call on all established stops is a condition for the receipt of subsidy for each airline.

**Art. 5** - For fiscal year 1962 there shall prevail the air net system and the subsidies established on approval basis by the Ministry of Air.

**Art. 6** - For the execution of the National Integration Plan the Ministry of Air may divide the national territory into regions in order to establish irradiation centers for the line as well as to adapt the plan to the conditions resulting from the improvement of the infrastructure.

**Art. 7** - The Ministry of Air shall promote the distribution of the lines of the National Integration Plan taking into consideration the necessity of avoiding competition between lines operating with identical or unidentical equipment and also considering the following:

- a) immediate availability of adequate equipment
- b) condition of actual concessionaire in the region.

**Sole Paragraph** - Whenever the line has more than one concessionaire the Ministry of Air shall promote the conciliation between the operators in order to eliminate competition establishing a criterion of proportion if the operators do not reach an agreement.

**Art. 8** - The Ministry of Air shall improve the landing fields which form the National Integration Plan in order to cause a progressive substitution of the equipment in use by other equipment which will ensure the operations better economic results.

**Sole Paragraph** - As these aircraft are liberated due to their substitution for more economic equipment the companies shall promote their sale or endeavor their sale.

CHAPTER III

Subsidy to International Airlines

**Art. 9** - Effective as of June 1, 1962 there shall prevail the system of subsidies for international airlines operated by Brazilian companies.

Art. 10 - The subsidy shall be established annually by ordinance issued by the Ministry of Air per flown kilometer between the beginning and ending point of the lines taking into consideration the following factors:

- a) degree of public interest in the services
- b) type of aircraft used
- c) economic results of the line
- d) number of flights.

Sole Paragraph - The subsidy established in accordance with this article may be increased from its basic value at the criterion of the Minister of Air if in view of the operation conditions of the line and considering competition from foreign airlines and other factors of national interest, it becomes necessary to grant a larger subsidy in order to ensure the execution of the services.

Art. 11 - For fiscal year 1962 the kilometric subsidy shall be that established by the Ministry of Air.

Art. 12 - The companies favored by this Chapter shall pay a tax of 2% on the total of each subsidy payment which shall be destined to cover the costs of inspection of international airlines receiving this subsidy and include the payment of technicians contracted by the DAC for the control of the services, for the findings of the economic and financial results as well as the operations indices and respective operation costs.

#### CHAPTER IV

##### Financial Contribution for Reequipping

Art. 13 - The Federal Government shall grant financial contribution for reequipping national airlines which are concessionaires of regular lines.

Sole Paragraph - Except for such equipment already in use or financings registered with SUMOC there shall only benefit from the favors of this law those contracts and commitments for reequipping which are previously approved by the Ministry of Air.

Art. 14 - During the years 1962 and 1963 the financial contribution referred to in the foregoing article shall be of Cr.\$3.2 billions for each year distributed between the companies in the proportion of ton/km offered in the previous year in the domestic lines.

Sole Paragraph - For the next three years the budget of the Ministry of Air shall include necessary funds to cover the requirements established in the foregoing article.

Paragraph 2 - For the purpose of the distribution there shall be taken as basis the commercial capacity of the aircraft (pay load) defined for each type of aircraft by the DAC and the kilometric distance of the regular domestic airlines of each company effectively flown during the previous year in accordance with approved timetables.

Art. 15 - A readjustment of Cr.\$ 1,522,500,000.00 is granted on the financial contribution relating to 1961 established in laws nº 3039 of December 20, 1956 and nº 3928 of July 27, 1961 for the reequipping of national airlines operating in domestic lines.

Art. 16 - Those aircraft purchased totally or partially with the financial contribution or the contract for which is included in the favors of reequipping shall be subject to legal mortgage in favor of the Federal Government and may only be sold, chartered, loaned or transferred upon previous authorization from the Ministry of Air.

Art. 17 - The commitments and favors established in this law are extensive to the successors or purchasers of the rights of the favored companies as well as to the assets of these companies including the case of legally declared insolvency.

Art. 18 - During the years 1962 and 1963 there is authorized the concession of a special emergency aid to national air transportation companies concessionaires of regular airlines intended to cover the successive increases in operation costs not absorbed by tariffs and not yet covered by other Governmental aid.

Par. 1 - The special emergency aid is established at Cr.\$ 4 billions for 1962 and Cr.\$ 6 billions for the current year.

Par. 2 - The criterion of distribution of the special emergency aid shall be established by the Ministry of Air and for 1962 the criterion adopted by that Ministry shall prevail.

Art. 19 - For the years 1964, 1965, and 1966 the budget of the Ministry of Air shall include the amounts considered necessary to cover the purposes mentioned in the foregoing article.

#### CHAPTER V

##### Subsidy to Air Taxi Lines

Art. 20 - The air taxi lines duly registered shall receive an annual global subsidy distributed among them in accordance with the criterion established by the Ministry of Air.

Par. 1 - During 1963 the total of the subsidy is established at Cr.\$ 200 millions.

Par. 2 - For the next three years the budget of the Ministry of Air shall include the amounts considered necessary for the purpose of this article.

Par. 3 - The companies favored by this article shall present proof to the effect that they are paid up with the Social Security Institutions prior to receiving any subsidy.

## CHAPTER VI

### General and Transitory Regulations

Art. 21 - One company may not receive each year more than 50% of the distributed financial contribution nor of the total budget destined for the National Integration Plan.

Par. 1 - The limitation established in this article shall be extensive to the pools of companies and to persons or group of persons whether they be physical or judicial, controlling the capital of more than one company.

Par. 2 - The Ministry of Air will inspect the strict observance of the regulations of this article and shall make the corrections deemed necessary.

Art. 22 - Every year the Ministry of Air through the DAC shall examine the accounts of the companies for the purpose of investigating the exact destination of the subsidies, aids, and contribution received by virtue of this law.

Art. 23 - There shall be made no payment in lieu of subsidy for lines of the National Integration Plan or for international lines without the benefitting companies being totally paid up with the Social Security Institutions.

Art. 24 - The amounts paid by virtue of this law to the companies operating regular airlines shall not be computed for the purposes of income tax.

Art. 25 - The federal budget shall include each year by proposal of the Ministry of Air the necessary funds for the execution of this law.

Art. 26 - The companies benefitting from this law shall commit themselves to grant a 50% rebate once during each legislative session on the round trip ticket requests of Congressmen to the states they represent, this request has to be made by the Secretary of each House of Representatives to which the Congressmen belongs, without prejudice to any discounts already in force.

Art. 27 - For the fulfilment of the obligations established in this law the Executive Power is authorized to open special credits in the amounts of Cr.\$ 11,928 billions relating to year 1962 and of Cr.\$12,806 billions relating to year 1963.

Art. 28 - Upon proposal of the Ministry of Air the Executive Power shall

within 90 days from the publication of this law issue the regulations necessary for its execution.

Art. 29 - This law becomes effective on the date of its publication all contrary provisions being hereby revoked.

Approved the regulations for the activities to be granted to international airlines operated by Brazilian companies.

The President of the Republic, using the power vested upon him by Art. 57, item I, of the Constitution, in view of Arts. 9 through 12 of Law 4,300 of February 2, 1963, decrees:

João Goulart

It is hereby approved the regulation for the activities to be granted to international airlines which are referred to in Law 4,300 of February 2, 1963, which is given being, and is signed by the Minister of International Affairs.

Reynaldo de Carvalho FA

San Tiago Dantas

Art. 30 - This decree will become effective on the date of its publication and all contrary provisions are hereby revoked.

Brasilia, December 31, 1963. Michel of the Independent and Vice of the President.

João Goulart

Reynaldo de Carvalho

FREE TRANSLATION

DECREE nº 53,385 of

Dec. 31, 1963.

Approves the regulations for the subsidies to be granted to international airlines operated by Brazilian enterprises.

The President of the Republic, using the power vested upon him by Art. 87, item I, of the Federal Constitution, and having in mind Arts. 9 through 12 of Law 4,200 of February 5, 1963, decrees:

Art. 1 - It is hereby approved the Regulation for the subsidies to be granted to international airlines operated by Brazilian enterprises which are referred to in Law 4,200 of February 5, 1963, which is given below, and is signed by the Minister of State for the Aeronautical Affairs.

Art. 2 - This decree will become effective on the date of its publication and all contrary provisions are hereby revoked.

Brasilia, December 31, 1963, 142nd of the Independence and 75th of the Republic.

**João Goulart**

**Aysio Botelho**



TRANSLATION

REGULATIONS REFERRED TO IN DECREE

53,385 of Dec. 31, 1963

CHAPTER I

Subsidies for international airlines

Art. 1 - The international airlines presently operated by Brazilian enterprises will be subsidized in the manner set forth by this regulation.

Art. 2-- The Civil Aviation Directorate, annually, will make the necessary studies as to the amount to be subsidized to each international airline, for the effect of inclusion in the proposed budget of the Ministry of Air, of the necessary total appropriation.

Art. 3 - The subsidies will be fixed yearly, by act of the Minister of Air, taking into consideration each kilometer flown and also the following:

- a) the degree of public interest in the service
- b) type of aircraft
- c) economic results of the line
- d) number of flights,

having in mind the following factors:

Sole Paragraph - The subsidies fixed under the norms set forth by this article may be increased by act of the Minister of Air, if in relation to the economic conditions of operations of the airline, and taking into account the foreign competition and other supervenient factors, if increased assistance becomes necessary to assure the carrying out of the service.

Art. 4 - The inclusion in the subsidies regime, will depend in each case on approval by the Minister of Air, of new airlines, of expansion of already authorized airlines, to points beyond its present terminal, of the increase of kilometers as a consequence of new stopovers and increased number of flights.

Sole Paragraph - The elimination of routes, or segments of routes, the reduction of flights and the elimination of stopovers, will also depend on approval of the Minister of Air.

CHAPTER IIOf Payment of Subsidies

Art. 5 - The subsidies will be paid for each flown kilometer between the start and the terminal of each airline in the authorized flights.

Sole Paragraph - When there is more than one stop in the national territory, for the effect of payment of subsidies, there shall be considered the last stop in Brazil, in the outgoing trips, and the first stop in the return trip, as well as the starting and terminal points of the airline, respectively.

Art. 6 - The effective execution of all the stopovers foreseen in their respective schedule, except in cases of imperative need, duly justified and accepted by the Civil Aviation Directorate, will be an indispensable condition for the payment of the subsidies due for each flight.

Sole Paragraph - There shall not be computed for the effect of subsidies:

- a) the trips not included in the authorized flights
- b) the cargo trips
- c) the flights which are ferry, charter or special
- d) the eventual increase of kilometers which may be a consequence of emergencies or when they are for the safety of the flight.

Art. 7 - The airline operating the international airline will present monthly to the Civil Aviation Directorate documents corresponding to the kilometers effectively flown during the previous month, followed by additional clarifying elements for the effects of checking, under the terms of Art. 6.

Sole Paragraph - Besides those elements, the Civil Aviation Directorate may require from the airline any information which may be deemed necessary for proving the kilometers declared were actually flown.

Art. 8 - In case of any divergence between the elements presented by the airline and those encountered after the checking is made, by the Civil Aviation Directorate, the latter will provide for the payment of the subsidy due corresponding to the net and correct amount of the effectively flown kilometers, retaining the pending amount until a later solution is brought up.

Art. 9 - The payment of subsidies of international airlines made in excess or in shortfall, either as an oversight or as an error, will be compensated in the following month, after the conclusion of the studies which proved them.

Art. 10 - The payment of subsidies to airlines will be suspended in the case where they make or maintain agreements with other carriers or national or foreign entities, and when directly or indirectly interfering with the financial or technical results of exploitation of the airline to be operated, when these agreements are made without the previous authorization of the competent Aviation authority.

Art. 11 - No payment of subsidies to international airlines will be made without the proof by the interested party, to be made to the Civil Aviation Directorate, of the airline's having made all payments due to Social Security Institutions.

Sole Paragraph - When there is an agreement between the Social Security Institution and the airline for payment of such benefits in installments, the proof of payment must mention the accomplishment of the agreement's provisions, with reference to the actual collection of the benefits in question.

Art. 12 - The Civil Aviation Directorate shall proceed yearly to auditing the accounting records of the subsidized airlines in order to determine the conditions and results of the respective exploitation.

Par. 1 - For the accomplishment of this article the Civil Aviation Directorate, through auditors and inspectors may make the necessary surveys, including the accounting records of the airlines, which must present in the first quarter of each year a report concerning its activities during the previous year, with a review of the differences between income and expenditure items in both national and foreign currencies.

Par. 2 - The Civil Aviation Directorate shall give instructions which may be deemed necessary as regards the auditing of the accounting records of the international airlines.

Art. 13 - The amounts received as subsidies by the international airlines will not be computed for income tax purposes.

Art. 14 - On the amount of each payment of subsidies made, the airlines will collect a tax of 2% which will be destined to cover the cost of inspecting the international airlines, including the wages of technicians, expert and auxiliary personnel to control the services, for surveying the results both economic and financial, of the exploitation of the airlines and their respective operating costs.

Sole Paragraph - The application of the resources obtained through that tax will be regulated under instructions to be given within 60 days from the date of this regulation.

CHAPTER III

General Provisions

Art. 15 - The Brazilian airlines operating international airlines must offer a high standard of regularity as well as a high level of services adequate to the transportation market and to the competition of the airline.

Sole Paragraph - The airlines shall also maintain their own agencies at ports of call whenever it is economically feasible, according to the judgement of the Civil Aviation Directorate.

Art. 16 - The Civil Aviation Directorate shall propose that the Minister of Air expedite an act for the establishment of the exploitation of international airlines, including the designation of responsibilities and duties, and also of the technical and auditing inspection to be made on the results of each airline's operation.

Par. 1 - Under the procedure established by this article it is foreseen that airlines submitting fictitious data knowingly, when such is verified by an administrative inquiry to be made by the Civil Aviation Directorate, will have their services cancelled.

Par. 2 - There shall not be permitted competition between national airlines in the exploitation of international routes, except the airlines presently operating in Brazil and in South America.

Art. 17 - Any company operating an international airline subsidized by the Government, shall transport without any expense to the Government, Brazilian diplomatic pouches between Brazil and stops on the route abroad. The total weight of the pouch or pouches to be transported in each trip shall not exceed 10 kilos (ten kilos).

Sole Paragraph - Under the same conditions and limitations, the company operating between Brazil and the United States of America, shall transport, in each trip, up to the terminal or vice-versa, a pouch destined to or coming from ICAO's Brazilian Delegation.

CHAPTER IV

Transitory provisions

Art. 18 - The regular international airlines in operation up to the date of the publication of this regulation, with their flights already authorized, are included in the hereby established regime of subsidizing.

Sole Paragraph - Within 60 days to be counted from the date of this publication, the Ministry of Air shall approve the plan for international airlines of each company, with the indication of their respective stops, number of flights and types of equipments to be used, including those which are referred to in this article.

Art. 19 - The Brazilian companies mentioned in Par. 2 of Art. 16 shall work out an agreement for the establishment of a pool.

Sole Paragraph - Such agreement may only be effective after approval by the Civil Aviation Directorate.

Art. 20 - If within 6 months of the date of the publication of this regulation, the airlines do not submit such an agreement for approval by the Civil Aviation Directorate, the latter will propose to the Ministry of Air the review of the current schedule of the airline.

Sole Paragraph - After the provision set forth in the above article is accomplished, the increase of flights which may be deemed necessary to meet the national interest, shall depend on an act by the Minister of Air, under the terms of Art. 4.

Art. 21 - During the FY 1963 the total subsidies to the international airlines will not exceed the ceiling of Cr.\$ 1,500,000,000,00 (one billion and five hundred million cruzeiros), and until the termination of that year, there shall be maintained the same criterion for its payment applied by the Ministry of Air during the past months of the same year.

Art. 22 - Having in mind that the allocation for 1964 shall not obey the same criterion established in Art. 2 of this regulation, during the year 1964, the value of the subsidy by kilometer flown to be paid to the companies operating international airlines, will be estimated on the following basis: one on a fixed part, and another on an estimated part, which will observe the following indices:

	<u>Points:</u>
a) <u>Degree of public interest:</u>	
airlines for South American countries, Central-American and Mexico .....	5
airlines for North America and Europe .....	3,5
airlines or part of airlines to the Near East, Middle East, or Far East or Africa .....	1,5
b) <u>Type of aircraft:</u>	
airlines operating with Boeing-707's, DC-8's, Convair 990's .....	5
Caravelles and Electras .....	3
airlines operating with L-1049's and DC-7C's..	1,5
airlines operating with Convair 340 and 440's	1
airlines operating with DC-3's, C-46's and FBY's	0,5

Points:

c) Profitability of the airline:

- airlines which have had an income lower than 50% of the expenditures, in the previous year ..... 5
- airlines which in the previous year have had an income between 50% and 75% of the expenditures ..... 3,5
- airlines which in the previous year have had an income between 75% and 100% of the expenditures ..... 1,5
- airlines which in the previous year have had an income superior to the expenditures will not be benefitted by this item on weight

d) Number of flights:

- airlines with a weekly frequency ..... 5
- airlines with twice a week frequency .. 3,5
- airlines with 3 or 4 flights a week ... 2,5
- airlines with 5 or more flights a week 1

Brasilia, F.D., December 31, 1963.

Major Brigadier Anysio Botelho,  
Minister of Air.