

**No. 4722**

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**NETHERLANDS  
and  
FEDERAL REPUBLIC OF GERMANY**

**Agreement concerning air services (with exchange of notes).  
Signed at The Hague, on 28 September 1956**

*Official texts: Dutch and German.*

*Registered by the International Civil Aviation Organization on 20 April 1959.*

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**PAYS-BAS  
et  
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Accord relatif aux services aériens (avec échange de notes).  
Signé à La Haye, le 28 septembre 1956**

*Textes officiels néerlandais et allemand.*

*Enregistré par l'Organisation de l'aviation civile internationale le 20 avril 1959.*

## [TRANSLATION — TRADUCTION]

No. 4722. AGREEMENT<sup>1</sup> BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING AIR SERVICES. SIGNED AT THE HAGUE, ON 28 SEPTEMBER 1956

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The Kingdom of the Netherlands and the Federal Republic of Germany,

Desiring to regulate air services between and beyond their respective territories, have agreed as follows :

*Article 1*

For the purpose of this Agreement, except where the text otherwise provides,

- (a) The expression “aeronautical authority” means, in the case of the Federal Republic of Germany, the Federal Minister of Transport and, in the case of the Kingdom of the Netherlands, the Director General of Civil Aviation, or, in either case, any other person or body authorized to perform the functions for which the said official is responsible ;
- (b) The term “territory”<sup>1</sup> in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of that State ;
- (c) The expression “designated airline” means an airline which one Contracting State shall have designated in writing to the other Contracting State, in accordance with article 3, as the airline which is to operate international air services on the routes specified in accordance with article 2, paragraph (2) ;
- (d) The expression “air service” means any scheduled air service performed by aircraft for public transport of passengers, mail and/or cargo ;

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<sup>1</sup> Came into force on 28 April 1958, one month after the date by which the Contracting States had notified each other that their respective constitutional requirements had been fulfilled, in accordance with article 17.

The following information was provided by the Government of the Netherlands (*Tractatenblad* 1956, No. 132) : [*Translation—Traduction*] In a letter of 28 March 1958 addressed to the Netherlands Government, the German Federal Government has pointed out that it is proceeding on the assumption that the present Agreement does not affect the provisions contained in chapter II of the Treaty of 27 October 1956 between the Federal Republic of Germany and the French Republic on the Settlement of the Saar Question. The chapter in question provides that during a transitional period of not more than three years after the entry into force of the Treaty, the Saar shall not belong to the customs and currency area of the Federal Republic of Germany. In a letter in reply dated 28 March 1958 the Netherlands Government has stated that it has taken note of the foregoing.

- (e) The expression "international air service" means an air service which passes through the airspace over the territory of more than one State ;
- (f) The expression "stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging commercially passengers, mail and/or cargo.

### *Article 2*

(1) For the purpose of the operation of international air services by the designated airlines, each Contracting State grants to the other Contracting State :

The right of transit ;

The right to make stops for non-traffic purposes ; and

The right to make flights for the commercial carriage of international traffic in passengers, mail and/or cargo to and from the points in its territory which are listed for each route specified in accordance with paragraph (2).

(2) The routes on which the designated airlines of the two Contracting States shall have the right to operate international air services shall be specified in a route schedule to be agreed upon by an exchange of notes.<sup>1</sup>

### *Article 3*

(1) International air services may be inaugurated on the routes specified in accordance with article 2, paragraph (2), at any time after

- (a) The Contracting State to which the rights are granted has designated in writing the airline or airlines, and
- (b) The Contracting State granting the rights has given the designated airline or airlines permission to inaugurate air services.

(2) The Contracting State granting the rights shall, subject to the provisions of paragraphs (3) and (4) and subject further to agreement being reached in accordance with article 9, without delay grant permission for the operation of international air services.

(3) Each Contracting State may require a designated airline of the other Contracting State to satisfy it that the said airline is qualified to fulfil the conditions prescribed under its laws and regulations for the operation of international air services.

(4) Each Contracting State reserves the right to withhold the exercise of the rights granted in article 2 from an airline designated by the other Contracting State, if that airline is unable on request to satisfy it that substantial ownership and effective

<sup>1</sup> See p. 220 of this volume.

control of the airline are vested in nationals or bodies corporate of the other Contracting State or in the other Contracting State itself.

#### *Article 4*

(1) Each Contracting State may revoke or restrict, by imposing conditions, the permission granted under article 3, paragraph (2), if a designated airline fails to comply with the laws and regulations of the Contracting State granting the rights or with the provisions of this Agreement, or fails to fulfil the obligations arising therefrom. The foregoing shall also apply in the event of failure to furnish the proof required under article 3, paragraph (4). Each Contracting State shall exercise this right only after consultation in accordance with article 13, unless immediate suspension of operations or immediate imposition of conditions is necessary to prevent further infringements of laws or regulations.

(2) Each Contracting State shall have the right, by giving notice in writing to the other Contracting State, to withdraw the designation of an airline and to substitute the designation of another airline. The newly designated airline shall have the same rights and duties as the airline which it replaces.

#### *Article 5*

The charges imposed in each Contracting State for the use of airports and other aeronautical facilities by aircraft of a designated airline of the other Contracting State shall not be higher than those payable by domestic aircraft.

#### *Article 6*

(1) Aircraft operated by a designated airline of one Contracting State, entering and thereafter departing from or flying in transit over the territory of the other Contracting State, as well as normal equipment and spare parts on board such aircraft, shall be exempt from customs duties and other charges levied in connexion with the importation, exportation and transit of goods and from inspection fees.

(2) Spare parts and normal equipment which are,

- (a) Under customs supervision, dismantled or otherwise removed from the aircraft referred to in paragraph (1) in the territory of the other Contracting State and there placed in storage,
- (b) Under customs supervision, imported into and stored in the territory of the other Contracting State for the use of the said aircraft,

shall be exempt from the duties and charges referred to in paragraph (1), provided that they are installed in or otherwise taken on board the said aircraft under customs supervision or are re-exported from the territory of the latter Contracting State otherwise than on board the aircraft. The same exemption from duties and charges shall be granted in respect of such spare parts and equipment as, under customs supervision, are drawn from corresponding stores of other foreign airlines and installed in or otherwise taken on board the said aircraft.

(3) Fuels and lubricating oils introduced into the territory of the other Contracting State on board the aircraft referred to in paragraph (1) may be consumed on board the said aircraft free of customs duties and other charges levied in connexion with the importation, exportation and transit of goods, even on such part of the flights as takes place between points in the territory of that Contracting State. The foregoing shall also apply to fuels and lubricating oils which, under customs supervision, are introduced into and stored in the territory of the other Contracting State on behalf of a designated airline for the use of the said aircraft. Fuels and lubricating oils other than those referred to in the two preceding sentences, taken on board such aircraft under customs supervision in the territory of the other Contracting State and consumed in international air services, shall not be subject to the aforementioned duties and charges or to such special consumer taxes as may be imposed on fuels and lubricating oils in that Contracting State.

(4) Foodstuffs and luxury provisions which are intended for supply to passengers and crew members and which are introduced into the territory of the other Contracting State on board the aircraft referred to in paragraph (1) may be released for immediate consumption on board, free of customs duties and other charges levied in connexion with the importation, exportation and transit of goods, provided that the aircraft carry passengers exclusively in international traffic and can be kept under constant customs supervision at intermediate stops. Where foodstuffs and luxury provisions are not exempted from duties and charges by the operation of the first sentence, they shall be exempt from the aforesaid duties and charges if carried or stored under customs supervision in the territory and in accordance with the provisions of the other Contracting State.

(5) If no duties or charges are imposed in respect of the goods referred to in the preceding paragraphs, they shall not be subject to any economic prohibition or restriction upon importation, exportation or transit otherwise applicable to them.

#### *Article 7*

(1) There shall be fair and equal opportunity for the airlines of both Contracting States to operate on each of the routes specified in accordance with article 2, paragraph (2).

(2) In operating international air services on the routes specified in accordance with article 2, paragraph (2), a designated airline of one Contracting State shall take into account the interests of a designated airline of the other Contracting State so that the air services operated by the said airlines on the whole or part of the same routes shall not be unduly affected.

(3) The international air services operated on the routes specified in accordance with article 2, paragraph (2), shall have as their primary objective the provision of capacity adequate to meet the foreseeable requirements of traffic to and from the territory of the Contracting State which has designated the airline. The right of that airline to provide transport between those points on a route, specified in accordance with article 2, paragraph (2), which are situated in the other Contracting State and points in third States shall be exercised in the interest of the orderly development of international air traffic, in such a manner that capacity shall be adapted to :

- (a) The requirements of traffic to and from the territory of the Contracting State which has designated the airline,
- (b) The existing traffic requirements in the areas through which the airline passes, account being taken of local and regional services,
- (c) The requirements of economic through-airline operation.

#### *Article 8*

(1) The designated airlines shall, not later than one month before the inauguration of operation on the routes specified in accordance with article 2, paragraph (2), communicate to the aeronautical authorities of both Contracting States the method of operation, the types of aircraft to be used and the time-tables. The foregoing shall also apply to subsequent modifications.

(2) The aeronautical authority of either Contracting State shall supply to the aeronautical authority of the other Contracting State, upon request, such periodic or other statistical data concerning the designated airlines as may reasonably be requested for the purpose of reviewing the capacity provided by a designated airline of the first Contracting State on the routes specified in accordance with article 2, paragraph (2). Such data shall include all information required to determine the volume, origin and destination of traffic.

#### *Article 9*

(1) The tariffs to be applied for passengers and cargo on the routes specified in accordance with article 2, paragraph (2), shall be fixed with due regard to all the circumstances including cost of operation, reasonable profit, the special characteristics of each service and the tariffs applied by other airlines operating the whole or part of the same route. The tariffs shall be fixed in accordance with the provisions of the following paragraphs.

(2) The tariffs shall, if possible, be fixed in respect of each route by agreement between the designated airlines concerned. In this connexion, the designated airlines shall follow the recommendations applicable in accordance with the tariff-fixing procedure of the International Air Transport Association (IATA) or shall, if possible, reach agreement direct after consultation with the airlines of third States operating the whole or part of the same route.

(3) The tariffs so fixed shall be submitted for approval to the aeronautical authorities of both Contracting States not later than one month before the date of their proposed entry into force. This period may be reduced in special cases with the consent of the aeronautical authorities.

(4) If the designated airlines fail to reach agreement in accordance with paragraph (2), or if either Contracting State expresses disagreement with the tariffs submitted to it for approval in accordance with paragraph (3), the aeronautical authorities shall determine by agreement the tariffs for those routes and sections of routes in respect of which agreement has not been reached.

(5) If the aeronautical authorities of the two Contracting States fail to reach agreement in accordance with paragraph (4), the provisions of article 14 shall apply. Pending an arbitral award, the Contracting State expressing disagreement with a tariff shall have the right to require the other Contracting State to maintain the tariffs previously in effect.

#### *Article 10*

In the event of the entry into force of a general multilateral air transport agreement accepted by both Contracting States, its provisions shall prevail. Consultations to determine the extent to which a multilateral agreement cancels, modifies or supplements this Agreement shall be held in accordance with article 13.

#### *Article 11*

Each airline designated by one of the Contracting States may, for the purposes of its business, maintain and employ its own staff at the airports of the other Contracting State and in those towns in the other Contracting State in which it wishes to establish its own agency. Where a designated airline does not maintain its own organization at the airports of the other Contracting State, it shall so far as possible arrange for the necessary work to be performed by the staff of the airport or of a designated airline of the other Contracting State.

#### *Article 12*

An exchange of views between the aeronautical authorities of the Contracting States shall be held when necessary in order to ensure close co-operation in all matters affecting the application and interpretation of this Agreement.

*Article 13*

(1) Either Contracting State may at any time request a consultation for the purpose of discussing the interpretation, application or modification of this Agreement. Such consultation shall begin within a period of two months from the date of receipt of the request.

(2) Any agreed modification of this Agreement shall become effective in accordance with the procedure prescribed in article 17.

(3) Any modification of the route schedule shall become effective when agreed in an exchange of notes in accordance with article 2, paragraph (2).

*Article 14*

(1) Any dispute relating to the application or interpretation of this Agreement which cannot be settled in accordance with article 12 or article 13 shall, at the request of either Contracting State, be referred to an arbitral tribunal.

(2) The arbitral tribunal shall, in each case, be established in the following manner : each Contracting State shall appoint one arbitrator and these arbitrators shall agree upon a national of a third State as chairman. If the arbitrators have not been appointed within two months after the date on which a Contracting State gave notice of its intention to have recourse to an arbitral tribunal, or if the arbitrators cannot agree upon a chairman within a further period of one month, the President of the Council of the International Civil Aviation Organization shall be requested to make the necessary appointments. His decision shall be binding upon the Contracting States.

(3) If the arbitral tribunal cannot arrive at an amicable settlement of the dispute, it shall take a decision by majority vote. Unless the Contracting States agree otherwise, the arbitral tribunal shall establish its own rules of procedure and determine its place of meeting.

(4) Each Contracting State shall bear the cost of the services of its own arbitrator and half the remaining costs.

(5) The Contracting States undertake to comply with any provisional measures ordered in the course of the proceedings and with the arbitral award, which shall be final.

*Article 15*

Either Contracting State may denounce this Agreement at any time. The Agreement shall terminate one year after the date of receipt of the notice of termination by the other Contracting State, unless the notice is withdrawn by agreement between the Contracting States before the expiry of such period.



*Article 16*

This Agreement, all modifications, thereof and any exchange of notes in accordance with article 2, paragraph (2), and article 13, paragraph (3), shall be communicated to the International Civil Aviation Organization for registration.

*Article 17*

This Agreement shall enter into force one month after the date by which the Contracting States shall have notified each other that their respective constitutional requirements have been fulfilled.

IN WITNESS WHEREOF the undersigned plenipotentiaries have signed this Agreement.

DONE at The Hague, on 28 September 1956, in duplicate in the Dutch and German languages, both texts being equally authentic.

For the Kingdom  
of the Netherlands :

(Signed) J. W. BEYEN  
(Signed) J. LUNS

For the Federal Republic  
of Germany :

(Signed) H. MÜHLENFELD

## EXCHANGE OF NOTES

## I

## THE AMBASSADOR OF THE FEDERAL REPUBLIC OF GERMANY

The Hague, 28 September 1956

Your Excellencies,

I have the honour to refer to article 2, paragraph (2), of the Agreement concerning air services between the Federal Republic of Germany and the Kingdom of the Netherlands, signed on 28 September 1956.<sup>1</sup> In the negotiations which have been conducted in connexion with the said Agreement, it has been agreed that air services may be operated on the routes specified in the following route schedule :

## ROUTE SCHEDULE

## I. GERMAN ROUTES

A. *Local routes*

From points in the Federal Republic to points in the Netherlands

<sup>1</sup> See p. 206 of this volume.

B. *Other routes*

<i>No.</i>	<i>Points of departure</i>	<i>Points in the Netherlands</i>	<i>Points beyond</i>
1.	Points in the Federal Republic	Airports in the Netherlands	North-west Europe and North America
2.	Points in the Federal Republic	Airports in the Netherlands	Intermediate points, Curaçao, points in Central America *

## II. NETHERLANDS ROUTES

A. *Local routes*

From points in the Netherlands to points in the Federal Republic (not more than two airports in the Federal Republic per route)

B. *Other routes*

<i>No.</i>	<i>Points of departure</i>	<i>Points in the Federal Republic of Germany</i>	<i>Points beyond</i>
1	Points in the Netherlands	Bremen or Hanover	Scandinavia, Finland and beyond
2.	Points in the Netherlands	Düsseldorf or Cologne/Bonn or Frankfurt or Nuremberg or Stuttgart or Munich (one airport per route)	Central, southern and south-east Europe, Near, Middle and Far East
3.	Points in the Netherlands	Düsseldorf or Frankfurt or Munich (one airport per route)	Intermediate points in southern Europe, points in Africa and Far East
4.	Points in the Netherlands	Düsseldorf or Frankfurt (one airport per route)	Intermediate points in Switzerland and in Portugal to points in Central America *

\* The expression "Central America" comprises in this case the countries of Central America, the islands in the Caribbean Sea, Venezuela, Colombia, Peru and Ecuador.

I have the honour to inform you that the Government of the Federal Republic of Germany expresses its agreement to the above route schedule. I should be grateful if you would inform me whether the Government of the Kingdom of the Netherlands also accepts this route schedule. If so, this note and your reply shall be regarded as constituting an agreement between our Governments.

I have the honour to be, etc.

(Signed) H. MÜHLENFELD

Their Excellencies

Mr. J. W. Beyen

Royal Netherlands Minister of Foreign Affairs

and

Mr. J. M. A. H. Luns

Royal Netherlands Minister without Portfolio

## II

## MINISTRY OF FOREIGN AFFAIRS

The Hague, 28 September 1956

Your Excellency,

We have the honour to acknowledge receipt of your note of 28 September 1956, which reads as follows :

[See note I]

We have the honour to inform you that the Government of the Kingdom of the Netherlands also accepts the above route schedule and regards your note and this reply as constituting an agreement between our Governments.

We have the honour to be, etc.

(Signed) J. W. BEYEN  
(Signed) J. LUNS

His Excellency Dr. H. Mühlenfeld  
Ambassador Extraordinary and Plenipotentiary  
of the Federal Republic of Germany  
The Hague

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