

No. 5044

**FRANCE
and
FEDERAL REPUBLIC OF GERMANY**

**Air Transport Agreement. Signed at Paris, on 4 October
1955**

Official texts: French and German.

Registered by the International Civil Aviation Organization on 11 March 1960.

**FRANCE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Accord relatif aux transports aériens. Signé à Paris, le
4 octobre 1955**

Textes officiels français et allemand.

Enregistré par l'Organisation de l'aviation civile internationale le 11 mars 1960.

No. 5044. AIR TRANSPORT AGREEMENT¹ BETWEEN THE FRENCH REPUBLIC AND THE FEDERAL REPUBLIC OF GERMANY. SIGNED AT PARIS, ON 4 OCTOBER 1955

The French Republic

and

The Federal Republic of Germany,

Desiring to conclude an air transport agreement between their countries, have agreed as follows :

TITLE I

GENERAL PROVISIONS

Article 1

For the purposes of this Agreement,

- (a) The expression "aeronautical authorities" means :
- in the case of the Federal Republic of Germany, the Federal Minister of Transport, and, in the case of the French Republic, the Secretary-General for Civil and Commercial Aviation,
- or, in either case, any other person or body authorized to perform the functions for which the said official is responsible ;
- (b) The expression "designated airline" means an airline which one Contracting Party shall have designated in writing to the other Contracting Party, in accordance with title II or III of this Agreement, as the airline authorized to operate international air services.
- (c) The words "aircraft equipment", "stores" and "spare parts" have the meanings assigned to them in annex 9 to the Convention on International Civil Aviation (ICAO).²

Article 2

1. Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the purpose of the operation of international air services by the airlines designated by the other Contracting Party.

¹ Came into force on 30 September 1957, one month after 30 August 1957, the date on which the two Contracting Parties notified each other that their respective constitutional requirements had been fulfilled, in accordance with article 24.

² See footnote 1, p. 78 of this volume.

2. This Agreement shall not apply to State aircraft used as military, customs or police aircraft.

Article 3

1. The laws and regulations of each Contracting Party relating to the admission to or departure from its territory of aircraft engaged in international air navigation or to the operation and navigation of such aircraft while within its territory shall apply to aircraft of the other Contracting Party.

2. In the event of a serious infringement of the laws and regulations in question, special conditions may be imposed forthwith on such aircraft in order to prevent the recurrence of such infringement. If a serious infringement of laws and regulations relating to air safety is involved, flight may be prohibited forthwith.

3. The laws and regulations of each Contracting Party relating to the admission to, stay in or departure from its territory of passengers, crews, mail or cargo (such as regulations relating to admission, departure, immigration, passports, customs and quarantine) shall apply to the passengers, crews, mail or cargo of aircraft of the other Contracting Party.

Article 4

1. The admission of aircraft of one Contracting Party to the territory of the other Contracting Party or their departure from the said territory shall be restricted to customs airports. In individual cases the aeronautical authorities may permit admission at and departure from other airports provided that it has been possible to make the necessary arrangements for customs and police clearance.

2. The aircraft of each Contracting Party shall be entitled to use the aeronautical facilities at airports of the other Contracting Party.

Article 5

The charges imposed by each Contracting Party for the use of airports and other aeronautical facilities by aircraft of the other Contracting Party shall not be higher than those payable by domestic aircraft of the same type similarly employed.

Article 6

Each Contracting Party shall grant the following fiscal privileges to aircraft employed in international traffic by a designated airline of the other Contracting Party :

(1) Aircraft employed by the designated airlines of one Contracting Party which enter the territory of the other Contracting Party and which are thereafter to depart from or to fly in transit over the said territory, together with fuel, lubricating oils, spare parts, aircraft equipment, stores and general supplies intended solely for use

by those aircraft and imported and re-exported therewith, shall under the conditions laid down in the customs regulations of the other Contracting Party be exempt in its territory from customs duties and other charges levied in connexion with the importation, exportation and transit of goods. This provision shall not apply to charges levied as consideration for services rendered.

(2) Fuel, lubricating oils, spare parts, aircraft equipment and general supplies which are intended solely for use by the aircraft of one Contracting Party referred to in paragraph (1) and which are temporarily imported free of duty into the territory of the other Contracting Party, under the conditions laid down in its customs regulations, by or on behalf of the owner or operator and are to be re-exported on board the said aircraft shall be exempt from customs duties and other charges levied in connexion with the importation, exportation and transit of goods. This provision shall not apply to charges levied as consideration for services rendered.

(3) Fuel and lubricating oils taken on board aircraft employed by the designated airlines of one Contracting Party in the territory of the other Contracting Party and re-exported shall remain exempt, under the conditions laid down in the customs regulations of the latter Contracting Party, from customs duties, consumption taxes and other national charges. This provision shall not apply to charges levied as consideration for services rendered.

(4) The exemptions provided for in paragraphs (1) to (3) above shall likewise be granted where the aforesaid goods are used on board aircraft of the designated airlines of one Contracting Party, or are consumed in flight, in the territory of the other Contracting Party. In the case of the stores referred to in paragraph (1) the said exemptions shall not be granted unless the aircraft are kept under the supervision of the customs authorities at all the airports at which they call.

(5) It is agreed that traffic shall cease to be deemed international when an aircraft of one Contracting Party has picked up, at an airport of the other Contracting Party, a passenger or item of cargo for carriage to another airport of the same Contracting Party.

Article 7

1. Certificates of airworthiness, certificates of competency and aircraft crew licences issued or recognized by one Contracting Party shall be recognized as valid by the other Contracting Party as long as they are in force.

2. Each Contracting Party reserves the right to refuse to recognize as valid, for the purpose of flights above its own territory, certificates of competency and licences granted to its own nationals by the other Contracting Party or by a third State.

Article 8

There shall be regular exchanges of views between the aeronautical authorities of the Contracting Parties so that all necessary measures may be taken to ensure

close collaboration in all matters affecting the application and interpretation of this Agreement.

Article 9

1. Either Contracting Party may at any time request a consultation between the competent authorities of the two Contracting Parties for the purpose of discussing the interpretation, application or modification of this Agreement. Such consultation shall begin within sixty days 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 24 hereinafter.

Article 10

1. Any dispute relating to the application or interpretation of this Agreement which cannot be settled between the aeronautical authorities or between the Governments of the Contracting Parties in accordance with articles 8 and 9 shall, at the request of either Contracting Party, be referred to an arbitral tribunal.

2. Such arbitral tribunal shall consist of three members. Each of the two Governments shall appoint one arbitrator; these two arbitrators shall then agree upon the appointment of a national of a third State as chairman.

If the two arbitrators have not been appointed within two months from the date on which one of the two Governments proposed that the dispute should be settled by arbitration, or if the arbitrators fail to agree on the appointment of a chairman within a further period of one month, either Contracting Party may request the President of the International Court of Justice to make the necessary appointments.

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 Parties agree otherwise, the arbitral tribunal shall establish its own rules of procedure and determine its place of meeting.

4. The Contracting Parties undertake to comply with any provisional measures ordered in the course of the proceedings and with the arbitral award, which shall in every case be final.

5. If and so long as either Contracting Party fails to comply with the arbitral awards, the other Contracting Party may limit, suspend or revoke any rights or privileges which it has granted by virtue of this Agreement to the Contracting Party in default. Each Contracting Party shall pay the remuneration for the services of its own arbitrator and half the remuneration of the chairman appointed.

Article 11

In the event of the entry into force of a general multilateral convention to which both Contracting Parties have acceded, such provisions of the multilateral convention as may conflict with this Agreement shall prevail.

Article 12

The provisions of title I of this Agreement shall apply to the flights governed by titles II and III.

TITLE II

AGREED SERVICES

Article 13

1. For the purpose of operating services on the routes specified under paragraph 2 of this article, the airlines designated by each Contracting Party shall enjoy the right :

- (a) To fly without landing across the territory of the other Contracting Party ;
- (b) To make stops in the said territory for non-traffic purposes ;
- (c) To make stops therein at the points named on the routes specified under paragraph 2 of this article for the purpose of setting down and picking up international traffic in passengers, mail or cargo.

2. The services which the designated airlines of the two Contracting Parties shall have the right to operate shall be specified in a route schedule to be agreed in an exchange of diplomatic notes.

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

Article 14

1. Services on the routes specified under article 13, paragraph 2, of this Agreement may be inaugurated immediately or at a later date at the option of the Contracting Party to which the rights in question are granted, provided that :

- (a) The Contracting Party to which the rights have been granted has designated in writing the airline which is to operate particular services ;
- (b) The Contracting Party granting the rights has authorized the airline concerned to inaugurate such services.

2. The Contracting Party to which the airline is designated shall, subject to the provisions of paragraphs 3 and 4, without delay issue a permit for the operation of the specified services.

3. Each Contracting Party may require the airline designated by the other Contracting Party to furnish proof that it is qualified to fulfil the conditions prescribed under the laws and regulations applied by the first Contracting Party to the operation of international air services.

4. Each Contracting Party reserves the right to withhold the exercise of the rights granted in article 13, paragraph 1, from an airline designated by the other Contracting Party if that airline is unable on request to furnish proof that substantial ownership and effective control of the airline are vested in nationals or bodies corporate of the other Contracting Party or in the other Contracting Party itself.

Article 15

1. Each Contracting Party may revoke the permit granted under article 14, paragraph 2, if the designated airline fails to comply with the laws and regulations of the other Contracting Party or with the provisions of this Agreement, or fails to fulfil its obligations thereunder. The foregoing shall also apply in the event of failure to furnish the proof required under article 14, paragraph 4.

2. Each Contracting Party reserves the right to suspend the exercise by a designated airline of the other Contracting Party of the rights referred to in article 13, or to impose such conditions as it may deem necessary on the exercise of those rights, in any case where such airline fails to comply with the laws and regulations of the Contracting Party which has granted the rights or with the conditions prescribed in this Agreement. This right shall be exercised only after consultation between the Contracting Parties in accordance with article 9.

3. Each Contracting Party shall have the right, by giving notice in writing to the other Contracting Party, to replace a designated airline by another airline. The new airline designated as a replacement shall have the same rights and obligations as the airline which it replaces.

Article 16

1. The airlines designated by each Contracting Party shall be ensured fair and equitable treatment so that they may enjoy equal opportunities in the operation of services on the routes specified under article 13, paragraph 2, of this Agreement.

2. Where the airlines designated by the two Contracting Parties operate on the same routes, they shall take one another's interests into account so as not to affect unduly their respective services.

3. In the operation of neighbourhood services on the routes specified under article 13, paragraph 2, of this Agreement :

- (a) The total capacity placed in operation on each route shall be adapted to reasonably foreseeable requirements. In order to meet unforeseen or temporary traffic requirements on these routes, the designated airlines shall agree among themselves on appropriate measures to meet such temporary increase in traffic. They shall immediately report thereon to their respective aeronautical authorities.

- (b) The capacity referred to in sub-paragraph (a) above shall so far as possible be distributed equally among the designated German and French airlines operating services on the same routes.
- (c) If the aeronautical authorities of one Contracting Party forego the use, on one or more routes, of all or part of the transport capacity allocated to them, they shall come to an agreement with the aeronautical authorities of the other Party with a view to transferring to the latter for a specified period all or part of the transport capacity available to them to the extent specified. The authorities which transfer all or part of their rights may recover them at any time.
- (d) Airlines designated by the two Parties which operate air services on the same routes shall agree upon the conditions under which the said services shall be operated. Such agreement, which shall take into account the capacities to be placed in operation by each airline, shall specify the frequency of services, the organization of time-tables and the general technical and economic conditions of operation.
- (e) The agreement arrived at between the designated airlines and any change introduced therein shall be subject to approval by the aeronautical authorities of the two Parties.

4. So far as the operation of the other services specified under article 13, paragraph 2, is concerned, the primary objective shall be the provision of capacity adequate to satisfy the normal foreseeable requirements of international air traffic originating in or destined for the Contracting Party which has designated the airline operating the said services. In addition the airlines designated by one Contracting Party may, subject to the limits of the said capacity, satisfy traffic requirements between the territories of third States situated on the specified routes and the territory of the other Contracting Party.

The exercise of these traffic rights shall be the subject of an agreement between the designated airlines of the Contracting Parties operating services on the same routes.

Such agreement shall be subject to approval in advance by the aeronautical authorities of the two Contracting Parties.

Supplementary capacity may be placed in operation whenever it is warranted by the traffic requirements of the countries situated on the route.

Article 17

The aeronautical authorities of the Contracting Parties shall supply to each other on request such statistical or other data as may be required for the purpose of reviewing the operation of services by the designated airlines on the routes specified under article 13, paragraph 2.

Article 18

1. Tariffs shall be fixed at reasonable levels, regard being had in particular to economy of operation, reasonable profit, tariffs applied by other airlines operating on all or part of the same route, and the special characteristics of each service, such as standards of speed and accommodation.

2. The tariffs to be charged on services on the routes specified under article 13, paragraph 2, shall so far as possible be fixed by agreement between the designated airlines.

These airlines shall proceed :

- (a) By applying any resolutions adopted under the rate-fixing procedure of the International Air Transport Association (IATA) ; or
- (b) By direct agreement after consultation, where necessary, with any airlines of any third country operating on all or part of the same routes.

3. The tariffs so fixed shall be submitted to the aeronautical authorities of each Contracting Party for approval not less than thirty (30) days before the date laid down for their entry into force ; in special cases this period may be reduced, subject to the agreement of the said authorities.

4. Should the designated airlines fail to agree on the fixing of a tariff in accordance with paragraph 2 above, or should one Contracting Party make known its dissatisfaction with the tariff submitted to it in accordance with paragraph 3 above, the aeronautical authorities of the two Contracting Parties shall endeavour to reach a satisfactory solution.

If the aeronautical authorities of the two Contracting Parties fail to reach agreement, the provisions of article 10 shall apply. Pending an arbitral award, the Contracting Party expressing dissatisfaction shall have the right to require the other Contracting Party to maintain the tariffs previously in effect.

Article 19

The designated airlines shall, not later than two weeks before the start of a period of operation on the routes specified under article 13, paragraph 2, communicate to the aeronautical authorities of both Contracting Parties the method of operation, the types of aircraft to be used, the time-tables and the length of the period of operation. The foregoing shall also apply to subsequent modifications.

TITLE III

NON-SCHEDULED COMMERCIAL AIR TRANSPORT

Article 20

Airlines of each Contracting Party shall enjoy the right, in non-scheduled commercial air traffic :

- (a) To make flights without landing across the territory of the other Contracting Party ;
- (b) To make flights with stops for non-traffic purposes in the territory of the other Contracting Party.

The State over which the aircraft fly shall be entitled, for good and sufficient reasons, to require a landing in its territory.

Article 21

1. Each Contracting Party shall designate in writing to the other Contracting Party the airlines which are to be authorized to provide non-scheduled international commercial air transport to the territory of the other Contracting Party. Each Contracting Party undertakes to withdraw the designation of an airline at the request, accompanied by a statement of reasons, of the other Contracting Party.

2. Subject to the provisions of paragraph 3 hereinafter, each Contracting Party shall, on simple notification by the designated airlines, give permission for the provision of non-scheduled commercial air transport to its territory.

3. Each Contracting Party reserves the right to withhold such permission where it considers that the transport specified in the notice would be prejudicial to the interests of the air traffic, especially the scheduled air services, of its own country.

4. The prescribed notice must be received not later than forty-eight hours before the proposed transport is effected. Unless the notice is rejected by the authorities concerned before the expiry of the above time-limit, it shall be deemed to constitute permission. Article 14, paragraphs 3 and 4, and article 15, paragraph 1, shall apply to all transport covered by this title.

Article 22

1. Notice of the flight shall constitute authority for the provision of the following types of non-scheduled commercial air transport by the designated airlines :

- (a) Flights made for the purpose of rendering aid in emergency or for humanitarian reasons, without regard to the time-limit for notice prescribed by article 21, paragraph 4 ;
- (b) Flights by air taxis with a capacity not exceeding four passengers ;
- (c) Flights made under charter to an individual who utilizes the entire capacity of the aircraft for his own purposes or to a commercial or non-commercial undertaking which utilizes the entire capacity of the aircraft for the carriage of its personnel or goods, provided that, in either case, no capacity is disposed of to any third party ;
- (d) Flights intended solely for the carriage of goods.

2. The flights referred to in sub-paragraphs (b), (c) and (d) shall not form a regular series, irrespective of the number of airlines involved.

3. Permission to make flights under paragraph 1, sub-paragraphs (b), (c) and (d), may be revoked or withheld when the conditions specified in article 21, paragraph 3, apply.

TITLE IV

FINAL PROVISIONS

Article 23

Either Contracting Party may denounce this Agreement at any time. The Agreement shall cease to have effect twelve months after the date of receipt of the notice of denunciation by the other Contracting Party, unless the notice is withdrawn by agreement between the Contracting Parties before the expiry of this period.

Article 24

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

IN WITNESS WHEREOF the plenipotentiaries of the two Parties have signed this Agreement.

DONE in Paris, on 4 October 1955, in duplicate in the French and German languages, both texts being equally authentic.

For the French Republic :

(Signed) MASSIGLI

R. LEMAIRE

For the Federal Republic of Germany :

(Signed) V. MALTZAN

K. KNIPFER