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No. 5921

FEDERAL REPUBLIC OF GERMANY
and
ICELAND

Agreement (with exchange of notes) relating to air services.
Signed at Bonn, on 12 August 1959

Official texts of the Agreement: German and Icelandic.

Official text of the notes: German.

Registered by the International Civil Aviation Organization on 25 October 1961.

RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
ISLANDE

Accord (avec échange de notes) relatif aux transports
aériens. Signé à Bonn, le 12 août 1959

Textes officiels de l'Accord: allemand et islandais.

Texte officiel des notes: allemand.

Enregistré par l'Organisation de l'aviation civile internationale le 25 octobre 1961.

[TRANSLATION — TRADUCTION]

No. 5921. AGREEMENT¹ BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE REPUBLIC OF ICELAND RELATING TO AIR SERVICES. SIGNED AT BONN, ON 12 AUGUST 1959

The Federal Republic of Germany and the Republic of Iceland,
Desiring to regulate air transport between and beyond their respective territories,
Have agreed as follows :

Article 1

- (1) For the purpose of this Agreement, except where the text otherwise provides :
- (a) The term "aeronautical authorities" means, in the case of the Federal Republic of Germany, the Federal Minister of Transport, and, in the case of the Republic of Iceland the Minister for Air Transport, or, in either case, any other person or body authorized to perform the above functions ;
 - (b) The term "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 authorized to operate international air services on the routes specified in article 2, paragraph (2).
- (2) The terms "territory", "air service", "international air service" and "stop for non-traffic purposes" shall, for the purpose of this Agreement, have the same meaning as that stated in articles 2 and 96 of the Convention on International Civil Aviation of 7 December 1944.²

Article 2

- (1) For the purpose of the operation of international air services by the designated airlines on the routes specified in paragraph (2), each Contracting State grants to the other Contracting State

The right to fly without landing across its territory ;

The right to make stops in its territory for non-traffic purposes, and

¹ Came into force on 5 January 1961, one month after the exchange of the instruments of ratification which took place at Bonn on 5 December 1960, in accordance with article 16.

² See footnote 2, p. 27 of this volume.

The right to make stops at the points in its territory listed on the specified routes for the purpose of taking on and putting down passengers, mail and/or cargo for commercial purposes.

(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.¹

Article 3

(1) International air services may be inaugurated on the routes specified in accordance with article 2, paragraph (2), as soon as :

- (a) The Contracting State to which the rights specified in article 2, paragraph (1), are granted, has designated in writing an airline or airlines, and
- (b) The Contracting State which grants the rights has given the designated airline or airlines permission to inaugurate the air services.

(2) The Contracting State which grants 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 to operate international air services.

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

(4) Either Contracting State may withhold the exercise of the rights granted in article 2 from a designated airline of the other Contracting State, if that airline is unable on request to satisfy it that substantial ownership and effective 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) Either 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 essential to prevent further infringements of laws or regulations.

¹ See p. 254 of this volume.

(2) Each Contracting State shall have the right, by written notification to the other Contracting State, to substitute one designated airline for another. The newly-designated airline shall have the same rights and obligations 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 the aircraft of a designated airline of the other Contracting State shall not be higher than the charges imposed in respect of its national aircraft engaged in similar international air services.

Article 6

(1) The Contracting States shall grant the following exemptions from duty in respect of aircraft employed exclusively in international air services by a designated airline of the other Contracting State :

1. Aircraft operated by a designated airline of one Contracting State, entering and thereafter departing from or flying in transit through the territory of the other Contracting State, as well as the regular 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.

2. Spare and equipment, in reasonable quantities, which are

- (a) Dismounted or otherwise removed, under customs supervision, from the aircraft referred to in paragraph 1 above, while within the territory of the other Contracting State, and there placed in storage, or
- (b) Imported into and stored in the territory of the other Contracting State for such aircraft, under customs supervision,

shall be exempt from the duties referred to in paragraph 1, provided that they are installed in or otherwise taken on board the said aircraft under customs supervision or are otherwise re-exported from the territory of that Contracting State.

The same exemption from duty shall be granted in respect of such spare parts and equipment as are drawn, under customs supervision, from corresponding stores of other airlines and are installed in or otherwise taken on board the said aircraft.

3. Aircraft fuel introduced into the territory of the other Contracting State on board the aircraft referred to in paragraph 1 shall be exempt from customs duties and other charges imposed in respect of the importation, exportation and transit of goods, if they are consumed on board such aircraft, even on portions of flights which take place between points in the territory of that Contracting State. In the case of aircraft fuel taken on board the aircraft of a designated airline under customs supervision in the territory of the other Contracting State and used in international air services,

the same treatment shall be accorded as is granted in respect of customs duties, other charges imposed in respect of the importation, exportation and transit of such goods and special consumption charges, to a national airline or an airline of the most favoured nation. If a Contracting State, in application of this principle, fails to exempt such goods from import charges or special consumption charges in the aforesaid circumstances, the other State shall be entitled to impose import charges or special consumption charges in respect of aircraft fuel taken on board the aircraft of a designated airline of the first Contracting State within its territory.

4. Foodstuffs and other provisions for the use of the passengers and crew members which are introduced into the territory of the other Contracting State on board the aircraft referred to in sub-paragraph 1, may be released for immediate use on board free of customs and other duties imposed in respect of the importation, exportation and transit of goods, provided that the aircraft can be kept under constant customs supervision at intermediate stops.

(2) If no duty is imposed in respect of the goods specified in paragraph (1), they shall not be subject to any import, export or transit prohibition or restriction otherwise applicable to them.

Article 7

(1) There shall be fair and equal opportunity for the designated 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), designated airlines of one Contracting State shall take into account the interests of designated airlines of the other Contracting State so as not to affect unduly the air services operated by the latter on the same routes, or on portions thereof.

(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 such airline to operate flights 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 traffic, in such a manner that capacity shall be adapted to :

(a) The requirements of traffic from and to the territory of the Contracting State which has designated the airline,

- (b) The requirements of traffic in the areas crossed, account being taken of local and regional services,
- (c) The requirements of economic through-airline operation.

Article 8

(1) The designated airlines shall communicate to the aeronautical authorities of both Contracting States not later than one month prior to the inauguration of service on the routes specified in article 2, paragraph (2), particulars of the type of service to be provided and of the types of aircraft to be used, and the relevant timetables. Modifications shall be similarly notified.

(2) The aeronautical authorities of either Contracting State shall supply to the aeronautical authorities of the other Contracting State at their request such periodic or other statistical data concerning the designated airlines as may be reasonably required, for the purpose of reviewing the capacity provided by those designated airlines on the routes specified in article 2, paragraph (2). Such data shall include all information required to determine the amount of traffic carried and its origin and destination.

Article 9

(1) The rates to be charged for passengers and cargo on the routes specified in accordance with article 2, paragraph (2), shall be fixed taking into account all factors including cost of operation, reasonable profit, the special characteristics of each service and the rates charged by other airlines which operate on the same routes or on portions thereof. The rates shall be fixed in accordance with the provisions of the following paragraphs.

(2) The rates 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 under the rate-fixing machinery of the International Air Transport Association (IATA) or shall, if possible, reach agreement direct after consultation with the aeronautical authorities of third States operating on the same routes or on portions thereof.

(3) The rates so fixed shall be submitted for approval to the aeronautical authorities of the two Contracting States not later than one month before the date of their proposed entry into force. This period may be reduced in special circumstances 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 is unable to accept the rates submitted to it in accordance with paragraph (3), the aeronautical authorities of the two Contracting States shall by agreement determine the rates for the routes and route segments on which agreement has not been reached.

(5) If agreement cannot be reached between the aeronautical authorities of the Contracting States in accordance with paragraph (4), article 14 shall apply. Pending settlement of the dispute, the Contracting State unable to accept a rate may require the other Contracting State to maintain the rates previously in effect.

Article 10

If a general multilateral air transport convention accepted by both parties enters into force, its provisions shall prevail. Consultations to determine the extent to which a multilateral convention cancels, modifies or supplements this Agreement shall be held in accordance with article 13 hereof.

Article 11

Any designated airline of a Contracting State may maintain its own personnel for the conduct of its business in the airports of the other Contracting State and in the towns of the other Contracting State in which it wishes to have its own agency. If a designated airline does not establish its own offices in the airports of the other Contracting State, the work in question shall, in so far as possible, be carried out by the personnel of the airports or of a designated airline of the other Contracting State.

Article 12

There shall be exchanges of views, as necessary, between the aeronautical authorities of the Contracting States to ensure close collaboration and understanding in all matters affecting the application and interpretation of this Agreement.

Article 13

A Contracting State may request a consultation at any time for the purpose of discussing amendments to this Agreement or the route schedule. A consultation may also be requested for the purpose of discussing the interpretation and application of the Agreement if, in the opinion of one Contracting State, an exchange of views as provided in article 12 has proved unsatisfactory. Such consultation shall begin within a period of sixty days from the date of receipt of the request.

Article 14

(1) Any dispute relating to the application or interpretation of this Agreement, which cannot be settled in accordance with 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 accordance with the procedure whereby each Contracting State shall appoint one member and the latter

shall agree upon a national of a third State as chairman of the tribunal. If the members have not been appointed within two months, and the chairman has not been appointed within three months from the date on which a Contracting State has given notice of its intention to refer the dispute to the arbitral tribunal, either Contracting State may, in the absence of any other agreement, request the President of the Council of the International Civil Aviation Organization (ICAO) to make the necessary appointments. In the event that the President is a national of one of the two Contracting States or is disqualified on other grounds, his alternate shall be responsible for making the necessary appointments.

(3) The arbitral tribunal shall take decisions by majority vote. Its decisions shall be binding. Each Contracting State shall bear the expenses of its own member. The remaining expenses shall be borne equally by both Contracting States. The arbitral tribunal shall establish its own procedure.

Article 15

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

Article 16

(1) This Agreement requires ratification. The instruments of ratification shall be exchanged at Reykjavik as soon as possible.

(2) This Agreement shall enter into force one month after the exchange of the instruments of ratification.

(3) Either Contracting State may denounce this Agreement at any time. The Agreement shall terminate one year after the date of receipt by the other Contracting State of the notice of denunciation.

DONE at Bonn, on 12 August 1959 in duplicate in German and Icelandic, both texts being equally authentic.

For the Federal Republic of Germany :
VON MERKATZ

For the Republic of Iceland :
Helgi P. BRIEM

EXCHANGE OF NOTES

I

THE FEDERAL MINISTER FOR FEDERAL COUNCIL AND "LÄNDER" AFFAIRS

For the Federal Minister for Foreign Affairs

Bonn, 12 August 1959

Your Excellency,

I have the honour to refer to article 2 of the Agreement between the Federal Republic of Germany and the Republic of Iceland relating to air services, signed at Bonn on 12 August 1959.¹ In the negotiations which have been conducted in connexion with the above-mentioned Agreement, it has been agreed that air services may be operated on the routes specified in the following route schedule.

ROUTE SCHEDULE

I. *Routes on which the airlines designated by the Federal Republic of Germany may operate*

(1) From points in the Federal Republic of Germany via intermediate points in Denmark, Sweden and Norway to Reykjavík or Keflavík ;

(2) From points in the Federal Republic of Germany via an intermediate point in Great Britain to Reykjavík or Keflavík.

II. *Routes on which the airlines designated by the Republic of Iceland may operate*

(1) From points in the Republic of Iceland via intermediate points in Norway, Sweden and Denmark to Hamburg or Düsseldorf ;

(2) From points in the Republic of Iceland via Glasgow and Copenhagen to Hamburg or Düsseldorf, but without traffic rights between Glasgow and Hamburg or Düsseldorf in the event that a stop is made at Copenhagen.

The designated airlines may omit one or more intermediate points provided that the point of departure on a route lies in the territory of the Contracting State which has designated the airline. The points to be omitted shall be specified in advance in the timetables of the designated airlines.

I have the honour to inform you that the Government of the Federal Republic of Germany agrees with the above route schedule. I shall be glad if you will inform me if the Government of the Republic of Iceland also accepts this route schedule.

¹ See p. 240 of this volume.

If this should be the case this note and your reply shall be regarded as constituting an agreement between our Governments.

I have the honour to be, etc.

(Signed) VON MERKATZ

His Excellency Dr. H. P. Briem
Ambassador Extraordinary and Plenipotentiary
of the Republic of Iceland
Bonn

II

ICELANDIC EMBASSY

BONN

Bad Godesberg, 12 August 1959

Your Excellency,

I have the honour to acknowledge receipt of your note of 12 August 1959 which reads as follows :

[See note I]

I have the honour to inform you that the Government of the Republic of Iceland agrees with the contents of your note. Your note and this note in reply shall accordingly be regarded as constituting an agreement between our Governments.

I have the honour to be, etc.

(Signed) Helgi P. BRIEM

His Excellency Dr. Hans-Joachim von Merkatz
Federal Minister for Federal Council
and *Länder* Affairs
Bonn