

**No. 6712**

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**FEDERAL REPUBLIC OF GERMANY  
and  
PORTUGAL**

**Air Transport Agreement (with exchange of notes). Signed  
at Lisbon, on 31 March 1958**

*Official texts : German and Portuguese.*

*Registered by the International Civil Aviation Organization on 15 May 1963.*

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**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE  
et  
PORTUGAL**

**Accord relatif aux transports aériens (avec échange de notes).  
Signé à Lisbonne, le 31 mars 1958**

*Textes officiels allemand et portugais.*

*Enregistré par l'Organisation de l'aviation civile internationale le 15 mai 1963.*

[TRANSLATION — TRADUCTION]

No. 6712. AIR TRANSPORT AGREEMENT<sup>1</sup> BETWEEN THE  
FEDERAL REPUBLIC OF GERMANY AND PORTUGAL.  
SIGNED AT LISBON, ON 31 MARCH 1958

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The Federal Republic of Germany and Portugal,  
Desiring to regulate air transport 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 authorities" means, in the case of the Federal Republic of Germany, the Federal Minister for Transport, and, in the case of Portugal, the Ministry of Transport (Directorate General of Civil Aviation), or, in either case, any other person or body authorized to perform the same functions ;
- (b) The expression "designated airline" means an airline which one Contracting Party has designated to the other Contracting Party, in accordance with article 3, as an airline authorized to operate international air services on the routes specified in article 2, paragraph (2) ;
- (c) The term "territory" shall have the meaning given to it in article 2 of the Convention on International Civil Aviation of 7 December 1944 ;<sup>2</sup>
- (d) The expression "air service", "international air service" and "stop for non-traffic purposes" shall have the meaning given to them in article 96, paragraphs (a), (b) and (d), of the Convention on International Civil Aviation of 7 December 1944.

*Article 2*

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

—The right of transit ;

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

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<sup>1</sup> Came into force on 7 October 1959, one month after the exchange of the instruments of ratification which took place at Bonn on 7 September 1959, in accordance with article 15.

<sup>2</sup> See footnote 2, p. 22 of this volume.

—The right to pick up or set down for commercial purposes passengers, mail and/or cargo at the points in its territory which are specified on the above-mentioned routes, in accordance with the provisions of this Agreement.

(2) The route schedules in accordance with which the airlines designated by the two Contracting Parties may operate international air services shall be established by agreement to be confirmed by an exchange of notes.

(3) No provision of paragraph (1) of this article shall be interpreted to mean that the airlines designated by one Contracting Party are entitled to pick up, in the territory of the other Contracting Party, passengers, mail and/or cargo destined for another point in the same territory.

#### *Article 3*

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

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

(2) The Contracting Party which grants the right shall, subject to the provisions of paragraphs (3) and (4) and subject to the fixing of tariffs in accordance with article 9, without delay grant permission to operate international air services.

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

(4) Either Contracting Party may withhold the exercise of the rights granted under article 2 from an airline designated by the other Contracting Party, 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 Party or in the other Contracting Party itself.

#### *Article 4*

(1) Either Contracting Party may revoke or restrict the permission granted under article 3, paragraph (2), if a designated airline fails to comply with the laws and regulations in force in the territory of the Contracting Party 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 Party shall exercise this right only after consultation in accordance with article 12, unless immediate suspension of operations or immediate imposition of conditions is necessary to prevent further infringements of laws or regulations.

(2) Each Contracting Party shall have the right, by written notification to the other Contracting Party, 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 and other fees imposed in the territory of either Contracting Party for the use of airports and other facilities by aircraft of the other Contracting Party shall not be higher than those payable in respect of national aircraft engaged in similar international air services.

#### *Article 6*

(1) The Contracting Parties shall grant the following exemptions from customs duty and other charges in respect of aircraft of an airline designated by the other Contracting Party which are employed exclusively in international air services :

1. Aircraft of an airline designated by one Contracting Party entering and thereafter departing from or flying in transit through the territory of the other Contracting Party, as well as regular equipment and spare parts on board such aircraft, shall be exempt from customs duties, inspection fees and other similar duties and charges.

The foregoing shall also apply to fuel, lubricants and aircraft stores which are used or consumed on board such aircraft, even on flights between points in the territory of that Contracting Party.

2. Spare parts, equipment, fuel and lubricating oils 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 Party, and there placed in storage under customs supervision, or

(b) Imported for such aircraft into the territory of the other Contracting Party and there placed in storage under customs supervision,

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 otherwise re-exported.

Fuel and lubricating oils taken, under customs supervision, on board the aircraft of a designated airline in the territory of the other Contracting Party and

used in international air services shall not be subject to the above-mentioned duties and charges or to such special consumer taxes as may be imposed on fuels and lubricating oils by that Contracting Party.

The same exemption from duties and other charges shall be granted in respect of spare parts, equipment, fuels and lubricating oils drawn, under customs supervision, from stores of other airlines and installed in or otherwise taken aboard the said aircraft.

(2) If the articles referred to in paragraph (1) enjoy such exemption they shall not be subject to any prohibition or restriction which would otherwise be applicable to them upon importation, exportation or transit.

#### *Article 7*

(1) There shall be fair and equal opportunity for the airlines designated by the Contracting Parties to operate on 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 Party shall take into account the interests of designated airlines of the other Contracting Party 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 Party which has designated the airline. The right of the latter to pick up and set down passengers, mail and/or cargo destined for or originating in third countries at points on the specified routes which lie in the territory of the other Contracting Party shall be exercised in the interest of the orderly development of international air transport, in such a manner that capacity shall be adapted to :

- (a) The requirements of traffic from and to the territory of the Contracting Party which has designated the airline,
- (b) The requirements of traffic in the areas traversed, account being taken of local and regional services,
- (c) The requirements of economic operation on the specified routes.

#### *Article 8*

(1) The designated airlines shall communicate to the aeronautical authorities of both Contracting Parties, not later than one month prior to the inauguration of

service on the routes specified in accordance with 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. Any subsequent modifications shall be similarly communicated.

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

#### *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 taking into account all relevant factors including cost of operation, reasonable profit, the characteristics of each route and the tariffs applied by other airlines which operate on the same routes or on portions thereof. The tariffs shall be fixed in accordance with the provision of the following paragraphs.

(2) The tariffs shall, if possible, be fixed in respect of each route by agreement between the designated airlines. In this connexion, the designation airlines shall follow the applicable recommendations under the traffic conference machinery of the International Air Transport Association (IATA) or shall, if possible, reach agreement directly after consultation with the aeronautical authorities of third countries operating on the same routes or on portions thereof.

(3) The tariffs so fixed shall be submitted for approval to the aeronautical authorities of the two Contracting Parties 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 Party does not accept the tariff submitted to it for approval in accordance with paragraph (3), the aeronautical authorities of the two Contracting Parties may by agreement determine the tariffs 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 Parties in accordance with paragraph (4), the provisions of article 13 shall apply. Pending the arbitral decision, the Contracting Party unable to accept a tariff shall have the right to require the other Contracting Party to maintain the tariffs previously in effect.

*Article 10*

If a multilateral air transport convention accepted by both Contracting Parties enters into force, its provisions shall prevail. Consultations to determine the extent to which such a multilateral convention cancels, modifies or supplements this Agreement shall be held in accordance with article 12 hereof.

*Article 11*

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

*Article 12*

Consultation may be requested at any time by either Contracting Party for the purpose of discussing amendment of this Agreement or the route schedule. Consultation may also be requested for the purpose of discussing the interpretation and application of the Agreement if, in the opinion of one Contracting Party, an exchange of views as provided in article 11 has proved unsuccessful.

Such consultation shall begin within a period of sixty days from the date of receipt of the request therefor.

*Article 13*

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

(2) The arbitral tribunal shall consist of three arbitrators. Each Contracting Party shall, in each case, appoint one arbitrator. The chairman of the arbitral tribunal, who must be the national of a third country, shall be chosen by agreement between the two Contracting Parties. If the arbitrators have not been appointed within two months, and the chairman has not been appointed within three months from the date on which a Contracting Party has given notice of its intention to refer the dispute to an arbitral tribunal, either Contracting Party 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 either Contracting Party or is disqualified on other grounds, his alternate on the Council shall make the necessary appointments.

(3) The arbitral tribunal shall take decisions by majority vote, and its decisions shall be binding upon the Contracting Parties. Each Contracting Party shall bear

the expenses of its own arbitrator. The remaining expenses shall be borne equally by both Contracting Parties. With respect to other matters the arbitral tribunal shall establish its own procedure.

*Article 14*

This Agreement, all amendments thereto and any notes exchanged in accordance with article 2, paragraph (2), shall be transmitted to the International Civil Aviation Organization for registration.

*Article 15*

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

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

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

DONE at Lisbon, on 31 March 1958, in duplicate in German and Portuguese, both texts being equally authentic.

Dr. G. SEELOS  
Ambassador of the Federal Republic  
of Germany :

Paulo CUNHA  
Minister for Foreign Affairs  
of Portugal

EXCHANGE OF NOTES

I

THE AMBASSADOR OF THE FEDERAL REPUBLIC OF GERMANY

Lisbon, 31 March 1958

Your Excellency,

I have the honour to refer to article 2, paragraph (2), of the Air Transport Agreement between the Federal Republic of Germany and Portugal, signed at Lisbon on 31 March 1958.<sup>1</sup>

In the course of the negotiation of the Agreement the following routes were agreed upon :

<sup>1</sup> See p. 90 of this volume.



- I. *Routes on which the airlines designated by the Federal Republic of Germany may operate*
1. From points in the Federal Republic of Germany to Lisbon.
  2. From points in the Federal Republic of Germany, via intermediate points in Switzerland in France in Spain, to Lisbon.
  3. From points in the Federal Republic of Germany, via intermediate points in Switzerland in France in Spain, to Lisbon, Santa Maria and beyond to points in the Caribbean and to Central and South America.
- II. *Routes on which the airlines designated by Portugal may operate*
1. From points in Portugal to a point in the Federal Republic of Germany, to be determined for each route.
  2. From points in Portugal, via intermediate points in Spain in France in Switzerland, to a point in the Federal Republic of Germany, to be determined for each route.
  3. From points in Portugal, via intermediate points in Spain in France in Switzerland, to one or two points in the Federal Republic of Germany, to be determined for each route, and beyond.
- III. 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 Party which has designated the airline. The points to be omitted shall be specified in advance in the time-tables of the designated airlines.

If you agree with the foregoing, this note and your reply to that effect shall be regarded as constituting an agreement between our two Governments on the route schedule.

I have the honour to be, etc.

(Signed) Dr. G. SEELOS

His Excellency Dr. Paulo Arsénio Viríssimo Cunha  
Minister for Foreign Affairs  
Lisbon

## II

## MINISTRY OF FOREIGN AFFAIRS

Lisbon, 31 March 1958

Your Excellency,

I have the honour to acknowledge receipt of your note of today's date which reads as follows :

[*See note I*]

I have the honour to inform you that the Portuguese Government agrees with the above-mentioned provisions, and that your note and this note in reply constitute an Agreement between our two Governments in this matter.

I have the honour to be, etc.

(*Signed*) Paulo CUNHA

His Excellency Dr. Gebhard Seelos  
Ambassador of the Federal Republic of Germany  
Lisbon

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