

No. 8210

**THAILAND
and
FEDERAL REPUBLIC OF GERMANY**

**Air Transport Agreement (with exchange of notes). Signed
at Bangkok, on 5 March 1962**

Official texts of the Agreement: Thai, German and English.

Official text of the notes: English.

**THAÏLANDE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Accord relatif aux transports aériens (avec échange de
notes). Signé à Bangkok, le 5 mars 1962**

Textes officiels de l'Accord: thaï, allemand et anglais.

Texte officiel des notes: anglais.

No. 8210. AIR TRANSPORT AGREEMENT¹ BETWEEN THE KINGDOM OF THAILAND AND THE FEDERAL REPUBLIC OF GERMANY. SIGNED AT BANGKOK, ON 5 MARCH 1962

The Kingdom of Thailand and the Federal Republic of Germany

Desiring to make arrangements for the regulation of air transport between their respective territories and beyond,

Have agreed as follows :

Article 1

(1) For the purposes of the present Agreement, unless otherwise stated in the text :

(a) the term "aeronautical authorities" shall mean in the case of the Kingdom of Thailand the Minister of Communications, in the case of the Federal Republic of Germany, the Federal Minister of Transport or in both cases any other person or agency authorized to perform the functions exercised by the said ministers ;

(b) the term "designated airline" shall mean an airline that one Contracting Party has designated in writing to the other Contracting Party in accordance with Article 3 of the present Agreement as being an airline which is to operate international air services on the routes specified in accordance with paragraph (2) of Article 2 of the present Agreement.

(2) The terms "territory", "air service", "international air service" and "stop for non-traffic purposes" shall, for the purposes of the present Agreement, have the meaning laid down in Articles 2 and 96 of the Convention of December 7, 1944² on International Civil Aviation.

Article 2

(1) Each Contracting Party shall grant to the other Contracting Party for the purpose of operating international air services by designated airlines over the routes specified in accordance with paragraph (2) of this Article, the right to fly across its

¹ Came into force on 2 September 1965, thirty days after the instrument of ratification of the Federal Republic of Germany had been deposited (on 3 August 1965) with the Government of Thailand, in accordance with article 15.

² See footnote 2, p. 135 of this volume.

territory without landing ; the right to land in its territory for non-traffic purposes, and the right to land in its territory at the points named on the routes specified in accordance with paragraph (2) of this Article, in order to take on or discharge passengers, mail and/or cargo on a commercial basis.

(2) The routes over and the conditions under which the designated airlines of the two Contracting Parties will be authorized to operate international air services shall be specified in a Route Schedule to be agreed upon in an exchange of notes.

Article 3

(1) The international air services on the routes specified in accordance with paragraph (2) of Article 2 of the present Agreement may be inaugurated at any time, provided

- (a) the Contracting Party to whom the rights specified in paragraph (1) of Article 2 are granted, has designated in writing an airline or airlines, and
- (b) the Contracting Party granting these rights has authorized the designated airline or airlines to inaugurate the air services.

(2) The Contracting Party granting these rights shall, subject to the provisions of paragraphs (3) and (4) of this Article and to the provisions of Article 9 of the present Agreement, give without delay the said authorization to operate the international air service.

(3) Each Contracting Party may require an airline designated by the other Contracting Party to prove that it is qualified to meet the requirements prescribed under the laws and regulations of the first Contracting Party governing the operation of international air traffic.

(4) Each Contracting Party may withhold the exercise of the rights provided for in Article 2 of the present Agreement from any airline designated by the other Contracting Party if such airline is not able to prove upon request that substantial ownership and effective control of such airline are vested in nationals or corporations of the other Contracting Party or in that Party itself.

Article 4

(1) Each Contracting Party may revoke or limit by the imposition of conditions, the authorization granted in accordance with paragraph (2) of Article 3 of the present Agreement in the event of failure by a designated airline to comply with the laws and regulations of the Contracting Party granting the rights or to comply with the provisions of the present Agreement or to fulfil the obligations arising therefrom. This

shall also apply if the proof referred to in paragraph (4) of Article 3 is not furnished. Each Contracting Party shall exercise this right only after consultation as provided for in Article 12 of the present Agreement, unless an immediate suspension of operations or imposition of conditions is necessary to avoid further infringements of laws or regulations.

(2) Each Contracting Party shall have the right by written communication to the other Contracting Party to replace subject to the provisions of Article 3 an airline it has designated by another airline. The newly designated airline shall have the same rights and be subject to the same obligations as the airline which it replaces.

Article 5

The charges imposed by either Contracting Party for the use of airports and other aviation facilities by the aircraft of a designated airline of the other Contracting Party shall not be higher than those paid by an aircraft of a national airline engaged in similar international air services.

Article 6

(1) Each Contracting Party shall grant relief as hereinafter specified in respect of aircraft operated exclusively in international air services by a designated airline of the other Contracting Party :

- (a) Any aircraft operated by a designated airline of either Contracting Party entering into, departing again from or flying across the territory of the other Contracting Party, as well as any fuel, lubricating oils, spare parts, articles of equipment and flight rations on board such aircraft shall be exempt from customs duties and other charges levied on the occasion of importation, exportation or transit of goods, even though such supplies be used on board of such aircraft in flight over that territory.
- (b) Any spare parts and articles of equipment imported into the territory of the other Contracting Party under customs supervision for the purpose of supplying such aircraft and used in international air services shall, subject to the principle of reciprocity, be exempt from customs duties and other charges levied on the occasion of importation, exportation or transit of goods.
- (c) Any fuel and lubricating oils which, in the territory of the other Contracting Party are taken on board aircraft of a designated airline under customs supervision and used in international air services shall, on the basis of reciprocity, enjoy the same treatment in respect of customs duties and other national charges imposed on such goods as is accorded to other foreign

airlines. Should the application of this principle result in either of the Contracting Parties not granting exemption from customs duties and other national charges imposed upon such goods the other Party shall, on its part, be entitled to levy customs duties and other national charges on any fuel and lubrication oils taken on board in its territory.

(2) To the extent that no charges are levied on the goods referred to in paragraph (1) they shall not be subject to any economic prohibitions and restrictions on importation, exportation and transit that may otherwise be applicable.

Article 7

(1) It is recognised that designated airline of each Contracting Party shall have fair and equal opportunity to carry on the agreed services traffic which has its origin in the territory of one Contracting Party and its destination in the territory of the other Contracting Party and that each designated airline shall regard as being of a supplementary character traffic which has neither its origin nor its destination in that designated airline's own territory. Where traffic has its origin in the territory of one Contracting Party and its destination in a third country or vice versa the designated airline of the other Contracting Party in providing capacity for the carriage of such traffic shall take into consideration the primary interest of the designated airline of the first Contracting Party in such traffic so as not unduly to affect that interest.

(2) The agreed services provided by the designated airlines of the Contracting Parties shall bear close relationship to the requirements of the public for transportation on the specified routes and each shall have as its primary objective the provision, at a reasonable load factor, of capacity adequate to meet the current and reasonably anticipated requirements for the carriage of passengers, cargo and mail originating in or destined for the territory of the Contracting Party which has designated the airline.

(3) Provision for the carriage of passengers, cargo and mail originating in the territory of the other Contracting Party and destined for third countries or originating in third countries and destined for the territory of the other Contracting Party shall be made in accordance with the general principle that capacity shall be related to :

- (a) the requirements of traffic originating in or destined for the territory of the Contracting Party which has designated the airline ;
- (b) traffic requirements of the area through which the airline passes, after taking account of other air services established by airlines of the States situated in the area ; and
- (c) the requirements of through airline operations.

Article 8

(1) The designated airline of either Contracting Party shall communicate to the aeronautical authorities of the other Contracting Party not later than thirty days prior to the inauguration of air services on the routes specified in accordance with paragraph (2) of Article 2 of the present Agreement the type of service, the type of aircraft to be used and the flight schedules. This shall likewise apply to later changes.

(2) The aeronautical authorities of either Contracting Party shall furnish to the aeronautical authorities of the other Contracting Party at their request such periodic or other statistical data of the designated airlines as may be reasonably required for the purpose of reviewing the capacity provided by any designated airline of the first Contracting Party on the routes specified in accordance with paragraph (2) of Article 2 of the present Agreement. Such data shall include all information required to determine the amount of traffic carried and the origins and destinations of such traffic.

Article 9

(1) In fixing rates to be charged for passengers and freight on the routes specified in accordance with paragraph (2) of Article 2 of the present Agreement, account shall be taken of all factors, such as cost of operation, reasonable profit, the characteristics of the various routes and the rates charged by any other airlines which operate over the same routes or parts thereof. In fixing such rates, the provisions of the following paragraphs should be observed.

(2) The rates shall, if possible, be agreed for each route between the designated airlines concerned. For this purpose the designated airlines should be guided by such decisions as are applicable under the traffic conference procedure of the International Air Transport Association (IATA).

(3) Any rates so agreed shall be submitted for approval to the aeronautical authorities of both Contracting Parties at least thirty days prior to the proposed date of their introduction. This period may be reduced in special cases if the aeronautical authorities so agree.

(4) If no agreement has been reached between the designated airlines in accordance with paragraph (2) above or if one of the Contracting Parties does not consent to the rates submitted for its approval in accordance with paragraph (3) above, the aeronautical authorities of the two Contracting Parties should by common accord fix these rates for routes or parts thereof on which there is disagreement or lack of consent.

(5) If no accord as envisaged in paragraph (4) of this Article is reached between the aeronautical authorities of the two Contracting Parties, the provisions of Article 13 of the present Agreement shall apply. Until such time as an arbitral award is rendered,

the Contracting Party which has withheld its consent to a given rate, shall be entitled to require the other Contracting Party to maintain the rate previously in effect.

Article 10

In the event of a general multilateral air transport convention accepted by both Contracting Parties entering into force, the provisions of the multilateral convention shall prevail. Any discussions with a view to determining the extent to which the present Agreement is terminated, superseded, amended or supplemented by the provisions of the multilateral convention, shall take place in accordance with Article 12 of the present Agreement.

Article 11

Exchanges of views shall take place as needed between the aeronautical authorities of the two Contracting Parties in order to achieve close cooperation and agreement in all matters pertaining to the application and interpretation of the present Agreement.

Article 12

Consultation may be requested at any time by either Contracting Party for the purpose of discussing amendments to the present Agreement or to the Route Schedule. The same applies to discussions concerning the interpretation and application of the present Agreement if either Contracting Party considers that an exchange of views within the meaning of Article 11 has been without success. Such consultation shall begin within sixty days from the date of receipt of any such request.

Article 13

(1) To the extent that any disagreement arising out of the application or the interpretation of the present Agreement cannot be settled in accordance with Article 12 of this Agreement, it shall be submitted to an arbitral tribunal at the request of either Contracting Party.

(2) Such arbitral tribunal shall be established in each individual case in such a way as to comprise one member to be designated by each Contracting Party and these two members shall then agree upon the choice of a national of a third State as their chairman. If the members have not been designated within sixty days, nor the chairman within ninety days after either Contracting Party has made known its intention of resorting to arbitration, either of the Contracting Parties may, in the absence of any other relevant agreement, invite the President of the Council of the International Civil Aviation Organization (ICAO) to make the necessary appointments. Where the President possesses the nationality of one of the two Contracting Parties or is otherwise prevented from carrying out this function, his deputy in office should make the necessary appointments.

(3) The arbitral tribunal shall reach its decisions by a majority of votes. Such decisions shall be binding on both Contracting Parties. Each of the Contracting Parties shall bear the expenses of its own member. The remaining expenses shall be borne in equal parts by both Contracting Parties. In all other respects, the arbitral tribunal shall determine its own procedure.

Article 14

The present Agreement, any amendments thereto and any exchange of notes under paragraph (2) of Article 2 of the present Agreement shall be communicated to the ICAO for registration.

Article 15

(1) The present Agreement shall be ratified by the Federal Republic of Germany. The instrument of ratification shall be deposited as soon as possible with the Government of the Kingdom of Thailand.

(2) The present Agreement shall enter into force thirty days after the German instrument of ratification has been deposited.

(3) Each Contracting Party may at any time give notice of termination of the present Agreement, which shall then expire one year after the date of the receipt of such notice by the other Contracting Party.

DONE at Bangkok this Fifth day of March in the 2505th year of the Buddhist Era, corresponding to the 1962nd year of the Christian Era, in six originals, two in the Thai, two in the German and two in the English languages, all six texts being equally authentic. In case of divergent interpretations of the Thai and German texts, the English text shall be authoritative.

For the Kingdom of Thailand :

BUN CHAROENCHAI
Acting Minister of Foreign Affairs

For the Federal Republic
of Germany :

LANKES
Chargé d'Affaires a.i.

EXCHANGE OF NOTES

I

EMBASSY OF THE FEDERAL REPUBLIC OF GERMANY
BANGKOK

405-83

Bangkok, 5th March, 1962

Excellency,

I have the honour to refer to the negotiations on an Air Transport Agreement between the Federal Republic of Germany and the Kingdom of Thailand. During these negotiations it was agreed that both aeronautical authorities, after signing this Agreement, will proceed according to the legislation in force in such a way as if the Agreement had already come into force.

May I kindly ask Your Excellency to confirm your agreement with the contents of this note.

Accept, Excellency, the assurance of my highest consideration.

Hans Christian LANKES
Chargé d'Affaires a.i.

His Excellency the Acting Minister of Foreign Affairs
of the Kingdom of Thailand
Monsieur Bun Charoenchai
Bangkok

II

MINISTRY OF FOREIGN AFFAIRS
SARANROM PALACE

No. (0502) 7004/2505

5th March, B.E. 2505

Monsieur le Chargé d'Affaires,

I have the honour to acknowledge the receipt of your note of to-day's date, No. 405-83, which reads as follows :

[See note I]

I have the honour to confirm to you the agreement thus reached.

Accept, Monsieur le Chargé d'Affaires, the assurance of my high consideration.

B. C.
Acting Minister of Foreign Affairs

Monsieur Hans Christian Lankes
Chargé d'Affaires a.i.
The Embassy of the Federal Republic of Germany
Bangkok

III

EMBASSY OF THE FEDERAL REPUBLIC OF GERMANY BANGKOK

405-83

Bangkok, 5th March, 1962

Excellency,

I have the honour to refer to paragraph (2) of Article 2 of the Air Transport Agreement between the Federal Republic of Germany and the Kingdom of Thailand signed at Bangkok on the 5th March, 1962.

In the negotiations which have been conducted in connection with the above-mentioned Agreement it has been agreed that air services may be operated on the routes specified in the following Route Schedule :

I. Routes to be operated by the airline designated by the Federal Republic of Germany :

1	2	3	4
<i>Points of Origin</i>	<i>Intermediate Points (one point each in)</i>	<i>Points in the territory of the Kingdom of Thailand</i>	<i>Points beyond (one point each in)</i>
Points in the territory of the Federal Republic of Germany	Italy, Greece or Turkey, Lebanon, United Arab Republic, Saudi-Arabia, Iran, Pakistan, India	Bangkok	a) Hong Kong, Japan ; b) Singapore, Australia.

II. Routes to be operated by the airline designated by the Kingdom of Thailand :

<i>Points of Origin</i>	<i>Intermediate Points (one point each in)</i>	<i>Points in the territory of the Federal Republic of Germany</i>	<i>Points beyond (one point each in)</i>
Bangkok	Burma, India, Pakistan, Iran, Saudi-Arabia or Lebanon or United Arab Republic or Israel, Turkey or Greece, Italy, Austria or Switzerland	One point in the territory of the Federal Republic of Germany	a) United Kingdom, United States of America ; b) Denmark, Sweden, Norway.

III. A designated airline may, if it so desires, omit one or more of the points on the specified routes, provided that the point of origin of such a route lies in the territory of the Contracting Party that has designated the airline.

IV. The Route Schedule agreed upon is valid until 31 March 1962. Negotiations on the extension of the time limit and possible modifications of the Route Schedule will be conducted during the last quarter of the year 1961.

I have the honour to inform you that the Government of the Federal Republic of Germany agrees to the above Route Schedule. I should be grateful if you would inform me whether the Government of the Kingdom of Thailand also agrees to this Route Schedule. If this should be the case, the present note and your note in reply shall be regarded as constituting an Arrangement between our Governments.

Accept, Excellency, the renewed assurance of my highest consideration.

Hans Christian LANKES
Chargé d'Affaires a.i.

His Excellency the Acting Minister of Foreign Affairs
of the Kingdom of Thailand
Monsieur Bun Charoenchai
Bangkok

IV

MINISTRY OF FOREIGN AFFAIRS
SARANROM PALACE

No. (0502) 7005/2505

5th March, B.E. 2505

Monsieur le Chargé d'Affaires,

I have the honour to acknowledge the receipt of your note of to-day's date, No. 405-83, which reads as follows :

[See note III]

I have the honour to confirm to you the agreement thus reached.

Accept, Monsieur le Chargé d'Affaires, the assurance of my high consideration.

B. C.
Acting Minister of Foreign Affairs

Monsieur Hans Christian Lankes
Chargé d'Affaires a.i.
The Embassy of the Federal Republic of Germany
Bangkok

V

EMBASSY OF THE FEDERAL REPUBLIC OF GERMANY
BANGKOK

405-83

Bangkok, 5th March, 1962

Excellency,

I have the honour to refer to paragraph (2) of Article 2 of the Air Transport Agreement between the Federal Republic of Germany and the Kingdom of Thailand signed at Bangkok on the 5th March, 1962. In the negotiations which have been conducted in connection with the above-mentioned Agreement it has been further agreed as follows :

- 1) The frequency of the international air services shall be fixed for the designated airlines of both Contracting Parties at two scheduled flights per week. Any increase in frequency will be subject to the approval of the Aeronautical Authorities of both Contracting Parties.
- 2) The number per flight of passengers, not including stopovers, to be taken on and put down at Bangkok by the designated airline of the Federal Republic of Germany, and destined for or arriving from the following points shall be limited as follows :

- a) between Bangkok and Calcutta 15 passengers
 b) between Bangkok and Hong Kong 15 passengers
 c) between Bangkok and Tokyo 15 passengers
- 3) In case that the airline designated by the Federal Republic of Germany intends to commence services on route *Ib.* of the Route Schedule or the airline designated by the Kingdom of Thailand intends to commence services on routes *IIa.* and or *IIb.* of the Route Schedule before 31st March 1962, agreement should be reached on the conditions similar to paragraph 2) by both aeronautical authorities.
- 4) The arrangements relating to paragraphs 2) and 3) are valid until 31st March 1962.

I have the honour to inform you that the Government of the Federal Republic of Germany agrees to the contents of this note. I should be grateful if you would inform me whether the Government of the Kingdom of Thailand also agrees to this note. If this should be the case, the present note and your note in reply shall be regarded as constituting an Arrangement between our Governments.

Accept, Excellency, the renewed assurance of my highest consideration.

Hans Christian LANKES
 Chargé d'Affaires a.i.

His Excellency the Acting Minister of Foreign Affairs
 of the Kingdom of Thailand
 Monsieur Bun Charoenchai
 Bangkok

VI

MINISTRY OF FOREIGN AFFAIRS SARANROM PALACE

No. (0502) 7006/2505

5th March, B.E. 2505

Monsieur le Chargé d'Affaires,

I have the honour to acknowledge the receipt of your Note of to-day's date, No. 405-83, which reads as follows :

[See note V]

I have the honour to confirm to you the agreement thus reached.

Accept, Monsieur le Chargé d'Affaires, the assurance of my high consideration.

B. C.
 Acting Minister of Foreign Affairs

Monsieur Hans Christian Lankes
 Chargé d'Affaires a.i.
 The Embassy of the Federal Republic of Germany
 Bangkok