

**No. 8681**

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**DENMARK  
and  
REPUBLIC OF THE CONGO**

**Agreement on scheduled air transport (with annex and exchange of letters). Signed at Brazzaville, on 27 February 1967**

*Official text : French.*

*Registered by Denmark on 12 July 1967.*

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**DANEMARK  
et  
RÉPUBLIQUE DU CONGO**

**Accord relatif aux transports aériens réguliers (avec annexe et échange de lettres). Signé à Brazzaville, le 27 février 1967**

*Texte officiel français.*

*Enregistré par le Danemark le 12 juillet 1967.*

[TRANSLATION — TRADUCTION]

No. 8681. AGREEMENT<sup>1</sup> BETWEEN THE KINGDOM OF DENMARK AND THE REPUBLIC OF THE CONGO ON SCHEDULED AIR TRANSPORT. SIGNED AT BRAZZAVILLE, ON 27 FEBRUARY 1967

The Government of the Kingdom of Denmark and the Government of the Republic of the Congo, considering that Denmark and the Congo are parties to the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944,<sup>2</sup>

Desiring to develop international co-operation in the air transport field as much as possible, and

Desiring to conclude an Agreement for the purpose of establishing scheduled air services between and beyond their respective territories,

Have appointed their plenipotentiaries, duly authorized for this purpose, who have agreed as follows :

*Article 1*

For the purposes of this Agreement and its annex :

(a) The term “ Convention ” means the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944;

(b) The term “ aeronautical authorities ” means, in the case of the Congo, the Ministry responsible for civil aviation and, in the case of Denmark, the Ministry of Public Works or, in both cases, any other agency or person authorized to perform the functions at present assigned to the said authorities;

(c) The term “ designated airline ” means an airline that one of the Contracting Parties has designated, in accordance with article 3 of this Agreement, to operate the agreed air services.

*Article 2*

1. Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the purpose of establishing air services on the routes specified in the schedule contained in the annex to this Agreement. Such services and routes are hereinafter called “ the agreed services ” and “ the specified routes ”.

<sup>1</sup> Given provisional effect as from 27 February 1967, the date of signature, in accordance with article 20.

<sup>2</sup> United Nations, *Treaty Series*, Vol. 15, p. 295; for the texts of the Protocols amending this Convention, see Vol. 320, pp. 209 and 217; Vol. 418, p. 161, and Vol. 514, p. 209.

2. Subject to the provisions of this Agreement, the designated airline of each Contracting Party shall, while operating international services, enjoy the following rights :

- (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 pick up and set down in the said territory at the points specified in the annex international traffic in passengers, cargo and mail.

### *Article 3*

1. Each Contracting Party shall have the right to designate one airline for the purpose of operating the agreed services. The aeronautical authorities of the two Contracting Parties shall notify each other, in writing, of such designation.

2. The Contracting Party receiving notice of such designation shall without delay, subject to the provisions of paragraphs 3 and 4 of this article, grant the necessary operating permit to the airline designated by the other Contracting Party.

3. The aeronautical authorities of one Contracting Party may require the airline designated by the other Contracting Party to show proof that it is able to fulfil the conditions prescribed by the laws and regulations normally applied by those authorities, in accordance with the provisions of the Convention, to the operation of international air services.

4. Each Contracting Party shall have the right to refuse to grant the operating permit referred to in paragraph 2 of this article or to impose such conditions as it may deem necessary on the exercise by a designated airline of the rights specified in article 2 of this Agreement, if the said Contracting Party has no proof that substantial ownership and effective control of such airline are vested in the Contracting Party designating the airline or in its nationals.

5. Upon receipt of the operating permit referred to in paragraph 2 of this article, the designated airline may begin at any time to operate any agreed service, provided that a tariff established in accordance with the provisions of article 11 of this Agreement is in force in respect of that service.

### *Article 4*

1. Each Contracting Party shall have the right to revoke an operating permit or to suspend the exercise of the rights specified in article 2 of this Agreement by the designated airline of the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of these rights :

- (a) If it has no proof that substantial ownership and effective control of the airline are vested in the Contracting Party designating the airline or in its nationals, or
- (b) If the airline fails to comply with the laws or regulations of the Contracting Party granting these rights, or
- (c) If the airline fails to operate the agreed services in accordance with the conditions prescribed in this Agreement and its annex.

2. Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph 1 of this article is essential to prevent further infringements of laws or regulations, such right shall be exercised only after consultation with the other Contracting Party.

#### *Article 5*

1. The operation of the agreed services between the territory of the Congo and the territory of Denmark in both directions, on the routes specified in the schedule annexed to this Agreement, constitutes a basic and primary right of the two countries.

2. The two Contracting Parties agree to apply the principle of equality and reciprocity in all matters relating to the exercise of rights resulting from this Agreement.

The airlines designated by the two Contracting Parties shall be assured fair and equitable treatment, shall enjoy equal opportunities and rights and shall respect the principle of equal division of the capacity to be provided in operating the agreed services.

3. Where they operate on the same route, they shall take one another's interests into account so as not to affect unduly their respective services.

#### *Article 6*

1. On all routes appearing in the annex to this Agreement, the agreed services shall have as their primary objective the provision, at a load factor regarded as reasonable, of capacity adequate to satisfy the normal and reasonably foreseeable requirements of international air traffic originating in or destined for the territory of the Contracting Party which has designated the airline or airlines operating the said services.

2. The airline or airlines designated by either Contracting Party may, within the limits of the over-all capacity stipulated in paragraph 1 of this article, satisfy the requirements of traffic between the territories of third States lying on the agreed routes and the territory of the other Contracting Party, account being taken of local and regional services.

3. In order to meet unforeseen or temporary traffic requirements on these same routes, the designated airlines shall decide among themselves upon appro-

priate measures to deal with such temporary increase in traffic. They shall immediately report thereon to the aeronautical authorities of their respective countries, which may consult together if they see fit.

4. If the airline or airlines designated by one of the Contracting Parties do not use, on one or more routes, part or all of the transport capacity which they are capable of providing, account being taken of their rights, they shall transfer to the airline or airlines designated by the other Contracting Party, for a specified period, all or part of the transport capacity concerned.

The designated airline or airlines transferring all or part of such rights may recover them at the end of the said period.

#### *Article 7*

1. Aircraft employed in international service by the designated airline of one Contracting Party together with their normal equipment, reserves of fuel and lubricants and aircraft stores, including foodstuffs, beverages and tobacco, shall, on arrival in the territory of the other Contracting Party, be exempt from all customs duties, inspection fees or other duties or charges, provided such equipment, reserves and stores remain on board the aircraft until re-exported.

2. The following shall likewise be exempt from these same duties, fees and charges, excluding costs incurred in consideration of services rendered :

- (a) Aircraft stores introduced into the territory of one Contracting Party in quantities not exceeding the limits set by the authorities of the said Contracting Party and intended for use on board aircraft employed in international service by the designated airline of the other Contracting Party;
- (b) Spare parts and normal aircraft equipment imported into the territory of one Contracting Party for the maintenance or repair of aircraft employed in international service;
- (c) Fuels and lubricants intended for aircraft employed in international service by the designated airline of the other Contracting Party, even though such supplies be consumed during that part of the flight which takes place over the territory of the Contracting Party in which they were taken on board.

3. Normal aircraft equipment, supplies and stores on board the aircraft of the designated airline of one Contracting Party may not be unloaded in the territory of the other Contracting Party, save with the consent of the customs authorities of that territory. When so unloaded, they may be placed under the supervision of the said authorities until they are re-exported or otherwise disposed of in accordance with customs regulations.

*Article 8*

Passengers, baggage and cargo in direct transit across the territory of either Contracting Party and not leaving the airport zone reserved for their use shall only be subject to a simplified control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar charges.

*Article 9*

1. The laws and regulations of one Contracting Party governing the entry into and departure from its territory of aircraft engaged in international air navigation or flights of such aircraft above its territory shall apply to the designated airline of the other Contracting Party.

2. The laws and regulations of one Contracting Party governing the entry into, stay in and departure from its territory of passengers, crews, cargo or mail, such as those relating to entry, exit, immigration and emigration formalities, customs and health shall apply to passengers, crews, cargo or mail carried by the aircraft of the designated airline of the other Contracting Party while within that territory.

3. Each Contracting Party undertakes not to grant treatment to its own airlines more favourable than that granted to the designated airline of the other Contracting Party in the application of the laws and regulations mentioned in this article.

4. For the use of airports and other facilities made available by one Contracting Party, the designated airline of the other Contracting Party shall not be obliged to pay charges higher than those paid by national aircraft operating scheduled international services.

*Article 10*

1. Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one Contracting Party shall, while they remain in force, be recognized as valid by the other Contracting Party.

2. Each Contracting Party reserves the right, however, to refuse to recognize as valid for flights over its own territory certificates of competency and licenses issued to its own nationals or rendered valid by the other Contracting Party or by any other State.

*Article 11*

1. Tariffs for all agreed services shall be fixed at reasonable levels, regard being paid to all relevant factors, including cost of operation, reasonable profit, the characteristics of each service and the tariffs charged by other airlines.

2. The tariffs referred to in paragraph 1 of this article shall, if possible, be agreed upon by the designated airlines of both Contracting Parties in consultation with other airlines operating over all or part of the same route. Such agreement shall, where possible, be reached through the rate-fixing machinery of the international organization normally regulating such matters (IATA: International Air Transport Association).

3. The tariffs so fixed shall be submitted to the aeronautical authorities of the Contracting Parties for approval not less than thirty days before the date proposed for their entry into force. This period may be reduced in special cases subject to the agreement of the said authorities.

4. If the designated airlines cannot agree or if the tariffs are not approved by the aeronautical authorities of one Contracting Party, the aeronautical authorities of the two Contracting Parties shall try to determine the tariffs by agreement between themselves.

5. In the absence of agreement, the dispute shall be submitted to the arbitration provided for in article 16 below.

6. The tariffs already established shall remain in force until new tariffs are fixed in accordance with the provisions of this article or with article 16 hereunder.

#### *Article 12*

Each Contracting Party undertakes to grant the other Party, in accordance with the laws and regulations in force, transfer, at the official rate of exchange, of the excess of receipts over expenditure achieved on its territory in connexion with the carriage of passengers, baggage, cargo and mail by the designated airline or airlines of the other Contracting Party.

#### *Article 13*

1. The designated airlines shall, not later than thirty (30) days before starting to operate the agreed services, notify the aeronautical authorities of both Contracting Parties of the kind of traffic, the types of aircraft used and the timetables proposed. The same rule shall apply to subsequent modifications.

2. The aeronautical authorities of each Contracting Party shall supply to the aeronautical authorities of the other Contracting Party, upon request, any regular or other statistical data concerning the designated airline or airlines as may be reasonably required for verifying the transport capacity provided by the designated airline or airlines of the first Contracting Party. These statistics shall contain all the information necessary to ascertain the volume of traffic with the territory of the other Contracting Party, and in particular with reference to points of loading and unloading.

*Article 14*

The aeronautical authorities of the Contracting Parties shall, in a spirit of close collaboration, consult together from time to time in order to ensure that the principles of this Agreement are being applied and its purposes satisfactorily achieved.

*Article 15*

1. If either of the Contracting Parties considers it desirable to modify any provision of this Agreement, it may request consultation with the other Contracting Party. Such consultation shall begin within a period of sixty days from the date of receipt of the request. Any modification of the Agreement shall come into force when the two Contracting Parties notify each other that their respective constitutional requirements have been fulfilled.

2. Modifications to the annex to this Agreement may be made by direct agreement between the aeronautical authorities of the Contracting Parties. They shall come into force after they have been confirmed by an exchange of diplomatic notes.

*Article 16*

1. Any dispute between the Contracting Parties relating to the interpretation or application of this Agreement which cannot be settled by direct negotiations or through the diplomatic channel shall, at the request of either Contracting Party, be referred to an arbitral tribunal which shall consist of three members.

2. For this purpose, each of the Contracting Parties shall appoint one arbitrator, and the two arbitrators shall appoint a third arbitrator, who shall be a national of a third State, as Chairman. If, within a period of two months from the date upon which one of the Contracting Parties appoints an arbitrator, the other Contracting Party has not appointed its arbitrator, or if, within the month following the appointment of the second arbitrator, the arbitrators so appointed have not agreed upon the appointment of a Chairman, either Contracting Party may request the President of the Council of the International Civil Aviation Organization to make the necessary appointment.

3. The arbitral tribunal shall establish its own rules of procedure.

4. The Contracting Parties undertake to comply with any decision given in application of this article.

5. The arbitral tribunal shall decide how the expenses incurred by this procedure shall be shared.



*Article 17*

This Agreement and any amendments thereto shall be registered with the International Civil Aviation Organization.

*Article 18*

This Agreement and its annex shall be amended so as to conform with any multilateral agreement which may become binding on the two Contracting Parties.

*Article 19*

Either Contracting Party may at any time give the other Contracting Party notice of its desire to denounce this Agreement. Such notice shall be communicated at the same time to the International Civil Aviation Organization. Such denunciation shall have effect twelve months after the date of receipt of such notice by the other Contracting Party, unless the said denunciation is withdrawn by mutual consent before the expiry of that period. If the other Contracting Party fails to acknowledge receipt of such notice, the notice shall be deemed to have been received fourteen days after receipt thereof by the International Civil Aviation Organization.

*Article 20*

This Agreement shall be applied provisionally with effect from the date of signature; it shall enter into force when the Contracting Parties have notified each other that their respective constitutional requirements have been fulfilled.

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

DONE at Brazzaville, on 27 February 1967, in duplicate in the French language.

For the Government of the Kingdom of Denmark :

H. HALCK

For the Government of the Republic of the Congo :

J.-P. BOCKONDA

## ANNEX

## ROUTE SCHEDULE

I. *Danish routes*

Points in Denmark—One (1) point in the Netherlands.

One (1) point in the Federal Republic of Germany to one (1) point in the Congo and beyond in the direction of Lusaka, in both directions.

II. *Congolese routes*

Points in the Congo—One (1) point in the Federal Republic of Germany.

One (1) point in the Netherlands and one other intermediate point or points beyond Denmark to be determined subsequently to one (1) point in Denmark, in both directions.

## NOTES :

1. The airline or airlines designated by the Contracting Parties may, on any or all flights, omit stops at one or more of the points specified in the annex.
2. The airline or airlines designated by a Contracting Party may make stops at one or more points not included in the routes listed in the annex provided they do not take on or discharge traffic between such point or points and the territory of the other Contracting Party.
3. The stops mentioned in the above schedule may, at the option of the designated airlines, be selected as intermediate points or as points beyond.

## EXCHANGE OF LETTERS

## I

THE CHAIRMAN OF THE DANISH DELEGATION

Brazzaville, 27 February 1967

To the Chairman of the Congolese delegation

Sir,

With reference to the Air Transport Agreement between the Government of the Kingdom of Denmark and the Government of the Republic of the Congo (Brazzaville) signed this day, I have the honour to notify you that, in accordance with article 3 of the Agreement, the Government of the Kingdom of Denmark has designated Det Danske Luftfartselskab (DDL) to operate the services specified in the annex.

I have the honour to confirm, on behalf of my Government, the following understanding reached in the course of the negotiations preceding the signature of the Agreement :

1. The airline Det Danske Luftfartselskab (DDL), co-operating with Det Norske Luftfartselskap A/S (DNL) and AB Aerotransport (ABA) under the designation of Scandinavian Airlines System (SAS), shall be authorized to operate the agreed services with aircraft, crews and equipment of either or both of the other two airlines; and

2. In so far as the airline Det Danske Luftfartselskab (DDL) employs aircraft, crews and equipment of the other two airlines participating in the Scandinavian Airlines System (SAS), the provisions of the Agreement shall apply to such aircraft, crews and equipment as though they belonged to the airline Det Danske Luftfartselskab (DDL), and the competent Danish authorities and Det Danske Luftfartselskab (DDL) shall accept full responsibility under the Agreement therefor.

Accept, Sir, etc.

H. HALCK

## II

### THE CHAIRMAN OF THE CONGOLESE DELEGATION

Brazzaville, 27 February 1967

To the Chairman of the Danish delegation

Sir,

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

[*See letter I*]

I have the honour to confirm the agreement of my Government to the foregoing.

Accept, Sir, etc.

J.-P. BOCKONDA

## III

THE CHAIRMAN OF THE CONGOLESE DELEGATION

Brazzaville, 27 February 1967

To the Chairman of the Danish delegation

Sir,

With reference to the Air Transport Agreement between the Republic of the Congo and the Kingdom of Denmark signed this day, I have the honour to inform you that, in accordance with article 3, paragraph 1, of that Agreement, the Government of the Republic of the Congo has designated AIR AFRIQUE to operate the agreed services specified in the annex.

I have the honour to request you to confirm your agreement to the foregoing.

Accept, Sir, etc.

J.-P. BOCKONDA

## IV

THE CHAIRMAN OF THE DANISH DELEGATION

Brazzaville, 27 February 1967

To the Chairman of the Congolese delegation

Sir,

I have the honour to acknowledge receipt of your letter of today's date, the text of which is the following :

[See letter III]

and to express my agreement with its contents.

Accept, Sir, etc.

H. HALCK