

No. 9476

---

**FEDERAL REPUBLIC OF GERMANY  
and  
CHILE**

**Air Transport Agreement (with exchange of notes). Signed  
at Santiago de Chile on 30 March 1964**

*Authentic texts : German and Spanish.*

*Registered by the International Civil Aviation Organization on 24 March 1969.*

---

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE  
et  
CHILI**

**Accord relatif aux transports aériens (avec échange de  
notes). Signé à Santiago du Chili le 30 mars 1964**

*Textes authentiques : allemand et espagnol.*

*Enregistré par l'Organisation de l'aviation civile internationale le 24 mars 1969.*

[TRANSLATION — TRADUCTION]

AIR TRANSPORT AGREEMENT <sup>1</sup> BETWEEN THE FEDERAL  
REPUBLIC OF GERMANY AND THE REPUBLIC OF  
CHILE

---

The Federal Republic of Germany and the Republic of Chile,  
Desiring to regulate air services between and beyond their respective  
territories, have agreed as follows :

*Article 1*

(1) For the purposes of this Agreement, unless the context otherwise  
requires :

- (a) The term “ aeronautical authorities ” means, in the case of the Federal Republic of Germany, the Federal Minister of Transport ; in the case of the Republic of Chile, the Civil Aviation Board (Junta de Aeronáutica Civil) ; or, in both cases, any other person or agency authorized to perform the functions exercised by the said authorities ;
- (b) The term “ designated airline ” means an airline that one Contracting State shall have designated in writing to the other Contracting State in accordance with article 3 as being an airline which is to operate international air services on the routes specified in accordance with article 2, paragraph (2).

(2) The terms “ territory ”, “ air service ”, “ international air service ” and “ stop for non-traffic purposes ” have for the purposes of this Agreement the meaning laid down in articles 2 and 96 of the Convention on International Civil Aviation of 7 December 1944. <sup>2</sup>

*Article 2*

(1) For the purpose of the operation of international air services by designated airlines on the routes specified in accordance with paragraph (2) of this article, each Contracting State shall grant to the other Contracting State :

---

<sup>1</sup> Came into force on 17 February 1968, i.e. thirty days after the date of the exchange of the instruments of ratification which took place at Santiago de Chile on 18 January 1968, in accordance with article 14.

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

- The right to make stops for non-traffic purposes in its territory, and
- The right to land at the points in its territory which are named on the routes specified in order to take on or discharge, passengers, mail and or cargo on a commercial basis.

(2) The routes over which the designated airlines of the two Contracting States 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 article 2, paragraph (2), may be inaugurated at any time, provided that :

- (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 granting these rights has authorized the designated airline or airlines to inaugurate the air services.

(2) The Contracting State granting the rights shall, subject to the provisions of paragraphs (3) and (4) of this article and subject to agreement being reached in accordance with article 8, give without delay the authorization to operate the international air services.

(3) Each Contracting State may require an airline designated by the other Contracting State to satisfy it that it is qualified to meet the requirements prescribed under the laws and regulations of the first-mentioned State governing the operation of international air traffic. Application for the permits prescribed under the said laws and regulations shall be made to the competent aeronautical authorities.

(4) Each Contracting State may withhold the exercise of the rights provided for in article 2 from any airline designated by the other Contracting State 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 State or in that State itself.

### *Article 4*

(1) Each Contracting State may revoke, or limit by the imposition of conditions, the authorization granted in accordance with article 3, paragraph (2), in the event of failure by a designated airline to comply with the laws and

regulations of the Contracting State granting the rights or to comply with the provisions of this Agreement, or to fulfil the obligations arising therefrom. This shall also apply if the proof referred to in article 3, paragraph (4), is not furnished. Each Contracting State shall exercise this right only after consultation as provided for in article 11, unless an immediate suspension of operations or imposition of conditions is necessary to avoid further infringements of laws or regulations.

(2) Each Contracting State shall have the right by written communication to the other Contracting State to replace a designated airline 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 State for the use of airports and other aviation facilities by the aircraft of a designated airline of the other Contracting State shall not be higher than those payable by its aircraft engaged in similar international services.

#### *Article 6*

(1) Each Contracting State shall grant the following fiscal privileges in respect of aircraft employed in the agreed air services by a designated airline of the other Contracting State :

1. The aircraft of a designated airline of one Contracting State entering into, departing from or flying across 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 on the occasion of importation, exportation or transit of goods.
2. Spare parts and articles of equipment which are :
  - (a) Removed from or taken off the aircraft referred to in item 1 above and stored in the territory of the other Contracting State under customs supervision, or
  - (b) Imported for such aircraft into and stored in, the territory of the other Contracting State under customs supervision, shall be exempt from the duties and other charges mentioned in item 1 above, if they are installed in or otherwise taken on board the said aircraft under customs supervision, or are otherwise re-exported from the territory of the other Contracting State.

The same exemption from duties and other charges shall be granted in respect of such spare parts and articles of equipment taken from appropriate stores of other airlines and installed in or otherwise taken on board the said aircraft under customs supervision.

3. Fuel and lubricants on board the aircraft referred to in item 1 above and introduced into the territory of the other Contracting State shall be free of customs duties and other charges levied on the occasion of importation, exportation or transit of goods, if they are used on board the aircraft, and this shall also apply on that part of any flight which takes place between points in the territory of that Contracting State.
4. Food, beverages and tobacco taken on board the aircraft referred to in item 1 above and intended for consumption by passengers and crew members may be issued in the territory of the other Contracting State for immediate consumption on board free of customs duties and other charges levied on the occasion of importation, exportation or transit of goods, provided that such aircraft can be continuously supervised by customs authorities during intermediate stops.

(2) For the purposes specified in paragraph (1), the goods listed in the said paragraph shall not be subject to any economic prohibition or restriction on importation, exportation, or transit.

#### *Article 7*

(1) There shall be fair and equal opportunity for the designated airlines of each Contracting State to operate the agreed air services 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), a designated airline of one Contracting State shall take into account the interests of a designated airline of the other Contracting State so as not to affect unduly the air services which the latter airline operates on the same routes or parts thereof.

(3) The agreed air services 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 traffic demands to and from the territory of the Contracting State designating the airline. The right of such

airline to carry traffic 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 an orderly development of international air traffic, in such a manner that the capacity is related to :

- (a) The traffic demand to and from the territory of the Contracting States designating the airline ;
- (b) The traffic demand in the areas through which the air services pass, account being taken of local and regional services ;
- (c) The requirements of an economical operation of through air traffic routes.

(4) The Contracting States recognize that the right of the designated airline or airlines of one Contracting State to participate in regional traffic on the routes specified in accordance with article 2, paragraph (2), may be restricted by the other Contracting State for which such traffic constitutes regional traffic, provided that the restrictions derive from legislation applicable also to airlines of extra-continental countries which are in the same circumstances and which operate over the same sector of the route.

(5) For the purposes of paragraph (4), traffic shall be deemed to constitute regional traffic if it is carried on (a) between the territory of a Contracting State and the territory of a country adjacent thereto or (b) between the territory of a Contracting State and the territory of other countries which are in the same continent as that Contracting State and are, in addition, linked to that State by international economic integration or co-operation agreements or programmes and if it is recognized as regional traffic by both States in the exchange of notes concerning the Route Schedule.

#### *Article 8*

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

(2) The tariffs shall, if possible, be fixed by agreement between the designated airlines concerned. For this purpose the designated airlines may be guided by the decisions of the International Air Transport Association (IATA) on tariff conference procedures, or may, if possible, agree directly

between themselves after consulting with airlines of third States which operate over the same routes or parts thereof.

(3) Any tariffs so agreed shall be submitted for approval to the aeronautical authorities of both Contracting States 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 is reached between the designated airlines in accordance with paragraph (2), or if one of the Contracting States does not agree to the tariffs submitted for its approval in accordance with paragraph (3), the aeronautical authorities of the two Contracting States shall by agreement fix the tariffs for those routes or parts thereof on which no agreement has been reached.

(5) If no agreement is reached between the aeronautical authorities of the two Contracting States in accordance with paragraph (4), the provisions of article 12 shall apply. Until such time as an arbitral award is rendered, the Contracting State which has expressed disagreement with a tariff shall be entitled to require the other Contracting State to maintain the tariffs previously in effect.

(6) Without prejudice to the provisions of the preceding paragraphs, the Contracting States agree that, if one of the Contracting States approves or fixes a special tariff to be applied by its airlines for traffic between the points to which article 7, paragraph (5), relates, such tariff may be different from the tariff approved in respect of the same section for the designated airline or airlines of the other Contracting State. The said different tariff may, however, be applied only by the designated airlines of its own nationality and those of the countries with which such traffic is carried on, even where the section in question is part of a service over a longer distance.

#### *Article 9*

If a general multilateral air transport convention accepted by both Contracting States enters into force, the provisions of the multilateral convention shall prevail. Any discussions with a view to determining the extent to which this Agreement is superseded, amended or supplemented by the provisions of the multilateral convention shall take place in accordance with article 11 of this Agreement.

#### *Article 10*

Exchanges of views shall take place as needed between the aeronautical authorities of the two Contracting States in order to achieve close co-opera-

tion and agreement in all matters pertaining to the interpretation and application of this Agreement.

### *Article 11*

(1) Consultation may be requested at any time by either Contracting State for the purpose of discussing amendments to this Agreement or to the Route Schedule. The same shall apply to discussions concerning the interpretation and application of the Agreement if either Contracting State considers that an exchange of views in accordance with article 10 has been without success. Such consultation shall begin within sixty days from the date of receipt of the request.

(2) Amendments to this Agreement shall, in order to be approved, require the same action as is specified in article 14.

(3) Amendments to the Route Schedule shall be agreed upon in an exchange of diplomatic notes.

### *Article 12*

(1) Any disagreement arising out of the application or interpretation of this Agreement which cannot be settled in accordance with article 11 shall be submitted to an arbitral tribunal at the request of either Contracting State.

(2) The arbitral tribunal shall be established in each individual case in such a way as to include one member designated by each Contracting State, and these two members shall agree upon the choice of a national of a third State as chairman. If the members have not been designated within sixty days and the chairman within ninety days of the date of notification by either Contracting State of its intention to resort to arbitration, either of the Contracting States may, in the absence of any other agreement, invite the President of the Council of the International Civil Aviation Organization to make the necessary appointments. Where the President is a national of one of the two Contracting States or is otherwise prevented from carrying out this function, his deputy in office shall make the necessary appointments.

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



*Article 13*

This Agreement, any amendments thereto and any exchange of notes under article 2, paragraph (2), shall be communicated to the International Civil Aviation Organization for registration.

*Article 14*

(1) This Agreement shall be ratified. The instruments of ratification shall be exchanged as soon as possible at Santiago de Chile.

(2) The Agreement shall enter into force thirty days after the date of 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 of the notice of denunciation by the other Contracting State.

DONE at Santiago de Chile, on 30 March 1964, in four originals, two in the German and two in the Spanish language, both texts being equally authentic.

For the Republic of Chile :

Julio PHILIPPI

For the Federal Republic of Germany :

Hans STRACK

## EXCHANGE OF NOTES

## I

Santiago, 30 March 1964

Sir,

I have the honour to refer to article 2, paragraph (2), of the Air Transport Agreement between the Republic of Chile and the Federal Republic of Germany, signed today.

In the negotiations which have been conducted in connexion with the aforementioned Agreement, it has been agreed that the airlines designated by the Contracting States may operate the agreed air services on the routes specified in the following Route Schedule :

## ROUTE SCHEDULE

1. *Routes to be operated by airlines designated by the Government of the Federal Republic of Germany:*

- (a) From points in the Federal Republic of Germany via intermediate points in Europe, points in Africa not south of the equator, Rio de Janeiro and/or São Paulo (Brazil), Asunción (Paraguay), Montevideo (Uruguay) Buenos Aires (Argentine Republic) to Santiago de Chile, in both directions. However, the German airline or airlines may not operate direct services between Asunción (Paraguay) and Santiago de Chile.
- (b) From points in the Federal Republic of Germany via intermediate points in Europe, in the Azores, a point in the islands of the Caribbean, Caracas (Venezuela), Bogotá (Colombia), Quito or Guayaquil (Ecuador), Lima (Peru) to Santiago de Chile, in both directions.
- (c) From points in the Federal Republic of Germany via intermediate points in Europe, a point in the United States of America, a point in the islands of the Caribbean, Caracas (Venezuela), Bogotá (Colombia), Quito or Guayaquil (Ecuador), Lima (Peru) to Santiago de Chile, in both directions.

2. *Routes to be operated by airlines designated by the Government of the Republic of Chile:*

- (a) From points in the Republic of Chile via intermediate points in South America, points in Africa not south of the equator, a point in the Iberian Peninsula, Paris (France) to Frankfurt or another point in the Federal Republic of Germany and beyond to points in Europe, in both directions.
- (b) From points in the Republic of Chile via intermediate points in South and Central America, a point in the islands of the Caribbean, the Azores, a point in the Iberian Peninsula, Rome (Italy), a point in Switzerland to Frankfurt or another point in the Federal Republic of Germany and beyond to points in Europe, in both directions.
- (c) From points in the Republic of Chile via intermediate points in South and Central America, Miami and/or New York (United States of America), a point in the British Isles, Amsterdam (Netherlands) to Frankfurt or another point in the Federal Republic of Germany and beyond to points in Europe, in both directions.

3. The airline or airlines designated by either Contracting State may at their option omit one or more intermediate points on the routes specified above, provided that the point of origin lies in the territory of the Contracting State which has designated the airline or airlines.

4. Landings at any other point in the territory of the other Contracting State shall require the authorization of the competent aeronautical authorities.

5. Lastly, the Contracting States have recognized as regional traffic for the purposes of article 7, paragraphs (4) and (5), and article 8, paragraph (6) :

- (a) In the case of the Federal Republic of Germany, traffic between its territory and European States parties to the Convention on the Organisation for Economic Co-operation and Development, signed in Paris on 14 December 1960 ; notwithstanding the foregoing, traffic between the Federal Republic of Germany and adjacent States shall, even if such States are not parties to the said Convention, be deemed to constitute regional traffic ;
- (b) In the case of the Republic of Chile, traffic between its territory and all Latin American countries, especially States parties to the Treaty establishing a Free-Trade Area and instituting the Latin American Free-Trade Association, signed at Montevideo on 18 February 1960 ; notwithstanding the foregoing, traffic between Chile and adjacent States shall, even if such States are not parties to the said Treaty, be deemed to constitute regional traffic.

I have the honour to inform you that the Government of the Republic of Chile signifies its approval of the foregoing arrangements. I should be grateful if you would inform me whether the Government of the Federal Republic of Germany also approves them. If so, this note and your reply shall be regarded as constituting an Agreement between our Governments.

Accept, etc.

Julio PHILIPPI

His Excellency Mr. Hans Strack  
Ambassador Extraordinary and Plenipotentiary  
of the Federal Republic of Germany

## II

EMBASSY OF THE FEDERAL REPUBLIC OF GERMANY

Santiago, 30 March 1964

Sir,

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 Government of the Federal Republic of Germany agrees with the contents of your note. Your note and

this reply shall accordingly be regarded as constituting an Agreement between our Governments.

Accept, etc.

Hans STRACK

His Excellency Mr. Julio Philippi  
Minister for Foreign Affairs of Chile