

No. 10466

**FEDERAL REPUBLIC OF GERMANY
and
PERU**

**Air Transport Agreement (with exchange of notes). Signed
at Lima on 30 April 1962**

Authentic texts: German and Spanish.

Registered by the International Civil Aviation Organization on 12 May 1970.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
PÉROU**

**Accord relatif aux transports aériens (avec échange de notes).
Signé à Lima le 30 avril 1962**

Textes authentiques: allemand et espagnol.

Enregistré par l'Organisation de l'aviation civile internationale le 12 mai 1970.

[TRANSLATION — TRADUCTION]

AIR TRANSPORT AGREEMENT¹ BETWEEN THE FEDERAL
REPUBLIC OF GERMANY AND THE REPUBLIC OF
PERU

The Federal Republic of Germany and the Republic of Peru,

Desiring to regulate air transport between and beyond their respective territories,

Have appointed, for the purpose of concluding an Agreement to that effect, the following Plenipotentiaries:

For the Federal Republic of Germany

His Excellency Mr. Heinrich Northe, Ambassador Extraordinary and Plenipotentiary in Peru;

For the Republic of Peru

Dr. Luis Alvarado Garrido, Minister for Foreign Affairs, and

Lieutenant-General of the Air Force, Salvador Noya Ferré, Minister of Air Transport

Who, having exchanged their powers, found in good and due form, have agreed as follows:

Article 1

(1) For the purpose 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 Peru, the Minister of Air Transport; 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 which one Contracting Party has designated in writing to the other Contracting Party, in ac-

¹ Came into force on 2 September 1964, thirty days after the date of the exchange of the instruments of ratification, which took place at Bonn on 3 August 1964, in accordance with article 17 (1) and (2).

cordance with article 3, as being the airline which is to operate the international air service 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” shall, for the purpose of the application of this Agreement, have the meaning laid down in articles 2 and 96 of the Convention on International Civil Aviation of 7 December 1944¹ in the latest version in force.

Article 2

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

- the right to fly over its territory without landing, following the routes specified by each Contracting Party,
- the right to make stops in its territory for non-traffic purposes,
- the right to make stops for the commercial carriage of international traffic in passengers, mail and/or cargo to and from the points in its territory which are listed for the routes specified in accordance with paragraph (2).

(2) The routes over 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.²

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

(2) The Contracting Party granting the rights shall, subject to the pro-

¹ 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 See page 90 of this volume.

visions of paragraphs (3) and (4) and subject to agreement being reached in accordance with article 9, authorize without delay the operation of the international air service.

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

(4) Each Contracting Party may withhold the exercise of the rights granted in article 2 from an airline designated by the other Contracting Party if such airline is unable on request to furnish proof that substantial ownership and effective control of the airline are vested in nationals or bodies corporate of the Contracting Party of the airline or in that Contracting Party itself.

Article 4

(1) Each Contracting Party may revoke, or limit by the imposition of conditions, the authorization granted in accordance with article 3, paragraph (2), if a designated airline fails to comply with the laws and regulations of the Contracting Party granting the rights, or to comply with the provisions of this Agreement, or to fulfil the obligations arising therefrom. The same shall apply if the proof referred to in article 3, paragraph (4), is not furnished. Each Contracting Party shall exercise this right only after an exchange of views, in accordance with article 13, unless an immediate suspension of operations or imposition of conditions is necessary to avoid further infringements of laws or regulations.

(2) Each Contracting Party may, by giving notice in writing to the other Contracting Party, replace an airline which it has designated by another airline, in accordance with article 3. The newly designated airline shall have the same rights and obligations as the airline which it replaces.

Article 5

The charges imposed in the territory of each Contracting Party for the use of airports and other aeronautical facilities by aircraft of an airline designated by the other Contracting Party shall not be higher than those payable by aircraft of a domestic airline engaged in similar international air services.

Article 6

(1) Each Contracting Party shall grant the following privileges in respect of aircraft employed exclusively in international air services by a designated airline of the other Contracting Party:

1. Aircraft employed by a designated airline of one Contracting Party, entering and thereafter departing from, or flying in transit over, the territory of the other Contracting Party, as well as any ordinary 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 parts and equipment which are

(a) detached or otherwise removed from such aircraft and stored in the territory of the other Contracting Party, under customs supervision, or

(b) taken on board and stored in such aircraft, within the territory of the other Contracting Party, under customs supervision,

shall be exempt from customs duties and other charges mentioned in subparagraph 1, when they are installed or otherwise taken on board such aircraft, under customs supervision, or otherwise re-exported from the territory of the Contracting Party.

The same exemption from all duties shall be extended to spare parts and equipment taken from the stores of other airlines and installed or otherwise taken on board such aircraft, under customs supervision.

3. Fuel and lubricants on board aircraft designated in subparagraph 1, and brought into the territory of the other Contracting Party shall be exempt from customs duties and other charges levied in connexion with the importation, exportation or transit of goods, if they are consumed on board such aircraft, such exemption also being applicable in respect of flights between points on the routes specified in accordance with article 2 in the territory of the other Contracting Party. The same shall apply to fuel and lubricants imported and stored for a designated airline in the territory of the other Contracting Party under customs supervision for use on board such aircraft. Fuel and lubricants taken on board the aircraft of a designated airline, under customs supervision, in the territory of the other Contracting Party and used in international air services shall not be subject to the above-mentioned duties and other charges, nor shall any kind

of special charge be levied on fuel or lubricants in the territory of that Contracting Party.

4. Food and drink taken on board the aircraft mentioned in subparagraph 1 to be consumed by passengers and members of the crew, distributed within the territory of the other Contracting Party for immediate consumption on board, shall be exempt from customs duties and other charges in connexion with the importation, exportation or transit of goods, so long as the aircraft are constantly under customs supervision in intermediate stops.

(2) If no customs duties are imposed on the goods specified in paragraph 1, the said goods shall not be subject to any economic 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 of each Contracting Party 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), a designated airline of one Contracting Party shall take into account the interests of a designated airline of the other Contracting Party, so as not to affect unduly the air services operated by the latter airline 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 designating the airline. The right of the said airline to operate flights between points on a route specified in accordance with article 2, paragraph (2), which are situated in the territory of the other Contracting Party and points in third States shall be exercised, in the interest of the orderly development of international air traffic in such a manner that capacity shall be adapted to:

- (a) the requirements of traffic from and to the territory of the Contracting Party designating 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 Parties not later than thirty days prior to the inauguration of service on the routes specified in accordance with article 2, paragraph (2), particulars of the type of service, the types of aircraft to be used, and the flight schedules. The same shall 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 are required for the purpose of reviewing the capacity provided by a designated airline of the first Contracting Party on the routes specified in accordance with 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) Tariffs to be charged for passengers and freight on the routes specified in accordance with article 2, paragraph (2), shall be fixed with due regard to all factors, such as the cost of operation, reasonable profit, the characteristics of the various routes and the tariffs charged by other airlines which operate over the same routes or portions thereof. In fixing such tariffs, the provisions of the following paragraphs shall be observed.

(2) The tariffs shall, if possible, be fixed for each route by agreement between the designated airlines concerned. For this purpose the designated airlines shall abide by such decisions as are applicable under the tariff-fixing procedures of the International Air Transport Association (IATA), or shall, if possible, agree directly between themselves after consultation with the airlines of third States which operate over the same routes or portions thereof.

(3) The tariffs so fixed shall be submitted for approval to the aeronautical authorities of both Contracting Parties not later than 30 days before the proposed date of their entry into force. 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 accor-

dance with paragraph (2), or if one of the Contracting Parties does not agree to the tariffs submitted for its approval in accordance with paragraph (3), the aeronautical authorities of the two Contracting Parties shall by agreement fix the tariffs for those routes or portions thereof on which agreement has not been reached.

(5) If no agreement is reached between the aeronautical authorities of the two Contracting Parties in accordance with paragraph (4), the provisions of article 14 shall apply. Until such time as an arbitral award is rendered, the Contracting Party which has expressed disagreement with a tariff shall have the right to require the other Contracting Party to maintain the tariffs previously in effect.

Article 10

If a general multilateral air transport convention accepted by both Contracting Parties 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 13 of this Agreement.

Article 11

Every designated airline of a Contracting Party may maintain and employ its own staff for the conduct of its business in the airports and cities in the territory of the other Contracting Party in which it intends to maintain agencies of its own. If a designated airline does not establish its own organization at the airports in the territory of the other Contracting Party, it shall have the work in question performed where possible by the airport staff or by a designated airline in the territory of the other Contracting Party.

Article 12

Exchanges of views shall take place as needed between the aeronautical authorities of the Contracting Parties to ensure close collaboration and agreement in all matters pertaining to the application and interpretation of this Agreement.

Article 13

Either Contracting Party may at any time request consultation for the purpose of discussing amendments to this Agreement or the route schedule. The

same shall also apply to discussion of the interpretation and application of the Agreement, if in the opinion of either Contracting Party an exchange of views in accordance with article 12 has not been successful. Such consultation shall begin within 60 days from the date of receipt of the request.

Article 14

(1) Any dispute relating to the interpretation or application of this Agreement which cannot be settled in accordance with article 13 shall, at the request of either Contracting Party, be referred to an arbitral tribunal.

(2) The arbitral tribunal shall be established for each case in such a manner that each Contracting Party shall appoint one member and these members shall agree upon a national of a third State as umpire, who shall be appointed by the Governments of the two Contracting Parties. The members shall be appointed within 60 days and the umpire within 90 days after the date on which a Contracting Party gives notice to the other Contracting Party of its intention to submit the dispute to an arbitral tribunal.

(3) If the time-limits referred to in paragraph (2) are not adhered to, either Contracting Party may, in the absence of any other agreement, request the President of the Council of the International Civil Aviation Organization to make the necessary appointments. If the President has the nationality of one of the two Contracting Parties, or if he is impeded by some other reason, the Vice-President representing him shall make the appointment.

(4) The arbitral tribunal shall reach its decisions by majority vote. Its decisions shall be binding on both Contracting Parties. Each Contracting Party shall bear the expenses of its member and of its representation in the proceedings before the arbitral tribunal; the expenses of the umpire and any other expenses shall be borne in equal parts by both Contracting Parties. In other matters the arbitral tribunal shall itself determine its rules of procedure.

Article 15

This Agreement, any amendments hereto 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

This Agreement supersedes any previous agreements which may be in force between the Contracting Parties with respect to international air services.

Article 17

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

(2) This Agreement shall enter into force thirty days after the date of the exchange of instruments of ratification.

(3) Either Contracting Party may denounce this Agreement in writing at any time. The Agreement shall expire one year after the denunciation is received by the other Contracting Party.

IN WITNESS WHEREOF, the above-mentioned plenipotentiaries, duly authorized by their respective Governments, have signed and sealed this Agreement.

DONE at Lima, on 30 April 1962, in duplicate in the Spanish and German languages, both texts being equally authentic.

For the Federal Republic of Germany:
Heinrich NORTHE

For the Republic of Peru:
Luis ALVARADO
S. NOYA F.

EXCHANGE OF NOTES

I

Lima, 30 April 1962

No. 76/62

Sir,

I have the honour to acknowledge receipt of your note of today's date, the text of which in agreed translation reads as follows:

“I have the honour to refer to article 2, paragraph (2), of the Air Transport Agreement between the Federal Republic of Germany and the Republic of Peru, signed at Lima on 30 April 1962. 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 to be operated by designated airlines of the Federal Republic of Germany:

1	2	3	4
<i>Points of origin</i>	<i>Intermediate points</i>	<i>Points in the territory of the Republic of Peru</i>	<i>Points beyond</i>
Federal Republic of Germany	Paris or Zurich, Madrid, Lisbon, Santa Maria, French West Indies, Caracas, Bogota, Quito	Lima	Santiago, Chile, in both directions

II. Routes to be operated by designated airlines of the Republic of Peru:

1	2	3	4
<i>Points of origin</i>	<i>Intermediate points</i>	<i>Points in the territory of the Federal Republic of Germany</i>	<i>Points beyond</i>
Republic of Peru	Intermediate points	A point in the Federal Republic of Germany	Points beyond, in both directions

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

“I have the honour to inform you that the Government of the Republic of Peru agrees to the above route schedule. I should be grateful if you would inform me whether the Government of the Federal Republic

of Germany 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, Sir, etc.

NORTHE

His Excellency Dr. Luis Alvarado G.
Minister for Foreign Affairs
Lima

II

Lima, 30 April 1962

Note No. 6-5/27

Sir,

I have the honour to acknowledge receipt of your note No. 76/62 of 30 April 1962, the text of which in agreed translation reads as follows:

“I have the honour to refer to article 2, paragraph (2), of the Air Transport Agreement between the Federal Republic of Germany and the Republic of Peru, signed at Lima on 30 April 1962. 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 to be operated by designated airlines of the Federal Republic of Germany:

1	2	3	4
<i>Points of origin</i>	<i>Intermediate points</i>	<i>Points in the territory of the Republic of Peru</i>	<i>Points beyond, in both directions</i>
Federal Republic of Germany	Paris or Zurich, Madrid, Lisbon, Santa Maria, French West Indies, Caracas, Bogota, Quito	Lima	Santiago, Chile, in both directions

II. Routes to be operated by designated airlines of the Republic of Peru:

1	2	3	4
<i>Points of origin</i>	<i>Intermediate points</i>	<i>Points in the territory of the Federal Republic of Germany</i>	<i>Points beyond, in both directions</i>
Republic of Peru	Intermediate points	A point in the Federal Republic of Germany	Points beyond, in both directions

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

“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 Republic of Peru 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.”

I take pleasure in informing you that my Government is in full agreement with the content of the note under reply and that the said note and the present communication shall accordingly constitute an Arrangement between our Governments.

Accept, Sir, etc.

Luis ALVARADO G.

His Excellency Mr. Heinrich Northe
Ambassador Extraordinary and Plenipotentiary
of the Federal Republic of Germany
Lima