

No. 10464

**FEDERAL REPUBLIC OF GERMANY
and
TURKEY**

**Air Transport Agreement (with exchange of notes).
Signed at Ankara on 5 July 1957**

Authentic texts: German and Turkish.

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

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
TURQUIE**

**Accord relatif aux transports aériens (avec échange de
notes). Signé à Ankara le 5 juillet 1957**

Textes authentiques: allemand et turc.

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

[TRANSLATION ¹ — TRADUCTION ²]

AIR TRANSPORT AGREEMENT ³ BETWEEN THE FEDERAL
REPUBLIC OF GERMANY AND THE REPUBLIC OF
TURKEY

The Federal Republic of Germany and the Republic of Turkey,
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
Federal Republic of Germany, the Federal Minister of Transport; in
the case of the Republic of Turkey, the Ministry of Transport; or in
both cases any other person or agency authorized to perform the func-
tions exercised by the said authorities;
- b) the term “territory” in relation to a State shall mean the land areas and
territorial waters adjacent thereto under the sovereignty of such State;
- c) the term “designated airline” shall mean an airline that one Contract-
ing 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 “air service”, “international air service” and “stop
for non-commercial purposes” shall, for the purposes of the present Agree-
ment, have the meaning laid down in article 96 of the Convention on
International Civil Aviation, signed at Chicago on December 7, 1944. ⁴

¹ Translation by the Government of the Federal Republic of Germany.

² Traduction du Gouvernement de la République fédérale d'Allemagne.

³ Came into force on 22 January 1966, one month after the exchange of the instruments of ratification, which took place at Bonn on 22 December 1965, in accordance with article 18.

⁴ 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.

Article 2

(1) Each Contracting State shall grant to the other Contracting State, for the purpose of operating international air services by designated airlines, the right to fly across its territory; the right to land in its territory for non-commercial purposes, and the right to land and depart 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 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 paragraph (2) of article 2 of the present Agreement may be started at any time, provided

- a) the Contracting State to whom the rights specified in paragraph (1) of article 2 are granted, has designated one or several airlines in writing, 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 these rights shall, subject to the provisions of paragraphs (3) and (4) of this article and subject to the provisions of article 11 of the present Agreement, give without delay the said authorization to operate the international air service.

(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 Contracting State governing the operation of international air traffic.

(4) Each Contracting State may withhold the exercise of the rights provided for in article 2 of the present Agreement 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 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 State 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 State shall exercise this right only after consultation as provided for in article 14 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 State shall have the right, by written communication to the other Contracting State, 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 laws and regulations of a Contracting State relating to the admission into or departure from its territory of passengers, crew or cargo of an aircraft, such as regulations relating to entry, clearance, immigration, passports, customs and quarantine, shall be complied with by or on behalf of such passengers, crew or cargo upon entrance into or departure from, or while within the territory of that State.

Article 6

The charges imposed in the territory of 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 paid by aircraft of a national airline engaged in similar international air services.

Article 7

Each Contracting State shall grant the following privileges to aircraft of a designated airline of the other Contracting State exclusively engaged in international air service:

1. Aircraft operated by a designated airline of either Contracting State and entering, departing again from, or flying across the territory of the other Contracting State, as well as fuel, lubricants, spare parts, regular equipment 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 regular equipment removed from the aircraft referred to in item 1 or otherwise taken from board and stored within the territory of the other Contracting State under customs supervision shall be exempt from the customs duties and other charges mentioned in item 1 above, if they are either installed in or otherwise taken aboard the said aircraft under customs supervision, or are exported again otherwise than on board the said aircraft. The same exemption from such duties and other charges shall be granted for spare parts and regular equipment taken from appropriate stores of other foreign airlines and installed in or otherwise taken aboard the said aircraft under customs supervision.
3. Fuel and lubricants taken on board of aircraft of a designated airline within the territory of the other Contracting State under customs supervision and used in international air services, shall enjoy, with regard to customs duties and other domestic taxes and fees with which those goods are charged, the same treatment granted to national airlines of most favoured nations. If, in applying this principle, a Contracting State does not grant exemption from the customs duties and other domestic taxes and fees with which these goods are charged, the other Contracting State likewise has the right to levy customs duties and other national taxes and fees for the fuel and lubricants taken on board the aircraft within its territory.
4. Food and stimulants introduced aboard the aircraft mentioned 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 and transit of goods, provided such aircraft can be continuously supervised by customs authorities at intermediate landings.

Article 8

(1) Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by the Contracting State in which the aircraft is registered shall be recognized as valid by the other Contracting state.

(2) Each Contracting State reserves the right to refuse to recognize, for the purpose of flight over its own territory, certificates of competency and licenses granted to any of its nationals by another Contracting State.

Article 9

(1) There shall be fair and equal opportunity for the designated airlines of each Contracting State to operate air services on any route specified in accordance with paragraph (2) of article 2 of the present Agreement.

(2) In the operation of international air services on the routes specified in accordance with paragraph (2) of article 2 of the present Agreement, any designated airline of either Contracting State shall take account of 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 over the same routes or parts thereof.

(3) The international air services on the routes specified in accordance with paragraph (2) of article 2 of the present Agreement should have as their primary objective the provision of capacity adequate to 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 points of a route specified in accordance with paragraph (2) of article 2 of the present Agreement, which are located in the territory of the other Contracting State, and points in third countries, shall be exercised, in the interests of an orderly development of international air transport, in such a way that capacity is related to:

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

Article 10

(1) The designated airlines shall communicate to the aeronautical authorities of both Contracting States not later than one month 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 types of aircraft to be used, and the flight schedules. This shall likewise apply to later changes.

(2) The aeronautical authority of either Contracting State shall furnish to the aeronautical authority of the other Contracting State at its 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 State 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 11

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.

1. 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 procedures of the International Air Transport Association (IATA), or should, if possible, agree on such rates directly between themselves after consulting with airlines of third countries which operate over the same routes or parts thereof.
2. Any rates so agreed shall be submitted for approval to the aeronautical Authorities of both Contracting States at least one month prior to the proposed date of their introduction. This period may be reduced in special cases if the aeronautical authorities so agree.
3. If no agreement has been reached between the designated airlines in accordance with paragraph (1) above, or if one of the Contracting States does not consent to the rates submitted for its approval in accordance with paragraph 2 above, the aeronautical authorities of the two Contracting States should by common accord fix those rates for routes or parts thereof on which there is disagreement or lack of consent.
4. If no accord as envisaged in paragraph 3 of this Article is reached between the aeronautical authorities of the two Contracting States the provisions of Article 15 of the present Agreement shall apply. Until such time as an arbitral award is rendered, the Contracting state which has withheld its consent to a given rate, shall be entitled to require the other Contracting State to maintain the rate previously in effect.

Article 12

In the event of a general multilateral air transport convention accepted by both Contracting States 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 14 of the present Agreement.

Article 13

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

Article 14

Consultation may be requested at any time by either Contracting state for the purpose of discussing the interpretation and application of or amendment to the present Agreement or to the route schedule. Such consultation shall begin within two months from the date of receipt of any such request.

Article 15

(1) To the extent that any disagreement arising out of the application or interpretation of the present Agreement cannot be settled in accordance with article 13 or 14 of this Agreement, it shall be submitted to an arbitral tribunal at the request of either Contracting State.

(2) Such arbitral tribunal shall be established in each individual case in such a way as to comprise one member to be appointed by each Contracting State and these two members shall then agree upon the choice of a national of a third State as their chairman. If the members are not appointed within two months after a Contracting State has announced its intention of referring the disagreement to arbitration, or if the members cannot agree upon the choice of a chairman within one month, either of the Contracting States 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 States or is otherwise prevented from carrying out this function, his deputy in office should make the necessary appointments.

(3) 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.

(4) In the event of failure to reach a settlement by negotiation, the arbitral tribunal shall reach its decisions by majority vote. Such decisions shall be binding.

Article 16

Each Contracting State may at any time give notice of termination of the present Agreement. The Agreement expires one year after the date of the receipt of such notice by the other Contracting State.

Article 17

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

Article 18

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

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

DONE at Ankara on July 5th, 1957 in two originals, each in the Turkish and German languages, each text being equally authentic.

For the Republic of Turkey:

Melih ESENBEL

For the Federal Republic of Germany:

Dr. Fritz OELLERS

Werner KREIPE

EXCHANGE OF NOTES

I

[TRANSLATION ¹ — TRADUCTION ²]

THE AMBASSADOR OF THE FEDERAL REPUBLIC OF GERMANY

Ankara, 5 July 1957

Excellency,

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 Turkey, signed at Ankara on July 5, 1957. During the discussions held in connection with the aforementioned Agreement it has been agreed that air services may be operated as follows:

¹ Translation by the Government of the Federal Republic of Germany.

² Traduction du Gouvernement de la République fédérale d'Allemagne.

- 1) The airlines designated by the Federal Republic of Germany enjoy the right to operate air services from points in the Federal Republic of Germany via intermediate points to Istanbul and Ankara and to points beyond.

Points may, if so desired, be omitted, provided that the point of origin of such route lies in the territory of the Federal Republic of Germany.

- 2) The airlines designated by the Republic of Turkey enjoy equal rights for air services to the Federal Republic of Germany and beyond as soon as the Turkish Republic so desires.

I have the honour to inform you that the Government of the Federal Republic of Germany agrees to the aforementioned rights granted. I would appreciate if you would let me know whether the Government of the Turkish Republic also approves these rights. In the affirmative this note and your note in reply shall constitute an Arrangement between our Governments.

Accept, Excellency, the assurance of my highest consideration.

OELLERS

His Excellency the Secretary General
of the Ministry of Foreign Affairs
Ambassador Melih Esenbel
Ankara

II

[TRANSLATION — TRADUCTION]

REPUBLIC OF TURKEY
MINISTRY OF FOREIGN AFFAIRS

Ankara, 5 July 1957

Sir,

I am pleased to inform you that I have received the note dated 5 July 1957, the text of which is set forth below, which you have addressed to me pursuant to article 2, paragraph 2, of the Air Transport Agreement between the Republic of Turkey and the Federal Republic of Germany signed at Ankara on 5 July 1957.

[See note I]

I am happy to inform you that the Turkish Government is in agreement with the provisions contained in your note as set forth above.

Accept, Sir, etc.

His Excellency Dr. Fritz Oellers
Ambassador of the Federal Republic of Germany
