

No. 12054

FEDERAL REPUBLIC OF GERMANY
and
TUNISIA

**Air Transport Agreement (with exchange of letters). Signed at
Tunis on 26 May 1969**

Authentic texts of the Agreement: German, Arabic and French.

Authentic texts of the exchange of letters: French and German.

Registered by the International Civil Aviation Organization on 9 October 1972.

RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
TUNISIE

**Accord relatif aux transports aériens (avec échange de lettres).
Signé à Tunis le 26 mai 1969**

Textes authentiques de l'Accord: allemand, arabe et français.

Textes authentiques de l'échange de lettres: français et allemand.

Enregistré par l'Organisation de l'aviation civile internationale le 9 octobre 1972.

[TRANSLATION — TRADUCTION]

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

The Federal Republic of Germany and the Republic of Tunisia,
Desiring to regulate air transport between their territories and beyond,
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 Republic of Tunisia, the Secretary of State for Public Works and Housing; 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 assume the functions exercised by these authorities;
- (b) the term “designated airline” means an airline which one Contracting Party has designated in writing to the other Contracting Party in accordance with article 3 of this Agreement 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” shall, for the purposes of this Agreement, have the meanings laid down in the most recent text in force of articles 2 and 96 of the Convention on International Civil Aviation of 7 December 1944.²

Article 2

(1) Each Contracting Party shall grant to the other Contracting Party for the purpose of operating international air services by designated airlines on the routes specified in accordance with paragraph (2) of this article :

- (a) the right to fly across its territory without landing;
- (b) the right to land in its territory for non-traffic purposes; and

¹ Came into force on 2 December 1971, i.e. 30 days after the exchange of the instruments of ratification, which took place at Bonn on 2 November 1971, in accordance with article 17(1) and (2).

² 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; vol. 514, p. 209, and vol. 740, p. 21.

(c) the right to land in its territory at points 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 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 between the Governments of the Contracting Parties.

Article 3

(1) Operation of the international air services on the routes specified in accordance with article 2, paragraph (2), of this Agreement may be started at any time if

- (a) the Contracting Party to which the rights referred to in article 2, paragraph (1), are granted has designated one or more airlines in writing, 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 subject to the provisions of article 10 of this Agreement, give without delay authorization to operate the international air services.

(3) Either Contracting Party may require an airline designated by the other Contracting Party to furnish proof 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) Either Contracting Party may withhold the exercise of the rights provided for in article 2 of this Agreement from any airline designated by the other Contracting Party if such airline is not able, upon request, to furnish proof that substantial ownership and effective control of such airline are vested in nationals or corporations of the other Contracting Party or in that Contracting Party itself.

Article 4

(1) Either Contracting Party may revoke, or limit by the imposition of conditions, the authorization granted in accordance with article 3, paragraph (2), of this 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 this Agreement or to fulfil the obligations arising therefrom. The same shall apply if the proof referred to in article 3, paragraph (4), of this Agreement is not furnished. Each Contracting Party shall exercise this right only after consultation as provided for in article 13 of this Agreement,

unless an immediate suspension of operations of imposition of conditions is necessary to avoid further infringements of laws or regulations.

(2) Either Contracting Party may, by notification in writing to the other Contracting Party and subject to the provisions of article 3 of this Agreement, replace 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 in the territory of 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 aircraft of a national airline engaged in similar international air services.

Article 6

(1) Aircraft operated by a designated airline of either Contracting Party and entering, departing again from or flying across the territory of the other Contracting Party, as well as fuel, lubricants, spare parts, regular equipment and aircraft stores on board such aircraft, shall be exempt from customs duties and other charges levied on the occasion of the import, export or transit of goods. This exemption shall also apply in so far as goods on board the aircraft in question are consumed in flight over the territory of the last-mentioned Contracting Party.

(2) Fuel, lubricants, aircraft stores, spare parts and regular equipment introduced temporarily into the territory of either Contracting Party in order, immediately or after storage, to be used there to equip the aircraft of a designated airline of the other Contracting Party or to be taken on board in any other way, or in order to be otherwise re-exported from the territory of the first-mentioned Contracting Party, shall be exempt from the customs duties and other charges referred to in paragraph (1) of this article.

(3) Fuel and lubricants taken on board aircraft of a designated airline of either Contracting Party within the territory of the other Contracting Party and used in international air traffic shall be exempt from the customs duties and other charges referred to in paragraph (1) of this article and from any special charges levied on consumption.

(4) Either Contracting Party may place the goods referred to in paragraphs (1) to (3) of this article under customs supervision.

(5) In so far as customs duties and other charges are not levied on the goods referred to in paragraphs (1) to (3) of this article, these goods shall not be subject to the economic prohibitions and restrictions upon entry and exit and in transit which would otherwise be applicable to them.

Article 7

Each Contracting Party shall grant the airline(s) of the other Contracting Party the right to transfer to its (or their) head office(s) the surplus receipts from the operation of air services.

Article 8

(1) The designated airlines of each Contracting Party shall enjoy equal rights in respect of the operation of air services on any route specified in accordance with article 2, paragraph (2), of this Agreement.

(2) In the operation of international air services on the routes specified in accordance with article 2, paragraph (2) of this Agreement, any designated airline of either Contracting Party shall take account of the interests of a designated airline of the other Contracting Party 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 article 2, paragraph (2), of this Agreement shall have as their primary objective the provision of capacity adequate to the foreseeable traffic demands to and from the territory of the Contracting Party designating the airline. The rights of such airline to carry traffic between points on a route specified in accordance with article 2, paragraph (2), of this Agreement which are located in the territory of the other Contracting Party and points in third States 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 Party 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 9

(1) The designated airlines shall communicate to the aeronautical authorities of both Contracting Parties not later than 30 days prior to the inauguration of air services on the routes specified in accordance with article 2, paragraph (2), of this Agreement the type of service, the types of aircraft to be used and the flight schedules. The same rule shall apply, *mutatis mutandis*, in respect of any subsequent changes.

(2) The aeronautical authority of either Contracting Party shall furnish to the aeronautical authority of the other Contracting Party 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 Party on the routes specified in accordance with article 2, paragraph (2), of this Agreement. Such data shall include all information required to determine the amount of traffic carried and the origin and destination of such traffic.

Article 10

(1) In fixing rates to be charged for passengers and freight on the routes specified in accordance with article 2, paragraph (2), of this 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 route or parts thereof.

(2) The rates shall, if possible, be agreed upon for each route between the designated airlines concerned. For this purpose, the designated airlines shall take into account such decisions as are applicable under the tariff-fixing procedure of the International Air Transport Association (IATA) or shall, if possible, agree on such rates directly between themselves after consulting with airlines of third States which operate over all or part of the same route.

(3) The rates so agreed upon shall be submitted for approval to the aeronautical authorities of the Contracting Parties not later than 30 days prior to the proposed date of their entry into force. This period may be reduced in special cases if the aeronautical authorities so agree.

(4) If the designated airlines fail to agree upon the rates in accordance with paragraph (2) of this article, or if one of the Contracting Parties expresses its disapproval of the rates submitted to it in accordance with paragraph (3) of this article, the aeronautical authorities of the Contracting Parties shall fix by agreement between them the rates for those routes and parts of routes in respect of which agreement has not been reached.

(5) If no agreement is reached between the aeronautical authorities of the Contracting Parties in accordance with paragraph (4) of this article, article 14 of this 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 11

Any designated airline of either Contracting Party may maintain and employ for its business its own personnel in the airports and towns in the territory of the other Contracting Party where it intends to be represented; if a designated airline decides not to establish its own organization in airports in the territory of the other Contracting Party, it shall, to the extent possible, entrust such work as may be required to the personnel of such an airport or to the

personnel of an airline designated by the other Contracting Party in accordance with article 3, paragraph (1) (a), of this Agreement.

Article 12

An exchange of views shall take place as needed between the aeronautical authorities of the Contracting Parties in order to achieve close co-operation and agreement in all matters pertaining to the application and interpretation of this Agreement.

Article 13

Consultation may be requested at any time by either Contracting Party for the purpose of discussing amendments to this Agreement or to the route schedule or discussing questions of interpretation. The same shall apply in respect of discussion of the application of the Agreement if, in the view of either Contracting Party, the exchange of views provided for in article 12 fails to produce a satisfactory result. Such consultation shall begin within 60 days from the receipt of the request by the other Contracting Party.

Article 14

(1) Any disagreement arising out of 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 submitted to an arbitral tribunal.

(2) The arbitral tribunal shall be established in each individual case in the following manner : each Contracting Party shall appoint one arbitrator, and these two arbitrators shall, by common agreement, select as president a national of a third State who shall be appointed by the Governments of the Contracting Parties. The arbitrators shall be appointed within 60 days, and the president within 90 days, from the date on which one of the Contracting Parties notifies the other of its intention to submit the disagreement to an arbitral tribunal.

(3) If the time-limits specified in paragraph (2) of this article are not observed, either Contracting Party may, in the absence of any other arrangement, request 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, the Vice-President who is his deputy in office shall make the necessary appointments.

(4) The arbitral tribunal shall take its decisions by majority vote. Its decisions shall be binding on both Contracting Parties. Each Contracting Party shall bear the expenses of its own arbitrator and the costs of its representation in the proceedings before the arbitral tribunal; the expenses of the president and

any other expenses shall be borne in equal parts by both Contracting Parties. In all other respects, the arbitral tribunal shall determine its own procedure.

Article 15

If the two Contracting Parties accede to one and the same general multilateral air transport convention, the provisions of the latter shall take precedence over those of this Agreement. Negotiations to determine the extent to which a multilateral convention shall abrogate, replace, amend or supplement this Agreement shall be held in accordance with article 13.

Article 16

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

Article 17

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

(2) This Agreement shall enter into force 30 days after the exchange of the instruments of ratification.

(3) Either Contracting Party may at any time give written notice of termination of this Agreement. The Agreement shall terminate one year after the date of the receipt of such notice by the other Contracting Party.

DONE at Tunis, on 26 May 1969, in six copies, two in the German language, two in the Arabic language and two in the French language, each of the six texts being equally authentic. In the event of any difference of interpretation, the French text shall prevail.

For the Federal Republic of Germany :
V. TANNSTEIN

For the Republic of Tunisia :
NOUREDDINE

EXCHANGE OF LETTERS

I

Tunis, 26 May 1969

Sir,

I have the honour, in pursuance of article 2, paragraph (2), of the Air Transport Agreement between the Federal Republic of Germany and the Republic of Tunisia, signed on [26 May 1969], to propose to you the following Arrangement on behalf of the Federal Republic of Germany :

Air services between our territories may be operated on the routes specified in the following route schedule :

ROUTE SCHEDULE

I. Routes operated by the airlines designated by the Federal Republic of Germany :

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>
<i>Points of origin</i>	<i>Intermediate points</i>	<i>Points in the territory of the Republic of Tunisia</i>	<i>Points beyond</i>
1. Points in the Federal Republic of Germany		Tunis	—
2. Points in the Federal Republic of Germany		Tunis	Tripoli
3. Points in the Federal Republic of Germany		Tunis	Points in Ghana, the Ivory Coast and Nigeria

II. Routes operated by the airlines designated by the Republic of Tunisia :

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>
<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>
1. Points in the Republic of Tunisia		Frankfurt	—
2. Points in the Republic of Tunisia		Frankfurt	Amsterdam
3. Points in the Republic of Tunisia		Frankfurt	Points in Denmark, Norway and Sweden

- 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.

If the Government of the Republic of Tunisia signifies its agreement to the above route schedule, I have the honour to propose that this note and your note of reply expressing the agreement of your Government shall constitute an arrangement between our Governments, which shall enter into force on the same date as the above-mentioned Agreement.

Accept, Sir, etc.

[*Initialed*]

His Excellency the Secretary of State for Foreign Affairs
Mr. Habib Bourguiba Jr.
Tunis

II

THE REPUBLIC OF TUNISIA
SECRETARIAT OF STATE FOR FOREIGN AFFAIRS

Tunis, 26 May 1969

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

[*See letter I*]

I have the honour to inform you of my agreement to the foregoing.
Accept, Sir, etc.

[HABIB BOURGUIBA, Jr.]

His Excellency the Ambassador of the Federal Republic of Germany
Tunis
