

No. 12431

**FEDERAL REPUBLIC OF GERMANY
and
URUGUAY**

**Air Transport Agreement (with exchanges of notes). Signed
at Montevideo on 31 August 1957**

Authentic texts: German and Spanish.

Registered by the International Civil Aviation Organization on 19 April 1973.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
URUGUAY**

Accord relatif aux transports aériens (avec échanges de notes). Signé à Montevideo le 31 août 1957

Textes authentiques : allemand et espagnol.

Enregistré par l'Organisation de l'aviation civile internationale le 19 avril 1973.

[TRANSLATION — TRADUCTION]

AIR TRANSPORT AGREEMENT¹ BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE EASTERN REPUBLIC OF URUGUAY

The Federal Republic of Germany and the Eastern Republic of Uruguay,

Desiring to regulate air transport between their territories and beyond, have agreed as follows:

Article 1. For the purposes of this 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 Eastern Republic of Uruguay, the Ministry of National Defence; or in both cases any other person or agency authorized to perform the functions 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, jurisdiction, protection or trusteeship of such State;

(c) The term “designated airline” shall mean an airline which one Contracting State has designated in writing to the other Contracting State in accordance with article 3 as being the airline which is to operate international air services on the routes specified in accordance with article 2, paragraph (2);

(d) The term “air service” shall mean any scheduled air service performed by aircraft for the public transport of passengers, mail and/or cargo;

(e) The term “international air service” shall mean an air service which passes through the air space over the territory of more than one State;

(f) The term “stop for non-traffic purposes” shall mean a landing for any purpose other than taking on or discharging passengers, mail and/or cargo.

Article 2. (1) Each Contracting State shall grant to the other Contracting State for the purpose of the operation of international air services by designated airlines;

—The right to fly across its territory;

—The right to make stops in its territory for non-traffic purposes; and

—The right to land at and depart from the points in its territory on each route specified in accordance with paragraph (2) in order to discharge or take on international traffic in 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 initiated at any time, provided that:

(a) The Contracting State to which the rights specified in article 2, paragraph (1), are granted has designated an airline in writing, and

¹ Came into force on 22 October 1972, one month after the exchange of the instruments of ratification, which took place at Bonn, in accordance with article 16.

(b) The Contracting State granting the said rights has authorized the designated airline to inaugurate the air services.

(2) The Contracting State granting the said rights shall, subject to the provisions of paragraphs (3) and (4) and subject to agreement as provided for in article 9, issue without delay the 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-mentioned State for the operation of international air traffic.

(4) Each Contracting State reserves the right to withhold the exercise of the rights provided for in article 2 from any airline designated by the other Contracting State if such airline is unable 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 issued 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 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 12, 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 notification to the other Contracting State, to withdraw the designation of any airline and to replace it 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 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 6. Each Contracting State shall grant to aircraft of a designated airline of the other Contracting State exclusively engaged in international air service, and to the supplies needed for their operation, the following fiscal privileges:

1. Aircraft operated by a designated airline of a Contracting State which enter and redepart from, or fly across, the territory of the other Contracting State, 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 upon the import, export or transit of such goods, even in respect of the part of the journey performed between points in the territory of the last-mentioned Contracting State.

2. Fuel, lubricants, spare parts and regular equipment for use in international air services taken on board aircraft of a designated airline within the territory of the other Contracting State under customs supervision shall enjoy, with regard to customs duties and other charges levied upon the import, export or transit of such goods, the same treatment as is accorded to airlines of most favoured nations operating transcontinental services outside South America. If, in applying this principle, a Contracting State does

not in the above-mentioned circumstances grant exemption from customs duties and other charges on such goods, the other Contracting State shall also have the right to levy customs duties and other charges on such goods introduced into its territory by or for a designated airline of the first-mentioned Contracting State.

Article 7. (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 article 2, paragraph (2).

(2) In the operation of international air services on the routes specified in accordance with article 2, paragraph (2), a designated airline of a 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 article 2, paragraph (2), shall 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 on a route specified in accordance with article 2, paragraph (2), which are situated in the territory of the other Contracting State and points in third countries shall be exercised, in the interests of 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 economic operation of through air services.

Article 8. (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 article 2, paragraph (2), the type of service, the types of aircraft to be used and the flight schedules. This shall also apply to any subsequent changes.

(2) The aeronautical authorities of either Contracting State shall furnish to the aeronautical authorities of the other Contracting State at their 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-mentioned Contracting State 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 the origin and destination of such traffic.

Article 9. (1) In fixing rates to be charged for passengers and freight on the routes specified in accordance with article 2, paragraph (2), 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 other airlines which operate over the same routes or parts thereof. In fixing such rates, the provisions of the following paragraphs shall be observed.

(2) The rates shall, if possible, be agreed for each route between the designated airlines concerned. For this purpose, the designated airlines shall be guided by such decisions as are applicable under the traffic conference procedures of the International Air Transport Association (IATA), or shall, 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.

(3) Any rates so agreed shall be submitted for approval to the aeronautical authorities of both Contracting States not later than one month 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 consent to the rates submitted for its approval in accordance with paragraph (3), the aeronautical authorities of the two Contracting States shall by common accord fix the rates for those routes or parts thereof on which there is disagreement or lack of consent.

(5) If no accord as envisaged in paragraph (4) is reached between the aeronautical authorities of the two Contracting States, the provisions of article 13 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 10. In the event of the entry into force of a general multilateral air transport convention accepted by both Contracting States, the provisions of the multilateral convention shall prevail. Any discussion 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 12 of this Agreement.

Article 11. Exchanges of views shall take place as needed between the aeronautical authorities of the two Contracting States in order to achieve close cooperation in all matters pertaining to the application and interpretation of this Agreement.

Article 12. (1) Consultation may be requested at any time by either Contracting State for the purpose of discussing the interpretation, application or amendment of this Agreement or of the route schedule. Such consultation shall begin within two months from the date of receipt of the request.

(2) Any amendments to this Agreement which may be agreed upon shall enter into force in accordance with the procedure specified in article 16.

(3) Any amendments to the route schedule shall enter into force as soon as they are agreed upon in an exchange of notes in accordance with article 2, paragraph (2).

Article 13. (1) To the extent that any disagreement arising out of the application or interpretation of this Agreement cannot be settled in accordance with article 11 or article 12, 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 appointed by each Contracting State and a chairman who shall be a national of a third State agreed upon by the members with the approval of the parties. If the members are not appointed within a period of 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 a further period of one month, the President of the Council of the International Civil Aviation Organization shall be invited to make the necessary appointments. His decision shall be binding on the Contracting States.

(3) In the event of failure to reach an amicable settlement, the arbitral tribunal shall take its decisions by majority vote. Unless otherwise agreed by the Contracting States, the arbitral tribunal shall determine its own rules of procedure and place of meeting.

(4) Each Contracting State shall bear the expenses of its own member and one half of the remaining expenses.

(5) The Contracting States undertake to comply with any provisional order made during the proceedings and with the arbitral award, which shall be final.

Article 14. Either Contracting State may denounce this Agreement at any time. The Agreement shall terminate one year after the date of receipt of notice of denunciation by the other Contracting State, unless the said notice is withdrawn by agreement between the Contracting States before the expiry of that period.

Article 15. This Agreement, any amendments thereto and any exchange of notes in accordance with article 2, paragraph (2), and article 12, paragraph (3), shall be communicated to the International Civil Aviation Organization for registration.

Article 16. This Agreement shall be ratified. The instruments of ratification shall be exchanged as soon as possible at Bonn. This Agreement shall enter into force one month after the date of exchange of the instruments of ratification.

IN WITNESS WHEREOF the undersigned plenipotentiaries have signed this Agreement.

DONE at Montevideo on 31 August 1957, in two original copies, each in the German and Spanish languages, both texts being equally authentic.

For the Federal Republic of Germany:

Dr. GEORG ROSEN

For the Eastern Republic of Uruguay:

OSCAR SECCO ELLAURI

EXCHANGES OF NOTES

I a

THE AMBASSADOR OF THE FEDERAL REPUBLIC OF GERMANY

Montevideo, 31 August 1957

Sir,

I have the honour to refer to article 2 of the Air Transport Agreement between the Federal Republic of Germany and the Eastern Republic of Uruguay, signed on 31 August 1957.

During the discussions held in connexion with the aforementioned Agreement it has been agreed that air services may be operated on the routes specified in the following route schedule:

- A. Routes to be operated by airlines designated by the Federal Republic of Germany: from points in the Federal Republic via intermediate points in France and/or Switzerland and/or Spain and/or Portugal and/or Africa and/or Recife and/or Rio de Janeiro and/or São Paulo and/or Porto Alegre to Montevideo and beyond to Buenos Aires and/or Santiago de Chile, in both directions.

- B. Routes to be operated by airlines designated by the Eastern Republic of Uruguay: from points in Uruguay via Porto Alegre and/or São Paulo and/or Rio de Janeiro and/or Recife via intermediate points in Africa and/or Portugal and/or Spain and/or Switzerland and/or France to Frankfurt am Main and beyond to the Scandinavian countries, in both directions.

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 let me know whether the Government of the Eastern Republic of Uruguay also approves this route schedule. If so, this note and your reply shall be deemed to constitute an agreement between our Governments.

Accept, Sir, etc.

[GEORG ROSEN]

His Excellency Professor Oscar Secco Ellauri
Minister for Foreign Affairs
Montevideo

II a

MINISTRY OF FOREIGN AFFAIRS

Montevideo, 31 August 1957

Sir,

I have the honour to acknowledge receipt of your note of today's date concerning the route schedule referred to in article 2, paragraph (2), of the Air Transport Agreement between the Eastern Republic of Uruguay and the Federal Republic of Germany.

[See note I a]

I have the honour to confirm the contents of your above note regarding the route schedule in connexion with the Air Transport Agreement concluded between the Eastern Republic of Uruguay and the Federal Republic of Germany, so that the exchange of notes on this subject shall be deemed to constitute an agreement between the two Governments.

Accept, Sir, etc.

[OSCAR SECCO ELLAURI]

His Excellency Dr. Georg Rosen
Ambassador of the Federal Republic of Germany
Montevideo

I b

THE AMBASSADOR OF THE FEDERAL REPUBLIC OF GERMANY

Montevideo, 31 August 1957

Sir,

I have the honour to refer to the German-Uruguayan Air Transport Agreement signed at Montevideo on 31 August 1957.

In the discussions relating to the Agreement, the Contracting States agreed to put into effect the following arrangement:

In accordance with the route schedule agreed upon in the exchange of notes provided for in article 2 of the Agreement, the German designated airline shall make stops at the Montevideo airport at least once a week on the route specified under A.

Should the German designated airline wish to make more than two stops weekly, the aeronautical authorities of the two countries shall make the necessary arrangements.

I have the honour to inform you that the Government of the Federal Republic of Germany agrees to this arrangement. I should be grateful if you would inform me whether the Government of the Eastern Republic of Uruguay also approves it.

If so, this note and your reply shall be regarded as constituting an agreement between the two Governments.

Accept, Sir, etc.

Dr. GEORG ROSEN

His Excellency Professor Oscar Secco Ellauri
Minister for Foreign Affairs
Montevideo

II *b*

MINISTRY OF FOREIGN AFFAIRS

Montevideo, 31 August 1957

Sir,

I have the honour to acknowledge receipt of your note of today's date referring to stops to be made at the Montevideo airport by the German designated airline.

[See note I b]

I have the honour to agree to your proposals concerning the stops to be made at the Montevideo airport by the German designated airline and to confirm that, should the German designated airline wish to make more than two stops weekly, the aeronautical authorities will make the necessary arrangements, this exchange of notes being regarded as constituting an agreement between the two Governments.

Accept, Sir, etc.

[OSCAR SECCO ELLAURI]

His Excellency Dr. Georg Rosen
Ambassador of the Federal Republic of Germany
Montevideo