

No. 14912

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and
ZAIRE**

**Agreement for air services between and beyond their
respective territories (with annex). Signed at Kinshasa
on 17 May 1974**

Authentic texts: English and French.

*Registered by the United Kingdom of Great Britain and Northern Ireland on
27 July 1976.*

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
et
ZAÏRE**

**Accord relatif aux transports aériens entre leurs pays
respectifs et au-delà (avec annexe). Signé à Kinshasa le
17 mai 1974**

Textes authentiques : anglais et français.

*Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le
27 juillet 1976.*

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE NATIONAL EXECUTIVE COUNCIL OF THE REPUBLIC OF ZAIRE FOR AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES

The Government of the United Kingdom of Great Britain and Northern Ireland and the National Executive Council of the Republic of Zaire,

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944,²

Desiring to conclude an Agreement, supplementary to the said Convention, for the purpose of establishing air services between and beyond their respective territories,

Have agreed as follows:

Article 1. DEFINITIONS

For the purpose of this Agreement, unless the context otherwise requires:

(a) The term “the Convention” means the Convention on International Civil Aviation, opened for signature at Chicago on the seventh day of December 1944, and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have become effective for or been ratified by both Contracting Parties;

(b) The term “aeronautical authorities” means, in the case of the United Kingdom, the Secretary of State for Trade or any person or body authorised to perform a particular function to which this Agreement relates, and, in the case of the Republic of Zaire, *le Commissaire d'Etat aux Transports et Communications* and any person or body authorised to perform any of the functions presently exercised by the said authority or similar functions;

(c) The term “designated airline” means an airline which has been designated and authorised in accordance with Article 4 of this Agreement;

(d) The term “territory” in relation to a State has the meaning assigned to it in Article 2 of the Convention;

(e) The terms “air service”, “international air service”, “airline” and “stop for non-traffic purposes” have the meanings respectively assigned to them in Article 96 of the Convention.

Article 2. APPLICABILITY OF CHICAGO CONVENTION

In the application of this Agreement the provisions of the Convention shall be observed insofar as those provisions are applicable to international air services.

Article 3. GRANT OF RIGHTS

(1) Each Contracting Party grants to the other Contracting Party the following rights in respect of its scheduled international air services:

¹ Came into force on 12 November 1975, upon notification by the Contracting Parties of the completion of their respective constitutional requirements, in accordance with article 17.

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; vol. 740, p. 21; vol. 893, p. 117; and vol. 958, p. 217.

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

(2) Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the purpose of establishing scheduled international air services on the routes specified in the appropriate Section of the Schedule annexed to this Agreement. Such services and routes are hereafter called "the agreed services" and "the specified routes" respectively. While operating agreed services on specified routes the airlines designated by each Contracting Party shall enjoy in addition to the rights specified in paragraph (1) of this Article the right to make stops in the territory of the other Contracting Party at the points specified for those routes in the Schedule to this Agreement for the purpose of taking on board and discharging passengers and cargo including mail.

(3) Nothing in paragraph (2) of this Article shall be deemed to confer on the airlines of one Contracting Party the privilege of taking on board, in the territory of the other Contracting Party, passengers and cargo including mail carried for hire or reward and destined for another point in the territory of the other Contracting Party.

Article 4. DESIGNATION OF AIRLINES

(1) Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines for the purpose of operating the agreed services on the specified routes.

(2) On receipt of such designations the other Contracting Party shall, without delay, subject to the provision of paragraphs (3) and (4) of this Article, grant to the airline or airlines designated in accordance with paragraph (1) of this Article the appropriate operating authorisations.

(3) The aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied to the operation of international air services by such authorities in conformity with the provisions of the Convention.

(4) Each Contracting Party shall have the right to refuse to grant the operating authorisations referred to in paragraph (2) of this Article, or to impose such conditions as it may deem necessary on the exercise by a designated airline of the rights specified in Article 3 of this Agreement, in any case where the said Contracting Party is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals.

(5) When an airline has been so designated and authorised it may operate the agreed services, provided that tariffs established in accordance with the provisions of Article 9 of this Agreement are in force in respect of these services.

Article 5. REVOCATION OR SUSPENSION OF OPERATING AUTHORISATIONS

(1) Each Contracting Party shall have the right to revoke an operating authorisation or to suspend the exercise of the rights specified in Article 3 of this Agreement by an airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of these rights:

- (a) in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of such Contracting Party; or
- (b) in the case of failure by that airline to comply with the laws or regulations of the Contracting Party granting these rights; or

(c) in case the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.

(2) Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph (1) of this Article is essential to prevent further infringements of laws or regulations, such right shall be exercised only after consultation with the other Contracting Party.

Article 6. EXEMPTION FROM CHARGES ON EQUIPMENT, FUEL, STORES, ETC.

(1) Aircraft operated on international air services by the designated airlines of either Contracting Party, as well as their regular equipment, supplies of fuel and lubricants, and aircraft stores (including food, beverages and tobacco) on board such aircraft shall be exempt from all customs duties, inspection fees and other similar charges on arriving in the territory of the other Contracting Party, provided such equipment and supplies remain on board the aircraft up to such time as they are re-exported or are used on the part of the journey performed over that territory.

(2) There shall also be exempt from the same duties, fees and charges, with the exception of charges corresponding to the service performed:

- (a) aircraft stores taken on board in the territory of a Contracting Party, within limits fixed by the authorities of the said Contracting Party, and for use on board outbound aircraft engaged on an international air service of the other Contracting Party;
- (b) spare parts introduced into the territory of either Contracting Party for the maintenance or repair of aircraft used on international air services by the designated airlines of the other Contracting Party;
- (c) fuel and lubricants destined to supply aircraft operated on international air services by the designated airlines of the other Contracting Party, even if those supplies have been taken on board in the territory of the other Contracting Party and are to be used on the part of the journey performed over the territory of the Contracting Party in which they were taken on board.

Either Contracting Party may require the materials referred to in sub-paragraphs (a), (b) and (c) to be kept under Customs supervision or control.

Article 7. UNLOADING OF EQUIPMENT, ETC.

The regular airborne equipment, as well as the materials and supplies retained on board the aircraft of either Contracting Party, may be unloaded in the territory of the other Contracting Party only with the approval of the Customs authorities of that territory. In such case, they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with Customs regulations.

Article 8. PRINCIPLES GOVERNING OPERATION OF AGREED SERVICES

(1) There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to operate the agreed services on the specified routes between their respective territories.

(2) In operating the agreed services, the designated airlines of each Contracting Party shall take into account the interests of the airlines of the other Contracting Party so as not to affect unduly the services which the latter provide on the whole or part of the same routes.

(3) The agreed services provided by the designated airlines of the Contracting Parties shall bear close relationship to the requirements of the public for transportation on

the specified routes and shall have as their primary objective the provision, at a reasonable load factor, of capacity adequate for the current and reasonably anticipated requirements for the carriage of passengers and cargo including mail originating from or destined for the territory of the Contracting Party which has designated the airline. Capacity provided for the carriage of passengers and cargo including mail both taken on board and discharged at points on the specified routes in the territories of States other than that designating the airline shall be related to:

- (a) traffic requirements to and from the territory of the Contracting Party which has designated the airline;
- (b) traffic requirements of the area through which the agreed services pass, after taking account of other transport services established by airlines of the States comprising the area; and
- (c) the requirements of through airline operation.

Article 9. TARIFFS

(1) For the purpose of the following paragraphs, the term "tariff" means the prices to be paid for the carriage of passengers and cargo and the conditions under which these prices apply, including prices and conditions for agency and other auxiliary services but excluding remuneration and conditions for the carriage of mail.

(2) The tariffs to be charged by the designated airlines of one Contracting Party for carriage to or from the territory of the other Contracting Party shall be established at reasonable levels, due regard being paid to all relevant factors, including cost of operation, reasonable profit, and the tariffs of other airlines.

(3) The tariffs referred to in paragraph (2) of this Article shall, if possible, be agreed by the designated airlines concerned of both Contracting Parties, after consultation with the other airlines operating over the whole or part of the route, and such agreement shall, wherever possible, be reached by the use of the procedures of the International Air Transport Association for the working out of tariffs.

(4) The tariffs so agreed shall be submitted for the approval of the aeronautical authorities of both Contracting Parties at least ninety (90) days before the proposed date of their introduction. In special cases, this period may be reduced, subject to the agreement of the said authorities.

(5) This approval should in principle be given expressly. But if neither of the aeronautical authorities has expressed disapproval within thirty (30) days from the date of submission, in accordance with paragraph (4) of this Article, these tariffs shall be considered as approved. In the event of the period for submission being reduced, as provided for in paragraph (4), the aeronautical authorities may agree that the period within which any disapproval must be notified shall be less than thirty (30) days.

(6) If a tariff cannot be agreed in accordance with paragraph (3) of this Article, or if, during the period applicable in accordance with paragraph (5) of this Article, one aeronautical authority gives the other aeronautical authority notice of its disapproval of a tariff agreed in accordance with the provisions of paragraph (3) of this Article, the aeronautical authorities of the two Contracting Parties shall, after consultation with the aeronautical authorities of any other State whose advice they consider useful, endeavour to determine the tariff by mutual agreement.

(7) If the aeronautical authorities cannot agree on any tariff submitted to them under paragraph (4) of this Article, or on the determination of any tariff under paragraph (6) of this Article, the dispute shall be settled in accordance with the provisions of Article 14 of this Agreement.

(8) A tariff established in accordance with the provisions of this Article shall remain in force until a new tariff has been established. Nevertheless, a tariff shall not be prolonged by virtue of this paragraph for more than twelve (12) months after the date on which it would otherwise have expired.

Article 10. PROVISION OF STATISTICS

The aeronautical authorities of a Contracting Party shall supply to the aeronautical authorities of the other Contracting Party at their request such periodic or other statements of statistics as may be reasonably required for the purpose of reviewing the capacity provided on the agreed services by the designated airlines of the Contracting Party referred to first in this Article. Such statements shall include all information required to determine the amount of traffic carried by those airlines on the agreed services and the origins and destinations of such traffic.

Article 11. TRANSFER OF EARNINGS

Each Contracting Party grants to the designated airlines of the other Contracting Party the right of free transfer of the excess of their receipts in its territory over their expenditure therein. Such transfers shall be effected on the basis of the prevailing foreign exchange market rates for current payments.

Article 12. AIRLINE REPRESENTATION

The designated airline or airlines of one Contracting Party shall be entitled, subject to the laws and regulations relating to entry and residence of the other Contracting Party, to bring in and maintain on the territory of such other Contracting Party their own representatives together with such technical and commercial staff as are required for the provision of the air services.

Article 13. CONSULTATION

(1) In a spirit of close co-operation, the aeronautical authorities of the Contracting Parties shall consult each other from time to time with a view to ensuring the implementation of, and satisfactory compliance with, the provisions of this Agreement and the annexed Schedule and shall consult when necessary to provide for modifications thereof.

(2) Either Contracting Party may request consultation, which may be either oral or in writing and shall begin within a period of sixty (60) days of the date of receipt of the request, unless both Contracting Parties agree to an extension of this period.

Article 14. SETTLEMENT OF DISPUTES

(1) If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement, the Contracting Parties shall in the first place endeavour to settle it by negotiation.

(2) If the Contracting Parties fail to reach a settlement by negotiation, they may agree to refer the dispute for decision to some person or body; if they do not so agree, the dispute shall at the request of either Contracting Party be submitted for decision to a tribunal of three arbitrators, one to be nominated by each Contracting Party and the third to be appointed by the two so nominated. Each of the Contracting Parties shall nominate an arbitrator within a period of sixty (60) days from the date of receipt by either Contracting Party from the other of a notice through diplomatic channels requesting arbitration of the

dispute by such a tribunal, and the third arbitrator shall be appointed within the sixty (60) days which follow the nomination of the first two. If either of the Contracting Parties fails to nominate an arbitrator within the period specified, or if the third arbitrator is not appointed within the period specified, the President of the Council of the International Civil Aviation Organisation may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. In such case, the third arbitrator shall be a national of a third State and shall act as President of the arbitral tribunal.

(3) Each of the Contracting Parties shall bear the cost of the remuneration of its own arbitrator and half that of the third arbitrator.

(4) The Contracting Parties shall comply with any decision given under paragraph (2) of this Article.

Article 15. AMENDMENT

If either of the Contracting Parties considers it desirable to modify any provision of this Agreement including the annexed Schedule, such modification, if agreed between the Contracting Parties after consultation in accordance with Article 13 of this Agreement, shall come into effect when confirmed by an exchange of Notes, through the diplomatic channel.

Article 16. TERMINATION

Either Contracting Party may at any time give notice to the other Contracting Party of its decision to terminate this Agreement; such notice shall be simultaneously communicated to the International Civil Aviation Organisation. In such case the Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of acknowledgement of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organisation.

Article 17. ENTRY INTO FORCE

This Agreement shall enter into force upon notification by the Contracting Parties of the completion of their respective constitutional requirements.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by the Government of the United Kingdom of Great Britain and Northern Ireland and the National Executive Council of the Republic of Zaire respectively, have signed the present Agreement.

DONE at Kinshasa this seventeenth day of May 1974 in four original texts, two in the English language and two in the French language, the four texts being equally authentic.

For the Government
of the United Kingdom of Great
Britain and Northern Ireland:

MARK ALLEN

Her Britannic Majesty's Ambassador

For the National Executive Council
of the Republic of Zaire:

EKETEBI MOYIDIBA MONDJOLOMBA

Le Commissaire d'Etat
aux Transports et Communications¹

¹ State Commissioner for Transports and Communications.

ANNEX

ROUTE SCHEDULE

Section 1. *Route to be operated by the designated airline
or airlines of Zaire*

Points in Zaire—Intermediate points in Africa and Western Europe (including Brussels and Paris)—London—Points beyond in Western Europe.

NOTES. 1. In both directions.

2. The designated airline or airlines of Zaire may on any or all flights omit calling at any point provided that the agreed services on the route begin at a point in Zaire territory.

3. No traffic is to be uplifted at any intermediate or beyond point for discharge at London nor is any traffic to be uplifted at London for discharge at any intermediate or beyond point, except that an airline designated by Zaire may on one service a week uplift traffic at Paris and/or Brussels for discharge at London, and may on one service a week uplift traffic at London for discharge at Paris and/or Brussels.

Section 2. *Route to be operated by the designated airline
or airlines of the United Kingdom*

Points in the United Kingdom—Intermediate points in Western Europe and Africa (including Kano and Lagos)—Kinshasa—Points beyond in Africa.

NOTES. 1. In both directions.

2. The designated airline or airlines of the United Kingdom may on any or all flights omit calling at any point provided that the agreed services on the route begin at a point in United Kingdom territory.

3. No traffic is to be uplifted at any intermediate or beyond point for discharge at Kinshasa nor is any traffic to be uplifted at Kinshasa for discharge at any intermediate or beyond point, except that an airline designated by the United Kingdom may on one service a week uplift traffic at Kano and/or Lagos for discharge at Kinshasa, and may on one service a week uplift traffic at Kinshasa for discharge at Kano and/or Lagos.
