

No. 15788

**FEDERAL REPUBLIC OF GERMANY
and
TOGO**

Air Transport Agreement. Signed at Bonn on 27 May 1971

Authentic texts: German and French.

Registered by the International Civil Aviation Organization on 8 July 1977.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
TOGO**

**Accord relatif au transport aérien. Signé à Bonn le 27 mai
1971**

Textes authentiques : allemand et français.

*Enregistré par l'Organisation de l'aviation civile internationale le 8 juillet
1977.*

[TRANSLATION — TRADUCTION]

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

The Federal Republic of Germany and the Republic of Togo,

Desiring to promote the development of air transport services between their respective territories and to further as much as possible international co-operation in this field,

Desiring to apply to these services the principles and provisions of the Convention on International Civil Aviation signed at Chicago on 7 December 1944,²

Have agreed as follows:

TITLE I. GENERAL

Article 1. The Contracting Parties grant to each other the rights specified in this Agreement for the establishment of the international civil air services listed in a route schedule to be agreed upon in an exchange of diplomatic notes.

Article 2. For the purposes of this Agreement:

(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 Togo, the Minister of Public Works, Mines, Transport, Posts and Telecommunications;
- (b) The term "designated airline" means:
- an airline which one of the Contracting Parties has designated in writing to the other Contracting Party in accordance with article 12 of this Agreement.

Article 3. 1. Aircraft operated in international service by the designated airline of a Contracting Party, as well as their regular equipment, their supplies of fuel and lubricants and their aircraft stores (including foodstuffs, beverages and tobacco), shall, on entry into the territory of the other Contracting Party, be exempt from all customs duties, inspection fees and similar duties and charges, provided that such equipment and stores remain on board the aircraft until re-exported. Such aircraft shall remain subject to customs control.

2. The following shall likewise be exempt from all customs duties, inspection fees and similar duties and charges, excluding fees and charges levied as consideration for services rendered:

- (a) aircraft stores, equipment and other consumable items, irrespective of origin, obtained in the territory of either Contracting Party in quantities not exceeding the limits set by the authorities of the said Contracting Party, and taken on board aircraft of the other Contracting Party engaged in international service;

¹ Came into force on 21 March 1976, i.e., 30 days after the date of exchange of the instruments of ratification, which took place at Lomé on 20 February 1976, in accordance with article 19 (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; vol. 740, p. 21; vol. 893, p. 117, and vol. 958, p. 217.

- (b) spare parts imported into the territory of either Contracting Party for the maintenance or repair of aircraft used in international navigation by the designated airline of the other Contracting Party;
- (c) fuels and lubricants intended for aircraft used in international traffic by the designated airline of the other Contracting Party, even where such supplies are consumed during that part of the flight which takes place over the territory of the Contracting Party in which they were taken on board.

Either Contracting Party may keep the goods indicated above under customs control.

3. Regular equipment, supplies and stores on board the aircraft of either Contracting Party ~~may be uploaded in the territory of the other Contracting Party only~~

with the consent of the customs authorities of that territory. When so unloaded, they may be placed under the supervision of the said authorities until they are re-exported or declared to customs.

Article 4. Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Contracting Party and still valid shall be recognized as valid by the other Contracting Party for the purpose of operation of the air services specified in the route schedule. Each Contracting Party reserves the right, however, to refuse to recognize as valid for flight above its own territory certificates of competency and licences issued to its own nationals by the other Contracting Party.

Article 5. 1. The laws and regulations of each Contracting Party relating to the admission to and departure from its territory of aircraft engaged in international navigation or to the operation and navigation of such aircraft while within its territory shall apply to aircraft of the airline of the other Contracting Party.

2. Passengers, crews and shippers of goods shall be required to comply, either personally or through a third party acting in their name and on their behalf, with the laws and regulations in force in the territory of each Contracting Party governing the entry, stay and departure of passengers, crews and cargo, such as those relating to entry, exit clearance, immigration, customs and requirements under health regulations.

Article 6. The charges imposed in the territory of a Contracting Party for the use of airports and other aeronautical facilities by aircraft of the designated airline of the other Contracting Party shall not be higher than those levied upon aircraft of a domestic airline engaged in similar international air services.

Article 7. Each Contracting Party reserves the right to withhold an operating permit from the airline designated by the other Contracting Party, or to revoke such a permit, whenever it considers on sufficient grounds that it has no proof that substantial ownership and effective control of that airline are vested in the other Contracting Party or its nationals or in the case of failure by that airline to comply with the laws and regulations referred to in article 5 or to fulfil its obligations under this Agreement.

Article 8. Exchanges of views shall take place as needed between the aeronautical authorities of the two Contracting Parties to ensure close co-operation and agreement in all matters pertaining to the application and interpretation of this Agreement. If, in the opinion of either Contracting Party, such an exchange of views has not been successful, the procedure provided for in article 9 shall be applied.

Article 9. Either Contracting Party may at any time request consultation between the competent authorities of the two Contracting Parties concerning the interpretation, application or amendment of this Agreement. Such consultation shall begin no later than 30 days after the request is received.

Article 10. 1. Any dispute relating to the interpretation or application of this Agreement which cannot be settled in accordance with the provisions of article 9 shall, on the request of either Contracting Party, be referred to an arbitral tribunal.

2. This *ad hoc* arbitral tribunal shall be established in the following manner: each Contracting Party shall appoint one member and these two members shall agree upon a national of a third State as chairman, who shall be appointed by the Governments of the two Contracting Parties.

3. If the two arbitrators have not been appointed within a period of 60 days from the date on which one of the two Governments proposed arbitration of the dispute, or if the arbitrators fail to agree on the appointment of a chairman within a further period of 30 days, either Contracting Party may request the President of the Council of the International Civil Aviation Organization to make the necessary appointments.

4. If the arbitral tribunal fails to reach an amicable settlement, it shall render its decision by majority vote. Unless the Contracting Parties agree otherwise, it shall draw up its own rules of procedure and choose its own meeting place.

5. The Contracting Parties undertake to comply with any provisional measures ordered in the course of the proceedings and with the arbitral award, which shall be deemed final in all cases.

6. If and so long as either Contracting Party fails to comply with an arbitral award, the other Contracting Party may limit, suspend or revoke the rights and privileges which it has granted under this Agreement to the Contracting Party in default. Each Contracting Party shall pay the remuneration for the services of its own arbitrator and half the remuneration of the chairman.

TITLE II. AGREED SERVICES

Article 11. Each Contracting Party shall grant to the other Contracting Party the right to have the air services specified in the route schedule provided for in article 1 of this Agreement operated by a designate airline. The said services shall hereinafter be referred to as "agreed services".

Article 12. 1. The agreed services may be inaugurated immediately or at a later date at the option of the Contracting Party to which the rights are granted, provided that:

- (a) the Contracting Party to which the rights have been granted has designated an airline which is to operate on the specified route or routes;
- (b) the Contracting Party granting the rights has, on the conditions laid down in paragraph 2 below, given the airline concerned the requisite operating permit, which shall be granted as soon as possible, subject to the provisions of article 7 of this Agreement;
- (c) the provisions of article 18 have been fulfilled.

2. The designated airline may be required to satisfy the aeronautical authorities of the Contracting Party granting the rights that they are qualified to fulfil the conditions prescribed by the laws and regulations normally applied by those authorities to the operation of commercial airlines.

Article 13. 1. The airline designated by the Federal Republic of Germany under this Agreement shall enjoy, in Togolese territory, the right to set down and pick up passengers, mail and cargo in international traffic on the German routes listed in the route schedule.

2. The airline designated by the Republic of Togo under this Agreement shall enjoy, in the territory of the Federal Republic of Germany, the right to set down and pick up passengers, mail and cargo in international traffic on the Togolese routes listed in the route schedule.

Article 14. 1. The airline designated by each of the Contracting Parties under articles 11 and 12 must be substantially owned by the Contracting Party which has designated it or by nationals of that Contracting Party.

2. A Contracting Party which considers it has insufficient proof that this condition has been fulfilled may, before issuing the requested permit, propose consultation according to the procedure laid down in article 9. If such consultation produces no result, the matter shall be submitted to arbitration in accordance with article 10.

Article 15. 1. The airlines designated by the two Contracting Parties shall be assured fair and equitable treatment so that they may enjoy equal opportunity to operate the agreed services.

2. Where they operate on the same routes they shall take their mutual interests into account so as not to affect each other's services unduly.

Article 16. 1. The operation of the agreed services between the territory of Togo and the territory of the Federal Republic of Germany in both directions constitutes a basic and primary right of the two countries.

2. For the purpose of operation of these services:

- (a) the capacity shall be equally divided between the German and Togolese airlines, subject to paragraph 4 below;
- (b) the total capacity provided on each of the routes shall be adapted to such needs as may reasonably be expected.

3. In order to meet unforeseen or temporary traffic demands on the agreed routes, the designated airlines shall decide among themselves on appropriate measures to deal with such temporary increase in traffic. They shall report such measures immediately to the aeronautical authorities of their respective countries, which may proceed to an exchange of views if they see fit.

4. In the event that one of the Contracting Parties does not wish to operate, on one or more of the routes, part or all of the transport capacity it has been allotted, the aeronautical authorities of the two Parties shall come to an agreement with a view to transferring to the other Contracting Party, for a specified period, all or part of the capacity at its disposal within the agreed limits. The Contracting Party that has transferred all or part of its rights may recover them at the end of the specified period.

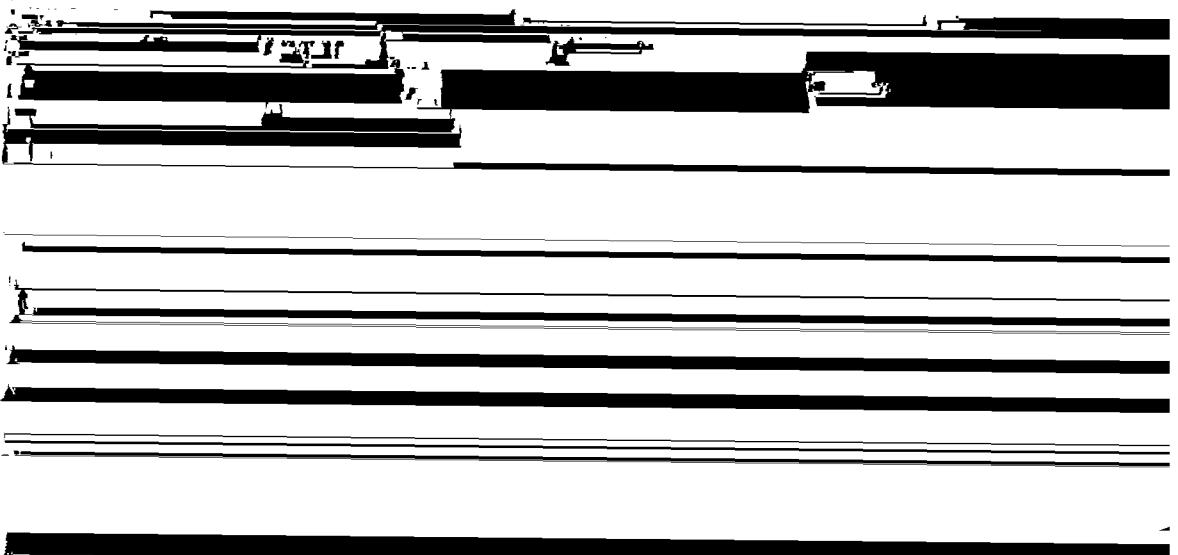
Article 17. 1. The designated airlines shall inform the aeronautical authorities of the two Contracting Parties not later than 30 days before the inauguration of the agreed services, of the type of service, the types of aircraft to be used and the proposed time-tables. The same rule shall apply in respect of any subsequent changes.

2. The aeronautical authorities of either Contracting Party shall supply, on request, to the aeronautical authorities of the other Contracting Party such periodic or

other statistical material as may reasonably be required in order to check the transport capacity provided by a designated airline of the first Contracting Party. These statistics shall include all the data required to determine the volume, origin and destination of the traffic.

Article 18. 1. The tariffs to be applied for the agreed services, for passengers and cargo, shall be fixed with due regard to all factors, such as the cost of operation, reasonable profit, the special characteristics of each route and the tariffs applied by other airlines operating on all or part of the same route. The tariffs shall be fixed in accordance with the provisions of the following paragraphs.

~~The tariffs shall if possible be fixed for each route by agreement between~~



DONE at Bonn on 27 May 1971 in four original copies, two in the German language and two in the French language, both texts being equally authentic.

For the Federal Republic of Germany:

SIGISMUND Frhr. v. BRAUN

For the Republic of Togo:

JOACHIM HUNLÉDÉ
