

No. 25187

FEDERAL REPUBLIC OF GERMANY
and
SRI LANKA

**Air Transport Agreement (with exchange of notes). Signed
at Colombo on 24 July 1973**

Authentic texts: German, Sinhala and English.

*Registered by the International Civil Aviation Organization on 17 August
1987.*

RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
SRI LANKA

**Accord relatif aux transports aériens (avec échange de
notes). Signé à Colombo le 24 juillet 1973**

Textes authentiques : allemand, cinghalais et anglais.

*Enregistré par le l'Organisation de l'aviation civile internationale le
17 août 1987.*

AIR TRANSPORT AGREEMENT¹ BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE REPUBLIC OF SRI LANKA

The Federal Republic of Germany and the Republic of Sri Lanka

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 the text otherwise requires:

(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 Sri Lanka, the Director of Civil Aviation or in both cases any other person or agency authorized to perform the functions exercised by the said authorities.

(b) The term “designated airline” shall mean the airline that one Contracting Party has designated in writing to the other Contracting Party in accordance with Article 3 of the present Agreement as being the airline which is to operate air services on the routes specified in accordance with paragraph (2) of Article 2 of the present Agreement.

(c) The term “Contracting Party” or “Contracting Parties” shall mean the Republic of Sri Lanka or the Federal Republic of Germany or both, as the case may be, or their duly authorized representatives.

(2) The terms “territory”, “air service”, and “stop for non-traffic purposes” shall, for the purpose of the present Agreement, have the meaning laid down in Articles 2 and 96 of the Convention of December 7, 1944, on International Civil Aviation as amended² at present or in future.

Article 2. (1) Each Contracting Party shall grant to the other Contracting Party for the purpose of operating air services by the designated airlines over 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

(c) The right to land in its territory at the points named on the routes specified in accordance with paragraph (2) of this Article, in order to take 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 air services shall be specified in a Route Schedule to be agreed upon in an exchange of notes between the Contracting Parties.

Article 3. (1) The air services on the routes specified in accordance with the paragraph (2) of Article 2 of the present Agreement may be started at any time, provided —

¹ Came into force on 3 March 1984, i.e., 30 days after the exchange of the instruments of ratification, which took place at Bonn on 2 February 1984, in accordance with article 17 (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; vol. 958, p. 217; vol. 1008, p. 213 and vol. 1175, p. 297.

(a) The Contracting Party to whom the rights specified in paragraph (1) of Article 2 are granted, has designated one airline, in writing, and

(b) The Contracting Party granting these rights has authorized the designated airline to initiate 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 9 of the present Agreement, give without delay the said authorization to operate the air service.

(3) The aeronautical authorities of one Contracting Party may require the 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 air services by such authorities in conformity with the provisions of the Convention.

(4) The aeronautical authorities of each Contracting Party may withhold the exercise of the rights provided for in Article 2 of the present Agreement from the airline designated by the other Contracting Party 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 Party or in that Party itself.

Article 4. (1) Each Contracting Party shall have the right to 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 Party 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 Party shall exercise this right only after consultation as provided for in Article 12 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 Party shall have the right by written communication to the other Contracting Party to replace subject to the provisions of Article 3 the 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 on the aircraft of the designated airline of the other Contracting Party shall not be higher than those imposed on aircraft of a national airline engaged in similar air services.

Article 6. (1) Aircraft operated by the designated airline of either Contracting Party and entering, departing 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 importation, exportation or transit of goods. This shall also apply to goods on board the aircraft consumed during the flight across the territory of the latter Contracting Party.

(2) Fuel, lubricants, aircraft stores, spare parts and regular equipment, temporarily imported into the territory of either Contracting Party, there to be immediately or after storage installed in or otherwise taken on board the aircraft of the designated airline of the other Contracting Party, or to be otherwise exported again from the territory of the former Contracting Party, shall be exempt from the customs duties and other charges mentioned in paragraph (1) of this Article.

(3) Fuel and lubricants taken on board the aircraft of the designated airline of either Contracting Party in the territory of the other Contracting Party and used in air services on the routes specified in accordance with paragraph (2) of Article 2 of the present Agreement, shall be exempt from the customs duties and other charges mentioned in paragraph (1) of this Article, as well as from any other special consumption charges.

(4) Each Contracting Party may keep the goods mentioned in paragraphs (1) to (3) of this Article under customs supervision.

(5) To the extent that no duties or other charges are imposed on goods mentioned in paragraphs (1) to (3) of this Article, such goods shall not be subject to any economic prohibitions or restrictions on importation, exportation or transit that may otherwise be applicable.

Article 7. (1) There shall be fair and equal opportunity for the designated airlines of both Contracting Parties 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 air services on the routes specified in accordance with paragraph (2) of Article 2 of the present Agreement, the designated airline of either Contracting Party shall take into account the interests of the 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 air services on the routes specified in accordance with paragraph (2) of Article 2 of the present Agreement shall have as their primary objective the provision of capacity adequate to the foreseeable traffic demand to and from the territory of the Contracting Party 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 Party, 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 Party designating the airline;
- (b) The traffic demand existing in the areas through which the air services pass, taking into account local and regional air services;
- (c) The requirements of an economical operation of through-traffic routes.

Article 8. (1) The designated airlines shall communicate to the aeronautical authorities of the Contracting Parties not later than thirty days prior to the initiation 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 authorities of either 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 airline of the first Contracting Party. Such statements shall include all information required to determine the amount of traffic carried by the airline on the agreed services and the origins and destinations of such traffic.

Article 9. (1) The rates to be charged for passengers and cargo on the routes specified in accordance with paragraph (2) of Article 2 of the present Agreement, shall be fixed with due regard to all factors, such as the cost of operation, a 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.

(2) The rates shall, if possible, be agreed for such routes 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 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 Parties not later than thirty days 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 has been reached between the designated airlines in accordance with paragraph (2) above, or if one of the Contracting Parties does not consent to the rates submitted for its approval in accordance with paragraph (3) above, the aeronautical authorities of the two Contracting Parties shall by common accord fix those rates for routes or parts thereof on which there is lack of agreement or of consent.

(5) If no accord as envisaged in paragraph (4) above is reached between the aeronautical authorities of the two Contracting Parties, the provisions of Article 13 of the present Agreement shall apply. Until such time as an arbitral award has been 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 10. (1) The airline designated by one Contracting Party shall, in the first instance, offer to the airline designated by the other Contracting Party the right to perform all services in relation to passenger handling, cargo handling and engineering services at the airport at rates to be mutually agreed upon. This, however, does not preclude the designated airline of either Contracting Party from employing its own personnel for management and agency purposes, as well as to advise and assist the handling airline. Work permits shall not be required.

(2) In the event of the designated airline of one Contracting Party declining to undertake the services, referred to above, the designated airline of the other Contracting Party may make its own arrangements regarding the performance of such services.

Article 11. 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 of the present Agreement.

Article 12. Consultation may be requested at any time by either Contracting Party for the purpose of discussing amendments to the present Agreement or to the Route Schedule or questions relating to interpretation. The same applies to discussions concerning the application of the present Agreement if either Contracting Party considers that an exchange of views within the meaning of Article 11 has not produced any satisfactory results. Such consultation shall begin within sixty days from the date of receipt by the other Contracting Party of any such request.

Article 13. (1) To the extent that any disagreement concerning the interpretation or application of the present Agreement cannot be settled in accordance with Article 12 of the present Agreement, it shall be submitted to an arbitral tribunal at the request of either Contracting Party.

(2) Such arbitral tribunal shall be constituted *ad hoc* as follows: each Contracting Party shall appoint one member, and these two members shall agree upon a national of a third State as their chairman to be appointed by the two Contracting Parties. Such members shall be appointed within sixty days, and such chairman within ninety days, from the date on which either Contracting Party has informed the other Contracting Party of its intention to submit the disagreement to an arbitral tribunal.

(3) If the periods specified in paragraph (2) above have not been observed, either Contracting Party may invite the President of the Council of the International Civil Aviation Organisation (ICAO) to make the necessary appointments. If the President is a national of either Contracting Party or if he is otherwise prevented from discharging this function, the Vice President deputizing for him should make the necessary appointments.

(4) The arbitral tribunal shall reach its decisions by a majority of votes. Such decisions shall be binding on both Contracting Parties. Each Contracting Party shall bear the costs of its own member as well as of its representation in the arbitral proceedings; the costs of the chairman and any other costs shall be borne in equal parts by the Contracting Parties. In all other respects, the arbitral tribunal shall determine its own procedure.

Article 14. In the event of a general multilateral air transport convention accepted by the Contracting Parties entering into force, the provisions of such 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 12 of the present Agreement.

Article 15. 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 by the aeronautical authorities of the Republic of Sri Lanka to the International Civil Aviation Organisation (ICAO) for registration.

Article 16. Each Contracting Party grants to the designated airline of the other Contracting Party the right to remit to its head office the excess over expenditure of receipts earned in the territory of the first Contracting Party. Such remittances, however, shall be in accordance with the foreign exchange regulations of the Contracting Party in the territory of which the revenue accrued.

Article 17. (1) The present Agreement shall be ratified. The instruments of ratification shall be exchanged as soon as possible.

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

(3) Each Contracting Party may at any time give written notice of termination of the present Agreement. It shall then expire one year from the date of receipt of such notice by the other Contracting Party.

GESCHEHEN ZU Colombo am 24. Juli 1973 in sechs Urschriften, je zwei in deutscher, singhalesischer und englischer Sprache, wobei jeder Wortlaut gleichermaßen verbindlich ist. Bei Streitigkeiten über die Auslegung und/oder Anwendung des Abkommens ist der englische Wortlaut maßgebend.

DONE at Colombo on 24 July 1973 in six originals, two each in the Sinhala, German and English languages, all six texts being equally authentic. In the event of there being any dispute in the interpretation and/or application of the Agreement the English text shall prevail.

Für die Bundesrepublik Deutschland:
For the Federal Republic of Germany:

F. G. HOFFMANN

Für die Republik Sri Lanka:
For the Republic of Sri Lanka:

LESLIE GOONEWARDENE

[TRANSLATION — TRADUCTION]

THE AMBASSADOR OF THE FEDERAL REPUBLIC OF GERMANY

Colombo, 24 July 1973

Excellency,

[See note II]

Accept, Excellency, etc.

[Signed]

F. J. HOFFMANN

His Excellency Mr Leslie Goonewardene
Minister of Transport
Republic of Sri Lanka
Colombo

II

MINISTRY OF TRANSPORT
THE SECRETARIAT

Colombo, 24th July, 1973

Excellency,

I have the honour to confirm the receipt of your note dated 24 July 1973 which reads as follows:

“I have the honour in implementation of paragraph (2) of Article 2 of the Air Transport Agreement between the Federal Republic of Germany and the Republic of Sri Lanka signed on 24 July 1973 to propose to you on behalf of the Government of the Federal Republic of Germany that the following Arrangement be concluded:

Air Services between our respective territories may be operated over the routes specified in the following Route Schedule:

ROUTE SCHEDULE

I. *Routes to be operated by the airline designated by the Federal Republic of Germany:*

From points in the Federal Republic of Germany via intermediate points to Colombo and points beyond.

II. *Routes to be operated by the airline designated by the Republic of Sri Lanka:*

From points in the Republic of Sri Lanka via intermediate points to Frankfurt and points beyond.

III. A designated airline may, if it so desires, omit one or more of the points on a specified route, provided that the point of origin of such route lies in the territory of the Contracting Party that has designated the airline.

If the Government of the Republic of Sri Lanka agrees to the above Route Schedule, I have the honour to propose that the present note and your Excellency's note in reply expressing your Government's agreement shall constitute an Arrangement between our Governments, to enter into force on the same date as the Air Transport Agreement mentioned above".

I have the honour to inform you that the Government of the Republic of Sri Lanka agrees to the Route Schedule contained in your note and to your proposal that your note and the present note in reply shall constitute an Arrangement between our Governments, to enter into force on the same date as the Air Transport Agreement between the Republic of Sri Lanka and the Federal Republic of Germany signed on 24 July 1973.

Accept, Excellency, the assurances of my highest consideration.

[Signed]

LESLIE GOONEWARDENE

H. E. Mr. Franz Josef Hoffmann
Ambassador of the Federal Republic
of Germany
Colombo