

No. 25188

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**FEDERAL REPUBLIC OF GERMANY  
and  
ZAIRE**

**Air Transport Agreement (with exchange of notes). Signed  
at Bonn on 14 June 1976**

*Authentic texts: German and French.*

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

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**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE  
et  
ZAÏRE**

**Accord relatif aux transport aériens (avec échange de  
notes). Signé à Bonn le 14 juin 1976**

*Textes authentiques : allemand et français.*

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

[TRANSLATION — TRADUCTION]

## AIR TRANSPORT AGREEMENT<sup>1</sup> BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE REPUBLIC OF ZAIRE

The Federal Republic of Germany and the Republic of Zaire,

Desiring to promote the development of air transport between the Federal Republic of Germany and the Republic of Zaire and to strengthen international co-operation in this field,

Guided in particular by the principles and provisions of the Convention on International Civil Aviation signed at Chicago on 7 December 1944,<sup>2</sup>

Have agreed as follows:

*Article 1.* The Contracting Parties shall grant each other the rights specified by this Agreement with a view to establishing the international civilian air links listed in the route schedule, which shall be determined by an exchange of diplomatic notes.

*Article 2.* 1. For the purposes of this Agreement and unless the text requires otherwise, the following terms mean:

(a) "Aeronautical authority": in the Federal Republic of Germany, the Federal Minister of Transport; in the Republic of Zaire, the Civil Aviation Authority of the Department of Transport and Communications or, in both cases, any person or agency authorized to perform the functions exercised by the said authorities.

(b) "Designated airline": an airline which one Contracting Party shall have designated by written notification to the other Contracting Party, in accordance with article 4 of this Agreement, as being an airline which shall operate international air services over the routes specified in the route schedule.

2. The terms "territory", "air service", "international air service" and "stop for non-traffic purposes" shall have, for the purpose of this Agreement, the meanings laid down in articles 2 and 96 of the most recent text in force of the Convention on International Civil Aviation of 7 December 1944.

*Article 3.* 1. Each Contracting Party shall grant the other Contracting Party for the purpose of the operation by the designated airlines of international air services on the routes specified in the route schedule:

(a) The right of overflight. This right shall not apply to zones over which flying is prohibited. Overflights shall in all instances take place in accordance with the regulations in force in the country whose territory is being flown across;

(b) The right to land in its territory for non-traffic purposes, on condition that the landing is made at an airport which is open to international traffic;

<sup>1</sup> Came into force on 14 December 1984, i.e., one month after the exchange of the instruments of ratification, which took place at Bonn on 14 November 1984, in accordance with article 20 (2).

<sup>2</sup> 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.

(c) The right to land in its territory at the points listed in the route schedule in order to take on or discharge passengers, mail and cargo in international traffic.

2. In implementation of paragraph 1, each Contracting Party shall designate the air lanes along which the aircraft of the other Contracting Party shall fly across its territory.

*Article 4.* 1. Operation of the international air services on the routes specified in the route schedule may be started at any time, provided:

(a) The Contracting Party to whom the rights specified in article 3, paragraph 1, are granted has designated an airline in writing; and

(b) The Contracting Party granting these rights has authorized the designated airline to inaugurate the air service.

2. The Contracting Party granting these rights shall, subject to the provisions of paragraphs 3 and 4 of article 12 of this Agreement, give without delay the said authorization to operate the international air service.

3. Each Contracting Party may require an airline designated by the other Contracting Party to satisfy it that it is qualified to meet the conditions prescribed under the laws and regulations of the first-mentioned Contracting Party governing the operation of international air traffic.

4. Each Contracting Party may withhold the exercise of the rights provided for in article 3 of this Agreement from any 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 Contracting Party itself.

*Article 5.* 1. Each Contracting Party may revoke, or limit by the imposition of conditions, the authorization granted in accordance with article 4, 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. This shall also apply if the proof referred to in article 4, paragraph 4, is not furnished. Each Contracting Party shall exercise this right only after consultations as provided for in article 16 of this Agreement, unless an immediate suspension of operations or imposition of restrictive conditions is necessary to avoid further infringements of laws or regulations.

2. Each Contracting Party may by written communication to the other Contracting Party, replace, subject to the provisions of article 4 of this Agreement, an airline which it has designated by another airline. The new designated airline shall have the same rights and be subject to the same obligations as the airline which it replaces.

*Article 6.* The charges imposed in the territory of either Contracting Party for 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 7.* 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 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, lubricating oils, 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 a designated airline of the other Contracting Party, or to be otherwise exported again 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 lubricating oils taken on board the aircraft of a designated airline of either Contracting Party in the territory of the other Contracting Party and used in international air service shall be exempt from customs duties and other charges referred to in paragraph 1 of this article, as well as from any special consumption charges.

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

5. Inasmuch as customs duties and other charges shall not be levied on the goods referred to in paragraphs 1 to 3 of this article, such goods shall not be subject to the economic prohibitions and restrictions which would otherwise apply to their importation, exportation and transit.

*Article 8.* 1. There shall be fair and equal opportunity for the designated airlines of each Contracting Party to operate air services on any route specified in the route schedule.

2. In the operation of international air services on the routes specified in the route schedule, 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. International air services on the routes specified in the route schedule shall have as their primary objective the provision of a transport 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 in the territory of the other Contracting Party between the points of a route specified in the route schedule and points located in third countries shall be exercised, in the interests of a well-ordered 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.* In the event that the aeronautical authority of either of the Contracting Parties should not wish to utilize, on one or more of the routes, a part or the whole of the capacity which it has been granted, it may transfer to the airline designated by the other Contracting Party, for a specified period, the unutilized part or the whole of its capacity. The aeronautical authority that has transferred all or part of its rights may recover them at any time.

*Article 10.* Each Contracting Party undertakes to grant to the other Contracting Party the free transfer, at the official rate, of the surplus revenue earned in its territory from the carriage of passengers, baggage, mail and cargo by the designated airline of the other Contracting Party.

*Article 11.* 1. The designated airline shall inform the aeronautical authorities of the two Contracting Parties not later than one month before the inauguration of the air services on the routes specified in the route schedule of the type of services, the types of aircraft to be used and the timetables. The same rule shall apply *mutatis mutandis*, in respect of any subsequent changes.

2. The aeronautical authorities of each Contracting Party shall provide the aeronautical authorities of the other Contracting Party, at their request, with such periodic or other statistical data on the designated airlines as may reasonably be required for the purpose of reviewing the capacity provided by a designated airline of the first Contracting Party on the route specified in the route schedule. Such data shall include all the information necessary for determining the volume, origin and destination of such traffic.

*Article 12.* 1. The rates for passengers and cargo on the routes specified in the route schedule shall be established with due regard to all factors, such as the cost of operation, reasonable profit, special characteristics of the various routes and the rates charged by other airlines serving all or part of the same route.

2. The rates shall, if possible, be agreed for each route by agreement 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 among themselves after consulting airlines of third countries which operate over the same routes or part thereof.

3. The rates so agreed shall be submitted for approval to the aeronautical authorities of each Contracting Party not less than one month before the date on which it is proposed that they should become effective. 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 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 Contracting Parties shall by mutual agreement establish the rates for those routes or parts thereof on which there is no agreement.

5. If no agreement as envisaged in paragraph 4 above is reached between the aeronautical authorities of the Contracting Parties, article 17 of this 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 13.* Each airline designated by either Contracting Party may maintain and employ its own personnel for its business transactions in the airports and cities in the territory of the other Contracting Party where it intends to maintain an agency. The work permit required for the exercise of these functions shall be granted on application. If a designated airline refrains from establishing its own organization at airports in the territory of the other Contracting Party, it shall

have its work performed, so far as possible, by the personnel of such an airport or of an airline designated by the other Contracting Party in accordance with article 4, paragraph 1, subparagraph (a), of this Agreement.

*Article 14.* Crew, passengers and shippers of cargo shall be bound to comply, either in person or through a third party acting on their behalf, with the laws and regulations governing admission to, stay in and departure from the territory of each Contracting Party of crew, passengers and cargo, such as those relating to entry, immigration, emigration, passports, clearance formalities, customs, health and currency regulations.

*Article 15.* Whenever necessary, an exchange of views shall take place between the aeronautical authorities of the Contracting Parties, with a view to ensuring close co-operation and understanding in all matters regarding the application of this Agreement.

*Article 16.* Either Contracting Party may, at any time, request a consultation with the other Contracting Party in order to discuss amendments to this Agreement or to the route schedule, or to discuss points of interpretation. This shall also apply to discussions on the implementation of the Agreement if, in the view of one of the Contracting Parties, the exchange of views referred to in article 15 has failed. The consultation shall begin within two months of the date on which the other Contracting Party receives the request.

*Article 17.* 1. To the extent that any disagreement arising out of the interpretation or application of the present Agreement cannot be settled in accordance with article 16 of this Agreement, it shall be submitted to an arbitral tribunal at the request of either Contracting Party.

2. Such arbitral tribunal shall be established on an *ad hoc* basis in such a manner that each Contracting Party shall designate one member, and these two members shall agree upon a national of a third State as their Chairman, who shall be appointed by the Governments of the two Contracting Parties. The members shall be designated within two months and the chairman within three months following notification by either Contracting Party to the other Contracting Party of its intention to submit the disagreement to arbitration.

3. In the event of failure to comply with the time-limits prescribed in paragraph 2 above, 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 designations. If the President is a national of either Contracting Party or if he is otherwise prevented, his deputy in office shall make the necessary designation.

4. The arbitral tribunal shall reach its decisions by a majority of votes. Such decisions shall be binding for both Contracting Parties. Each of the Contracting Parties shall bear the expenses of its own member as well as of its representation in the proceedings at the arbitral tribunal; the expenses of the chairman 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 18.* In the event of a general multilateral air transport convention accepted by both Contracting Parties entering into force, the provisions of the multilateral 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 16 of the present Agreement.

*Article 19.* This Agreement, any amendments thereto and any exchange of notes in respect of the route schedule shall be communicated to the International Civil Aviation Organization (ICAO) for registration.

*Article 20.* 1. The present Agreement shall be ratified. The instruments of ratification shall be exchanged as soon as possible at Bonn.

2. The present Agreement shall enter into force one month 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. Such notice shall be communicated to the International Civil Aviation Organization (ICAO). If a Contracting Party fails to acknowledge receipt, notice shall be deemed to have been received 15 days after it is received at the headquarters of the International Civil Aviation Organization (ICAO).

4. The Agreement shall expire one year after the date of the receipt of such notice by the other Contracting Party.

DONE at Bonn on 14 June 1976 in duplicate in the German and French languages, both texts being equally authentic.

For the Federal Republic of Germany:  
GENSCHER

For the Republic of Zaire:  
KARL-I-BOND

## EXCHANGE OF NOTES

### I

#### MINISTRY OF FOREIGN AFFAIRS

Bonn, 14 June 1976

Sir,

I have the honour to propose to you, pursuant to article 1 of the Air Transport Agreement initialled on 2 August 1971 between the Federal Republic of Germany and the Republic of Zaire, the following arrangement on behalf of the Government of the Federal Republic of Germany:

The air service between our respective territories may be operated on 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 between the points listed below, with fifth freedom rights:

1	2	3	4
<i>Point of origin</i>	<i>Intermediate points</i>	<i>Points in the territory of the Republic of Zaire</i>	<i>Points beyond</i>
Points in the Federal Republic of Ger- many	Accra and/or Tunis	Kinshasa	Lusaka and/or Johan- nesburg

II. Routes to be operated by the airline designated by the Republic of Zaire between the points listed below, with fifth freedom rights.

1	2	3	4
<i>Point of origin</i>	<i>Intermediate points</i>	<i>Points in the territory of the Federal Republic of Germany</i>	<i>Points beyond</i>
Points in the Republic of Zaire	Douala and/or Lagos	Frankfurt	Brussels and/or Paris

III. A designated airline may, at its discretion, omit one or more points on its route, on condition that the point of origin of that route is situated in the territory of the Contracting Party which has designated that airline.

IV. It is agreed between the Contracting Parties that any point on the designated routes not listed in the route schedule may be served without traffic rights between that point and the territory of the other Contracting Party.

If the Government of the Republic of Zaire agrees with the above route schedule, I have the honour to propose that this note together with your note of reply expressing the agreement of your Government shall constitute an arrangement between our Governments to enter into force on the same day as the aforesaid Agreement.

Accept, Sir, etc.

[HANS-DIETRICH GENSCHER]

His Excellency Mr Nquza Karl-i-Bond  
State Commissioner for Foreign Affairs  
and International Co-operation  
of the Republic of Zaire



## II

EMBASSY OF THE REPUBLIC OF ZAIRE  
TO THE FEDERAL REPUBLIC OF GERMANY

Bonn-Bad Godesberg, 14 June 1976

No. Ref. 05843

Sir,

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

[*See note I*]

I have the honour to inform you that the Government of the Republic of Zaire endorses the route schedule specified in your note and agrees that your note, together with the present note of reply, shall constitute an arrangement between our Governments, to enter into force the same day as the Air Transport Agreement between the Republic of Zaire and the Federal Republic of Germany.

Accept, Sir, etc.

[NQUZA KARL-I-BOND]

His Excellency Mr. Hans-Dietrich Genscher  
Federal Minister for Foreign Affairs

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