

No. 25190

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**FEDERAL REPUBLIC OF GERMANY**  
**and**  
**SEYCHELLES**

**Agreement for air services between and beyond their respective territories (with memorandum of understanding of 1 September 1979). Signed at Victoria, Mahé, on 27 February 1981**

*Authentic texts: German and English.*

*Authentic text of the memorandum: English.*

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

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**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**  
**et**  
**SEYCHELLES**

**Accord relatif aux services aériens entre leurs territoires respectifs et au-delà (avec mémorandum d'accord du 1<sup>er</sup> septembre 1979). Signé à Victoria, Mahé, le 27 février 1981**

*Textes authentiques : allemand et anglais.*

*Texte authentique du mémorandum : anglais.*

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

## AGREEMENT<sup>1</sup> BETWEEN THE REPUBLIC OF SEYCHELLES AND THE FEDERAL REPUBLIC OF GERMANY FOR AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES

The Republic of Seychelles and the Federal Republic of Germany (hereinafter described as the Contracting Parties);

Being Parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944,<sup>2</sup> and

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*

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

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

1.2 The term “aeronautical authorities” means, in the case of the Republic of Seychelles, the Ministry of Transport and Tourism or any person or body authorised to perform a particular function to which this Agreement relates; and in the case of the Federal Republic of Germany, the Federal Minister of Transport or any person or body authorised to perform a particular function to which this Agreement relates;

1.3 The term “designated airline” means an airline which has been designated and authorised in accordance with Article 4 of this Agreement.

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

1.5 The term “tariffs” means the prices to be paid for the carriage of passengers and cargo and the conditions under which those prices apply, including prices, commissions and conditions of agency and other auxiliary services, but excluding remuneration and conditions for the carriage of mail.

<sup>1</sup> Applied provisionally from the date of the initialling (i.e., 1 September 1979) of the memorandum of understanding, in accordance with paragraph 13 of the latter, and came into force on 8 January 1983, i.e., 30 days after the exchange of instruments of ratification, which took place at Victoria, Mahé, on 9 December 1982, 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.

### *Article 2*

[2.] The provisions of this Agreement shall be subject to the provisions of the Convention insofar as those provisions are applicable to international air services.

### *Article 3*

3.1 Each Contracting Party grants to the other Contracting Party the following rights in respect of international air services operated by its designated airline:

3.1.1 The right to fly across its territory without landing; and

3.1.2 The right to make stops in its territory for non-traffic purposes.

3.2 Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the purpose of establishing international air services on the routes specified in a Route Schedule agreed between the Governments of the two Contracting Parties. Such services and routes are hereinafter called the "agreed services" and the "specified routes" respectively. While operating an agreed service on a specified route the airline designated by each Contracting Party shall enjoy, in addition to the rights specified in paragraph 3.1 of this Article, the right to make stops in the territory of the other Contracting Party at the points specified for that route in the Schedule to this Agreement for the purpose of taking on board and discharging passengers, mail and cargo.

3.3 Nothing in paragraph 3.2 of this Article shall be deemed to confer on the designated airline of one Contracting Party the privilege of taking on board, in the territory of the other Contracting Party, passengers, mail and cargo carried for hire or reward, destined for another point in the territory of the other Contracting Party.

### *Article 4*

4.1 Each Contracting Party shall have the right to designate by diplomatic note to the other Contracting Party one airline for the purpose of operating the agreed services on the specified routes.

4.2 On receipt of such designation, the aeronautical authorities of the other Contracting Party shall, without delay, and subject to the provisions of paragraphs 4.3 and 4.4 of this Article, grant to the airline designated in accordance with paragraph 4.1 of this Article the appropriate operating authorisations.

4.3 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 applied to the operation of international air services by such authorities in conformity with the provisions of the Convention.

4.4 Each Contracting Party shall have the right to refuse to grant the operating authorisations referred to in paragraph 4.2 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 nationals of such Contracting Party.

4.5 When an airline has been so designated and authorised, it may operate the agreed services for which it is designated provided that tariffs established in accordance with the provisions of Article 7 of this Agreement are in force in respect of those services.

#### *Article 5*

5.1 Each Contracting Party shall have the right to revoke an operating authorisation or to suspend the exercise of the rights granted under 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:

- 5.1.1 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
- 5.1.2 In the case of failure by that airline to comply with the laws or regulations in force in the territory of the Contracting Party granting these rights; or
- 5.1.3 In the case of that airline otherwise failing to operate in accordance with the conditions prescribed under this Agreement.

5.2. Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph 5.1 of this Article is essential to prevent further infringements of the laws or regulations or the provisions of this Agreement, such right shall be exercised only after consultation between the Contracting Parties. Unless otherwise agreed by the Contracting Parties, such consultations shall begin within a period of sixty (60) days from the date of receipt of the request of such consultation.

#### *Article 6*

6.1 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.

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

6.3 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, mail and cargo originating from or destined for the territory of the Contracting Party which has designated the airline. Provision for the carriage of passengers, mail and cargo 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 made in accordance with the general principles that capacity shall be related to:

- 6.3.1 Traffic requirements to and from the territory of the Contracting Party which has designated the airline;
- 6.3.2 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

### 6.3.3 The requirements of through airline operation.

#### *Article 7*

7.1 Tariffs to be charged by the designated airline 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 costs of operation, reasonable profit, and the tariffs of other airlines.

7.2 Tariffs referred to in paragraph 7.1 of this Article shall, if possible, be agreed by the designated airlines of both Contracting Parties, after consultation with any other airlines operating over the whole or part of the routes, and such agreement shall, whenever possible, be reached by the use of the procedures of the International Air Transport Association for the working out of tariffs.

7.3. Tariffs so agreed shall be submitted for approval of the aeronautical authorities of both Contracting Parties at least forty-five (45) days before the proposed date of their introduction. In special cases, this period may be reduced, subject to the agreement of the said authorities.

7.4 If tariffs cannot be agreed in accordance with paragraph 7.2 of this Article, or if one aeronautical authority gives the other aeronautical authority notice of its disapproval of tariffs agreed in accordance with the provisions of paragraph 7.2 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 tariffs by mutual agreement.

7.5 If the aeronautical authorities cannot agree on tariffs submitted to them under paragraph 7.3 of this Article, or on the determination of tariffs under paragraph 7.4 of this Article, the dispute shall be settled in accordance with the provisions of Article 16 of this Agreement.

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

#### *Article 8*

8.1 Aircraft operated by the 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.

8.2 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 8.1 of this Article, with the exception of charges corresponding to the service performed.

8.3 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 international air services, shall be exempt from the customs duties and other charges mentioned in paragraph 8.1 of this Article.

8.4 Each Contracting Party may keep the goods mentioned in paragraphs 8.1 to 8.3 of this Article under Customs supervision or control.

8.5 To the extent that no duties are imposed on fuel, lubricants, spare parts and regular equipment, such goods shall not be subject to any economic prohibitions or restrictions on importation, exportation or transit that otherwise may be applicable.

#### *Article 9*

9.1 The regular airborne equipment, as well as the materials and supplies normally retained on board the aircraft of the designated airline 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.

9.2 In such cases they may be placed under the supervision of the said authorities up to such time as they are reexported or otherwise disposed of in accordance with Customs regulations.

#### *Article 10*

10.1 The laws, regulations and procedures of either Contracting Party relating to the admission to or departure from its territory of aircraft engaged in international air services, or to the operation and navigation of such aircraft, shall be complied with by aircraft of the designated airline of the other Contracting Party upon entrance into, and until and including departure from, the said territory.

10.2 The laws, regulations and procedures of either Contracting Party relating to immigration, passports or other approved travel documents, entry, clearance, customs and quarantine shall be complied with by or on behalf of crews, passengers, mail and cargo carried by aircraft of the designated airline of the other Contracting Party upon entrance into, and until and including departure from, the territory of the said Contracting Party.

10.3 Passengers, mail and cargo in direct transit across the territory of either Contracting Party and not leaving the area of the airport reserved for such purpose shall, except in respect of security measures for the suppression of unlawful acts against the safety of civil aviation and the unlawful seizure of aircraft, be subject to no more than a simplified control. Mail and cargo in direct transit shall be exempt from customs duties and other similar charges.

10.4 Fees and charges applied in the territory of either Contracting Party to the airline operations of the other Contracting Party for the use of airports and other aviation facilities shall not be higher than those applied to the operations of other airlines engaged in similar international air services.

10.5 Neither of the Contracting Parties shall give preference to any other airline over the designated airline of the other Contracting Party in the application of its customs, immigration, quarantine, and similar regulations or in the use of airports, airways and air traffic services and associated facilities under its control.

### *Article 11*

Certificates of airworthiness, certificates of competency and licences issued, or validated, by one Contracting Party and unexpired shall be recognised as valid by the other Contracting Party for the purpose of operating the agreed services on the specified routes. Provided always that such certificates or licences were issued, or validated, in conformity with the standards established under the Convention. Each Contracting Party, however, reserves the right to refuse to recognise, for flights above its own territory, certificates of competency and licences granted to its own nationals by the other Contracting Party.

### *Article 12*

The aeronautical authorities of one 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 necessary for the purpose of reviewing the capacity provided on the agreed services by the designated airline 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 that airline on the agreed services and the origins and destinations of such traffic.

### *Article 13*

Each Contracting Party grants to the designated airline of the other Contracting Party the right of free transfer of the excess of receipts over expenditure earned by that designated airline in the territory of the other Contracting Party. Such transfer shall be effected on the basis of the official exchange rates for current payments, or where there are no official exchange rates, at the prevailing foreign exchange market rates for current payments.

### *Article 14*

14.1 The designated airline of each Contracting Party shall be entitled, subject to the laws and regulations relating to entry and residence of the other Contracting Party, to introduce and maintain on the territory of such other Contracting Party its own representatives together with such technical and commercial staff as may reasonably be required for the provision of the agreed air services.

14.2 If a designated airline refrains from establishing its own organisation at airports in the territory of the other Contracting Party, it shall have its work performed, as far as possible, by the personnel of such airports or of the airline designated by the other Contracting Party in accordance with paragraph 4.1 of Article 4 of the present Agreement.

### *Article 15*

15.1 In a spirit of close cooperation 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 any Schedules hereto, and shall consult when necessary to provide for modification thereof.

15.2 Either Contracting Party may request consultations, which shall begin within sixty (60) days of the date of the receipt of the request unless both

Contracting Parties agree to an extension of this period. Such consultations may be either oral or in writing.

#### *Article 16*

16.1 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.

16.2 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 Contracting Party 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 or appropriate channels requesting arbitration of the dispute by such a tribunal and the third arbitrator shall be appointed within a further sixty (60) days. 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 state other than those of the Parties to this Agreement and shall act as President of the arbitral tribunal.

16.3 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 cost of its own member as well as of its representation in the arbitral proceedings; the cost 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.

16.4 If and for so long as either Contracting Party fails to comply with a decision given under paragraph 16.2 of this Article, the other Contracting Party may limit, suspend or revoke any rights or privileges which it has granted by virtue of this Agreement to the Contracting Party in default.

#### *Article 17*

In the event of a general multilateral air transport convention accepted by both 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 15.2 of the present Agreement.

#### *Article 18*

Either Contracting Party may at any time give notice in writing through diplomatic channels 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 this Agreement shall terminate twelve (12) months after the date when the notice has been received 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 19*

This Agreement and any amendment thereto shall be registered with the International Civil Aviation Organisation.

*Article 20*

20.1 The present Agreement shall be ratified. The instruments of ratification shall be exchanged as soon as possible.

20.2 The present Agreement shall enter into force thirty (30) days after the exchange of the instruments of ratification.

GESCHEHEN zu Victoria/Mahe am 27. Februar 1981 in zwei Urschriften, jede in deutscher und englischer Sprache, wobei jeder Wortlaut gleichermaßen verbindlich ist.

DONE at Victoria, Mahe on 27th February, 1981 in two originals in the English and German languages both texts being equally authentic.

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

Dr. ALFRED G. KÜHN

Für die Republik Seschellen:  
For the Republic of Seychelles:

OGILVY BERLOUIS

CONFIDENTIAL MEMORANDUM OF UNDERSTANDING BETWEEN  
THE DELEGATIONS OF THE FEDERAL REPUBLIC OF GERMANY  
AND THE REPUBLIC OF SEYCHELLES CONCERNING THE AIR  
SERVICES AGREEMENT BETWEEN THE TWO STATES

A delegation of the Federal Republic of Germany and a delegation of the Republic of Seychelles, the names of the delegates are attached, met from 27th August to 1st September 1979 at Victoria, Mahe, Seychelles in order to reach an Air Services Agreement between the two states.

The discussions which were held in a spirit of friendship and co-operation enabled an Air Services Agreement to be initialled.

The two delegations came to the following understanding:

1. The airline designated by the Federal Republic of Germany under Article 4 of the Agreement for the operation of the agreed services is Deutsche Lufthansa.

2. The airline designated by the Republic of Seychelles under Article 4 of the Agreement for the operation of the agreed services is Air Seychelles.

3. The routes to be operated were agreed to be:

3.1. *By the designated airline of the Federal Republic of Germany:*

1 point in the Federal Republic of Germany – 2 intermediate points – 1 point in the Republic of Seychelles — 1 point in Western Indian Ocean.

3.2. *By the designated airline of the Republic of Seychelles:*

1 point in the Republic of Seychelles – 2 intermediate points – 1 point in the Federal Republic of Germany – 1 point beyond in Northern Europe.

4. A designated airline may in addition to the points specified in the route schedule serve any other point without exercising traffic rights between that point and the territory of the other Contracting Party.

5. 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.

6. The traffic rights to be granted would be full third and fourth freedoms.

7. The exercise of traffic rights on intermediate points and points beyond shall be agreed upon by the two designated airlines and submitted to the aeronautical authorities of the Contracting Parties.

8. Each designated airline shall have the right initially to operate one return flight weekly, on the specified route.

9. The Seychelles Aeronautical Authorities reserve to themselves the right to refuse or revoke the operating authorisation if a commercial agreement between the designated airlines is not concluded within 3 months, and with retroactive effect, from the commencement of operation of the agreed services.

10. Article 8 of the Agreement has been so worded as to take account of the differing systems of the imposition of charges by the two Contracting Parties.

11. In relation to Article 14 of the Agreement it is the intention of the Contracting Parties that the issue of a work permit shall not unreasonably be withheld.

12. The payment of the Seychelles Passenger Service Fees shall be the responsibility of the designated airline and shall not be collected individually from the passengers in Seychelles.

13. It is agreed that pending the entry into force of the agreement the initialled text of the agreement including the Route Schedule will be applied by the aeronautical authorities of the two Contracting Parties with effect from the day of its initialling.

[Illegible]

For the Delegation  
of the Federal Republic of Germany

[Illegible]

For the Delegation  
of the Republic of Seychelles

#### LIST OF DELEGATIONS

*For the Federal Republic of Germany:*

Dr. W. Schwenk	Director Air Law Section, Federal Ministry of Transport.
Dr. D. Stukenberg	Deputy Director Air Transport Section, Federal Ministry of Transport.
Hr. E. Jacob	International Relations Lufthansa German Airlines, Adviser.
Mrs. U. Huegele-Peiseler	Interpreter.

*For the Republic of Seychelles:*

Capt. J. Ferrari	Principal Secretary, Ministry of Transport and Tourism.
Mrs. D. d'Offay	Principal Secretary, Ministry of Foreign Affairs.
Mr. G. M. Dickson	Director of Civil Aviation, Ministry of Transport and Tourism.
Mrs. M. Stravens	General Manager, Air Seychelles, Adviser.
Mr. M. Loustau-Lalanne	SATCO Ministry of Transport and Tourism.
Mr. B. Rassool	Senior State Counsel.