

No. 25189

**FEDERAL REPUBLIC OF GERMANY
and
ITALY**

**Air Transport Agreement (with exchange of notes). Signed
at Rome on 28 January 1977**

Authentic texts: German and Italian.

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

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
ITALIE**

**Accord relatif aux transports aériens (avec échange de
notes). Signé à Rome le 28 janvier 1977**

Textes authentiques : allemand et italien.

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

[TRANSLATION¹ — TRADUCTION²]

AIR TRANSPORT AGREEMENT³ BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE ITALIAN REPUBLIC

The Federal Republic of Germany and the Italian Republic, hereinafter referred to as “Contracting Parties”,

Having ratified the Convention on International Civil Aviation, opened for signature at Chicago on December 7, 1944⁴ and desiring to conclude an Agreement for the purpose of regulating scheduled air transport between their respective territories and beyond,

Have agreed as follows:

Article I. For the purposes of the present Agreement, unless the text otherwise requires:

a) The term “Convention” shall mean the Convention on International Civil Aviation, opened for signature at Chicago on December 7, 1944, including all its Annexes adopted according to Article 90, all amendments to the Annexes or to the Convention in the meaning of Articles 90 and 94, provided they are in force between the Contracting Parties;

b) The term “aeronautical authority” shall mean in the case of the Federal Republic of Germany, the Federal Minister of Transport; and in the case of the Italian Republic, the Ministry of Transport, Directorate General for Civil Aviation; or in both cases any other person or agency authorized to perform the functions exercised by the said authorities;

c) The term “designated airline” shall mean an 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 an airline which is to operate scheduled air services on the routes specified in this written information;

d) The terms “territory”, “air service”, “international air service” and “stop for non-traffic purposes” shall have the meaning laid down in Articles 2 and 96 of the Convention.

Article II. 1. Each Contracting Party shall grant to the other Contracting Party the rights specified in the present Agreement for the purpose of operating international air services over the routes specified in a Route Schedule to be agreed upon in an exchange of notes between the two Contracting Parties (hereinafter referred to as “agreed air services” and “specified routes”).

2. Subject to observance of the provisions of the present Agreement the designated airline of each Contracting Party shall enjoy the following rights:

a) To fly across the territory of the other Contracting Party without landing;

¹ Unofficial translation supplied by the International Civil Aviation Organization.

² Traduction non officielle fournie par l'Organisation de l'aviation civile internationale.

³ Came into force on 22 February 1984, i.e., 15 days after the exchange of the instruments of ratification, in accordance with article XVI.

⁴ 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.

- b) To land in the territory of the other Contracting Party for non-traffic purposes;
- c) To land, while operating agreed air services on a specified route in the territory of the other Contracting Party, at the points named in the Route Schedule in order to take on or discharge passengers, mail and cargo originating from or destined for the territory of the first Contracting Party or of a third country.

3. Paragraph 2 of this Article does not grant the airline of one Contracting Party the right to take on in the territory of the other Contracting Party passengers, mail, and cargo destined for another point in the territory of this Contracting Party.

Article III. 1. Each Contracting Party is entitled to designate, through its aviation authorities, to the other Contracting Party in writing an airline for the operation of the agreed air services on the routes specified.

2. After receiving the designation the Contracting Party shall, subject to observance of paragraphs 3 and 4 of this Article, grant through its aviation authorities the designated airline without delay the said authorization.

3. The aviation authorities of one Contracting Party may require the airline designated by the other Contracting Party to satisfy it that it is qualified to comply with the laws and regulations which these authorities usually apply to airlines and to the operation of commercial international air services.

4. Each Contracting Party is entitled to decline a designated airline or to suspend or revoke the authorization granted to an airline for the exercise of the rights provided for in paragraph 2, Article II, of the present Agreement, or to impose conditions which it regards as necessary for the exercise of these rights by an airline, if such airline does not furnish sufficient proof of the fact that substantial ownership and effective control of such airline are vested in the Contracting Party which has designated it or in nationals of this Contracting Party.

5. The airline designated in this manner and having been given an operating permit may start the agreed air services at any time, provided that the provisions of Article VI of the present Agreement are observed.

6. Each Contracting Party reserves itself the right to suspend or revoke the operating permit or to impose appropriate conditions which it regards as necessary, if the designated airline, in the opinion of this Contracting Party, fails to comply with the laws and regulations of the Contracting Party granting the rights or operates air services in a manner diverting from the conditions specified in the present Agreement. Each Contracting Party shall exercise this right only, if the procedures specified in Articles X and XI remain without success, unless an immediate suspension of operations or other appropriate measures are necessary to avoid further infringements of laws or regulations.

Article IV. 1. Aircraft of the designated airline of either Contracting Party operating the agreed air services and landing in the territory of the other Contracting Party shall be exempt from customs duties and other charges levied on the occasion of importation, exportation or transit of goods, including inspection costs.

2. Fuel, lubricants, aircraft stores, spare parts and regular equipment on board of aircraft of the airline designated by either Contracting Party shall be admitted to the territory of the other Contracting Party and exempt from customs duties and other charges levied on the occasion of importation, exportation or

transit of goods, including inspection costs. These materials may only be discharged with the consent of the customs authorities of the latter Contracting Party.

3. Fuel, lubricants, aircraft stores, spare parts and regular equipment imported into the territory of one Contracting Party for the sole use by those aircraft of the airline designated by the other Contracting Party which are operating the agreed air services shall be exempt from customs duties and other charges levied on the occasion of importation, exportation or transit of goods, including inspection costs.

4. Fuel and lubricants taken on board the aircraft of a designated airline of either Contracting Party in the territory of the other Contracting Party shall be exempt from the customs duties and other charges mentioned in paragraph 1 of this Article, as well as from any other consumption charges (for the Italian Republic: imposte di fabbricazione e di consumo). This shall also apply to the part of the goods which is destined for consumption during the flight across the territory of the other Contracting Party. The same exemption shall also be granted for the spare parts, aircraft stores and regular equipment, within the restrictions and under the conditions laid down by the competent authorities of the other Contracting Party, provided these articles are exported directly.

5. The materials for which the exemptions specified in the above paragraphs are granted may only be used for aviation purposes and must, if they are not consumed, be reexported, unless the regulations in force in the territory of the Contracting Party concerned allow for their transfer to another airline or their importation. Until their use and destination they shall remain under customs supervision.

6. The exemptions provided in this Article may be subjected to the observance of certain formalities normally in force in the territory of the Contracting Party which is to grant the exemptions; the exemptions do not apply to fees received for services rendered.

7. To the extent that no duties or other charges are imposed on the goods mentioned in paragraphs 1 to 4 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 V. 1. There shall be fair and equal opportunity for the designated airlines of each Contracting Party to operate the agreed air services between their territories and beyond on the routes specified.

2. In the operation of the agreed air services the designated airline of either Contracting Party shall take account of 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 routes specified or parts thereof.

Article VI. 1. The air services operated by the designated airlines of either Contracting Party shall be in due proportion to the traffic demand of the public on the routes specified; they shall have as their primary objective the provision of capacity adequate to the current and, under normal conditions, foreseeable demand for the transport of passengers, mail and cargo between the territory of the Contracting Party which has designated the airline and the territories of the countries of destination.

2. The transport of passengers, mail and cargo taken on or discharged at points in the territories of third countries on the routes specified shall be exercised with regard to the general principle that capacity should be related to

- a) The transport requirements of the countries of origin and the countries of destination;
- b) The requirements of long-distance traffic;
- c) The transport requirements of the area through which the airline passes when operating its air services.

3. Before the initiation of the agreed air services and in case of later changes of capacity, the aeronautical authorities of the Contracting Parties shall agree on the application of the principles specified in the above paragraphs of this Article regarding the operation of the agreed air services by the designated airlines.

4. The flight schedules including the routes, the type of service and the types of aircraft to be used shall be submitted to the aeronautical authorities for approval not later than sixty days prior to the proposed date of their introduction.

5. The aeronautical authorities of either Contracting Party shall furnish to the aeronautical authorities of the other Contracting Party at their request such periodic or other statistical data of the designated airlines as may be reasonably required for the purpose of reviewing the capacity provided by the designated airline of the first Contracting Party on the routes specified in the Route Schedule.

Article VII. 1. The tariffs to be charged for the agreed air services shall be fixed on a reasonable level and with due regard to all important and relevant factors, such as cost of operation, a reasonable profit, the characteristics of the service concerned and, if regarded as relevant, the tariffs charged by other airlines which operate over parts of the specified route. The following provisions of this Article are relevant for the determination of the tariffs.

2. The tariffs specified in paragraph 1 of this Article shall, if possible, be agreed for each specified route by the designated airlines (if it is considered useful, after consulting with other airlines operating air services over the same route or a part thereof). This agreement shall be reached according to the tariff fixing procedures applied by the International Air Transport Association (IATA).

3. Any tariffs 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 accord on the tariffs is reached between the designated airlines, the aeronautical authorities of the two Contracting Parties shall attempt themselves to fix them by common accord.

5. If no accord is reached between the aeronautical authorities on the approval of a tariff submitted to them according to paragraph 3 of this Article or on the fixing of a tariff according to paragraph 4, the disagreement shall be settled in the meaning of Articles XI and XII of the present Agreement.

6. a) A tariff cannot enter into force if the aeronautical authorities of either Contracting Party withhold their consent to it, unless the case of Article XII of the present Agreement applies.

b) The tariffs fixed according to this Article shall remain in force until new tariffs in the meaning of this Article are fixed.

Article VIII. Each Contracting Party shall grant the airline designated by the other Contracting Party the right to transfer, freely and without restrictions, the revenue acquired through the operation of air services in the territory of the other Contracting Party to its head office in the currencies of the two Contracting Parties and at the official exchange rate.

Article IX. Each designated airline may maintain in the territory of the other Contracting Party its own commercial, administrative and technical personnel required for the operation of the agreed air services.

Article X. Exchanges of views shall take place as needed between the aeronautical authorities of the Contracting Parties in order to achieve close cooperation in all matters pertaining to the application and interpretation of the present Agreement.

Article XI. 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. The same applies to discussions concerning the interpretation and application of the present Agreement if either Contracting Party considers that an exchange of views within the meaning of Article X has not produced any satisfactory results. Such consultations shall begin within sixty days from the date of receipt of any such request.

Article XII. 1. To the extent that any disagreement concerning the interpretation or application of the present Agreement cannot be settled in accordance with Article XI 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 Governments of 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, in the absence of any other relevant arrangement, invite the President of the Council of the International Civil Aviation Organization (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 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.

5. If and as long as either Contracting Party or the designated airline of either Contracting Party does not comply with the decision taken according to the

above paragraphs of this Article, the other Contracting Party is entitled to limit, suspend temporarily or revoke the rights and privileges which it has granted the contravening first Contracting Party or the airline designated by it on the basis of the present Agreement.

Article XIII. In the event of the conclusion of a general multilateral air transport convention to which both Contracting Parties accede, the present Agreement is modified in a way to make it conform with the provisions of such a convention.

Article XIV. 1. Each Contracting Party may at any time give notice of termination of the present Agreement.

2. At the same time the International Civil Aviation Organization (ICAO) shall be informed about such notice.

3. In the case of such notice of termination the present Agreement shall expire twelve months from the date of receipt of such notice by the other Contracting Party, unless the notice is withdrawn by common accord before the end of this period.

4. If the other Contracting Party does not confirm the receipt of such notice, it is considered as received fifteen days after the date of receipt of the relevant notification by the International Civil Aviation Organization (ICAO).

Article XV. The present Agreement and any amendments to it shall be registered by the Council of the International Civil Aviation Organization (ICAO).

Article XVI. The present Agreement shall enter into force fifteen days after the exchange of the instruments of ratification.

DONE at Rome on this 28th day of January 1977 in two originals, each in the German and Italian languages, both texts being equally authentic.

For the Federal Republic
of Germany:

Dr. MEYER-LINDENBERG

For the Italian Republic:

MARIO MONDELLO

EXCHANGE OF NOTES

I

THE AMBASSADOR OF THE FEDERAL REPUBLIC OF GERMANY

Rome, 28 January 1977

Excellency,

I have the honour in reference to paragraph 1 of Article II of the Air Transport Agreement between the Federal Republic of Germany and the Italian Republic, signed today, to propose to you that the agreed air services between the territories of our two countries 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:

1	2	3	4
<i>Points of Origin</i>	<i>Intermediate Points</i>	<i>Points in the Territory of the Italian Republic</i>	<i>Points beyond</i>
1. Hamburg Düsseldorf Frankfurt Munich Stuttgart Cologne		Rome Milan Turin Genoa Naples Venice Catania	
2. Munich		Forli Bologna	

II. Routes to be operated by the airline designated by the Italian Republic:

1	2	3	4
<i>Points of Origin</i>	<i>Intermediate Points</i>	<i>Points in the Territory of the Federal Republic of Germany</i>	<i>Points beyond</i>
1. Rome Milan Turin Genoa Venice Rimini Naples Catania		Hamburg Düsseldorf Cologne Frankfurt Stuttgart Munich	
2. Forli Bologna		Munich	

NOTES. 1. The routes specified in I. and II. are operated by the designated airlines Lufthansa and Alitalia in commercial cooperation.

2. Lufthansa and Alitalia may, by mutual agreement, operate to and from additional points in both countries. Such agreement requires the consent of both aeronautical authorities.

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.

The present note and your Excellency's note in reply expressing your Government's agreement shall constitute an Arrangement, to enter into force on the same date as the Air Transport Agreement mentioned above.

Accept, Excellency, etc.

[Prof. Dr. H. MEYER-LINDENBERG]

His Excellency l'Ambasciatore Mario Mondello
Direttore Generale degli Affari Economici
Ministero degli Affari Esteri
Roma

II

MINISTERO DEGLI AFFARI ESTERI
DIRETTORE GENERALE DEGLI AFFARI ECONOMICI¹

Rome, 28 January 1977

Excellency,

I have the honour to confirm the receipt of your note of today, which reads as follows:

[*See note I*]

I have the honour to inform you that the Italian Government agrees to the proposal above.

Accept, Excellency, etc.

[MARIO MONDELLO]

His Excellency der Botschafter der Bundesrepublik Deutschland
Prof. Dr. Hermann Mayer-Lindenberg

¹ General Director of Economic Affairs to the Ministry of Foreign Affairs — Le Directeur général des affaires économiques auprès du Ministère des affaires étrangères.