

No. 5105

**AUSTRALIA
and
FEDERAL REPUBLIC OF GERMANY**

**Agreement (with exchange of notes) relating to air transport.
Signed at Bonn, on 22 May 1957**

Official texts: English and German.

Registered by the International Civil Aviation Organization on 29 April 1960.

**AUSTRALIE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Accord (avec échange de notes) relatif aux transports
aériens. Signé à Bonn, le 22 mai 1957**

Textes officiels anglais et allemand.

Enregistré par l'Organisation de l'aviation civile internationale le 29 avril 1960.

No. 5105. AGREEMENT¹ BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE FEDERAL REPUBLIC OF GERMANY RELATING TO AIR TRANSPORT. SIGNED AT BONN, ON 22 MAY 1957

The Commonwealth of Australia and the Federal Republic of Germany,
Desiring to conclude an Agreement relating to air transport,

Have agreed as follows :

Article 1

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

a) The term "aeronautical authorities" shall mean in the case of the Commonwealth of Australia, the Director-General of Civil Aviation and any person or body authorised to perform the functions presently exercised by the said Director-General of Civil Aviation or similar functions; and, in the case of the Federal Republic of Germany, the Federal Minister of Transport and any person or body authorised to perform the functions presently exercised by the said Minister or similar functions;

b) The term "territory" in relation to a State shall mean the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or trusteeship of such State;

c) The term "designated airline" shall mean the airline or airlines which one Contracting State has designated in writing to the other Contracting State in accordance with Article 3 as being the airline or airlines authorised to operate international air services in conformity with Article 2;

d) The term "air service" shall mean any scheduled air service performed by aircraft for the public transport of passengers, mail and/or cargo;

e) The term "international air service" shall mean an air service which passes through the air space over the territory of more than one State; and

f) The term "stop for non-traffic purposes" shall mean a landing for any purpose other than taking on or discharging passengers, mail and/or cargo.

¹ Came into force on 10 January 1959, one month after 10 December 1958, the date on which the Contracting Parties informed each other that their respective constitutional requirements had been fulfilled, in accordance with the provisions of article 16,

Article 2

(1) Each Contracting State grants to the other Contracting State the rights specified in the present Agreement for the purpose of establishing air services on the routes specified in a Route Schedule¹ agreed in an exchange of diplomatic notes (hereinafter respectively called "the agreed services" and "the specified routes").

(2) Subject to the provisions of the present Agreement, an airline designated by each Contracting State shall enjoy, while operating an agreed service on a specified route, the following rights :

- a) the right to fly without landing across the territory of the other Contracting State;
- b) the right to make stops in the said territory for non-traffic purposes; and
- c) the right to make stops in the said territory at the points specified for that route for the purpose of putting down and taking on international traffic in passengers, mail and/or cargo.

Article 3

(1) The agreed services on any specified route may be inaugurated immediately or at a later date at the option of the Contracting State to whom the rights are granted under Article 2 provided that :

- a) the Contracting State to whom the rights have been granted has designated in writing an airline or airlines for that route; and
- b) the Contracting State granting the rights has given the appropriate operating permission to the airline or airlines so designated, which it shall, subject to the provisions of paragraph 2 of this Article and Article 4, be bound to grant without delay.

(2) The aeronautical authorities of one Contracting State may require an airline designated by the other Contracting State to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally applied by them to the operation of international air services.

Article 4

(1) Each Contracting State reserves the right to withhold or revoke the rights specified in Article 2 in respect of any airline designated by the other Contracting State, or to impose such conditions as it may deem necessary on the exercise of those rights in any case where it is not satisfied that substantial

¹ See p. 63 of this volume.

ownership and effective control of the airline are vested in the Contracting State designating the airline or in nationals of that Contracting State.

(2) Each Contracting State reserves the right to suspend the exercise by a designated airline of the other Contracting State of the rights granted in Article 2, or to impose such conditions as it may deem necessary on the exercise by the airline of those rights, in any case where such airline fails to operate in accordance with the conditions prescribed in the present Agreement.

(3) The rights reserved in paragraphs 1 and 2 of this Article shall be exercised by a Contracting State only after consultation with the other Contracting State unless the immediate suspension of the rights or the imposition of conditions is necessary to prevent further infringements of the laws and regulations of the first-mentioned Contracting State.

Article 5

The charges which each Contracting State may impose or permit to be imposed on a designated airline of the other Contracting State for the use of airports and other facilities under its control shall not be higher than would be paid for the use of such airports and facilities by any national airline engaged in similar international air services.

Article 6

Each Contracting State shall grant release from taxes and customs duties and fees in respect of aircraft of a designated airline of the other Contracting State insofar as it is operating an international air service pursuant to this Agreement as follows :

a) The aircraft operated by a designated airline of either Contracting State entering into, departing from, or flying across or between points in the territory of the other Contracting State, as well as the regular equipment and spare parts on board such aircraft, and not unloaded without consent of the customs authorities, shall be exempt from customs duties and other taxes chargeable by reason of importation, exportation or transit of goods, as well as from customs inspection fees.

b) Spare parts and articles of regular equipment for aircraft mentioned in sub-paragraph a) above, which are

(i) removed from the aircraft or otherwise unloaded and stored within the territory of the other Contracting State under customs supervision, or

- (ii) imported into and stored in the territory of the other Contracting State under customs supervision

shall be exempt likewise from the duties, taxes and fees mentioned in sub-paragraph *a*) above, if they either are installed or taken on board the said aircraft under customs supervision, or are exported again otherwise than on board the said aircraft. The same exemptions shall be granted in respect of such spare parts and articles of regular equipment taken from appropriate stores of other foreign airlines and installed in the said aircraft or otherwise taken on board under customs supervision.

- c*) Fuel and lubricants on board the aircraft mentioned in sub-paragraph *a*) above and introduced into the territory of the other Contracting State may be used on board the aircraft free of the duties, taxes and fees mentioned in sub-paragraph *a*) above. This also applies to that part of any flight which takes place between points in the territory of that Contracting State.

Fuel and lubricants not mentioned in the first sentence of this sub-paragraph taken on by these aircraft under customs supervision within the territory of the Contracting State and used on the agreed service shall be exempt from or shall be the subject of remission or refund of the duties, taxes and fees mentioned in sub-paragraph *a*) above and any special consumption charges imposed on fuel and lubricants within the territory of that Contracting State.

- d*) Aircraft stores on board the aircraft mentioned in sub-paragraph *a*) above and issued for immediate supply to passengers and crew members may be consumed on board the aircraft free of the duties, taxes and fees mentioned in sub-paragraph *a*) above, provided that the aircraft can be continuously supervised by customs authorities if intermediate landings within the territory of the other Contracting State are made.

Article 7

- (1) There shall be a fair and equal opportunity for the designated airlines of both Contracting States to operate the agreed services on the specified routes between their respective territories.

(2) In operating the agreed services the designated airline of each Contracting State shall take into consideration the interests of the designated airline of the other Contracting State so as not to affect unduly the services which the latter provides on the whole or part of the same routes.

- (3) The agreed services provided by the designated airlines of the Contracting States shall bear close relationship to the requirements of the public for transportation on the specified routes and each shall have as its primary objective