



Treaty Series No. 4 (1979)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Federal Military Government of the
Federal Republic of Nigeria
for Air Services between and beyond their
Respective Territories

Lagos, 8 June 1978

[The Agreement entered into force on 13 July 1978]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
January 1979*

LONDON

HER MAJESTY'S STATIONERY OFFICE

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AGREEMENT
BETWEEN THE FEDERAL MILITARY GOVERNMENT OF THE
FEDERAL REPUBLIC OF NIGERIA AND THE GOVERNMENT OF
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND FOR AIR SERVICES BETWEEN AND BEYOND THEIR
RESPECTIVE TERRITORIES

The Federal Military Government of the Federal Republic of Nigeria and the Government of the United Kingdom of Great Britain and Northern Ireland;

Considering that the Federal Republic of Nigeria and the United Kingdom of Great Britain and Northern Ireland are parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944⁽¹⁾; 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

Interpretation

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

- (a) the term "the Convention" means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944 and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have become effective for or been ratified by both Contracting Parties;
- (b) the term "aeronautical authorities" means in the case of the Federal Republic of Nigeria, the Commissioner responsible for Civil Aviation matters and any person or body authorised to perform any functions at present exercised by the said Commissioner or similar functions; and, in the case of the United Kingdom, the Secretary of State for Trade or any person or body authorised to perform any particular function to which this Agreement relates;
- (c) the term "designated airline" means an airline which has been designated and authorised in accordance with Article 4 of the present Agreement;

⁽¹⁾ Treaty Series No. 8 (1953), Cmnd. 8742.

- (d) the term “territory” in relation to a State has the meaning assigned to it in Article 2 of the Convention;
- (e) 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;
- (f) the term “tariff” means the prices to be paid for the carriage of passengers and cargo and the conditions under which these prices apply, including prices and conditions for agency and other auxiliary services but excluding remuneration and conditions for the carriage of mail.

ARTICLE 2

Applicability of the Convention

The provisions of the present Agreement including the Annex shall be subject to the provisions of the Convention insofar as those provisions are applicable to international air services.

ARTICLE 3

Rights and Privileges of Designated Airlines

(1) Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement including the Annex for the purpose of establishing scheduled international air services on the routes specified in the appropriate Section of the Schedules annexed to the present Agreement. Such services and routes are hereafter called “the agreed services” and “the specified routes” respectively. The airline designated by each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following rights:—

- (a) to fly without landing across the territory of the other Contracting Party;
- (b) to make stops in the said territory for non-traffic purposes; and
- (c) to make stops in the said territory at the points specified for that route in the appropriate Section of the Schedules annexed to the present Agreement for the purpose of putting down and taking up international traffic in passengers, cargo and mail.

(2) Nothing in paragraph (1) of this Article shall be deemed to confer on the designated airline of one Contracting Party the privilege of taking up, in the territory of the other Contracting Party, passengers, cargo or mail destined for another point in the territory of that other Contracting Party, except, however, that the designated airline of each Contracting Party shall be free to carry members of its own staff and its own spare parts and equipment between points within the territory of the other Contracting Party.

ARTICLE 4

Designation of Airlines

(1) Each Contracting Party shall have the right to designate in writing to the other Contracting Party one airline for the purpose of operating the agreed services on the specified routes.

(2) On receipt of the notice of such designation, the other Contracting Party shall, subject to the provisions of paragraphs (3) and (4) of this Article, without delay grant to the airline designated the appropriate operating authorisation.

(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 international air services by such authorities in conformity with the provisions of the Convention.

(4) Each Contracting Party shall have the right to refuse to grant the operating authorisation referred to in paragraph (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 the present 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 designated the airline or in its nationals.

(5) When an airline has been so designated and authorised, it may operate any of the agreed services provided that a tariff established in accordance with the provisions of Article 10 of the present Agreement is in force in respect of that service.

ARTICLE 5

Revocation and Suspension of Rights

(1) Each Contracting Party shall have the right to revoke an operating authorisation or to suspend the exercise of the rights specified in Article 3 of the present Agreement by the airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of these rights in any of the following cases:

- (a) 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;
- (b) failure by the airline to comply with the laws or regulations of the Contracting Party granting these rights;
- (c) if the airline otherwise fails to operate in accordance with the conditions prescribed under the present Agreement.

(2) Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph (1) of this Article is essential to prevent further infringements of laws or regulations, such right shall be exercised only after consultation with the other Contracting Party.

ARTICLE 6

Validity of Certificates

(1) Certificates of airworthiness, certificates of competency and licences issued or rendered valid by either Contracting Party and which have not expired, shall be recognised as valid by the other Contracting Party for the purpose of operating the specified routes, provided that the requirements under which such certificates or licences were issued or rendered valid are equal to or above the minimum standards which may be established from time to time pursuant to the Convention.

(2) Each Contracting Party reserves the right to refuse to recognise as valid for the purpose of operating the specified routes over its own territory, certificates of competency and licences issued to its own nationals by the other Contracting Party.

ARTICLE 7

Mode of Operation

(1) There shall be fair and equal opportunity for the designated airline of each Contracting Party to operate the agreed services on the specified routes between their respective territories.

(2) The total capacity to be provided by the designated airlines of the two Contracting Parties on each of the specified routes shall be in accordance with the need to meet existing and reasonably anticipated traffic demands and to maintain reasonable load factors.

(3) In the application of this Article the objective shall be to achieve for the designated airline of each Contracting Party an equal share of capacity on the agreed services between their territories.

(4) The practical application of this Article shall be such as may be from time to time jointly determined by the aeronautical authorities of the Contracting Parties.

ARTICLE 8

Exemption from Charges on Equipment, Fuel, Stores, etc.

(1) Aircraft operated on international air services by the designated airline of either Contracting Party, as well as their regular equipment, supplies of fuel and lubricants, and aircraft stores (including food, beverages and tobacco) on board such aircraft shall be exempt from all customs duties, inspection

fees and other similar charges on arriving in the territory of the other Contracting Party, provided such equipment and supplies remain on board the aircraft up to such time as they are re-exported or are used on the part of the journey performed over that territory.

(2) There shall also be exempt from the same duties, fees and charges, with the exception of charges corresponding to the service performed:

- (a) aircraft stores taken on board in the territory of a Contracting Party, within limits fixed by the authorities of the said Contracting Party, and for use on board outbound aircraft engaged on an international air service of the other Contracting Party;
- (b) spare parts introduced into the territory of either Contracting Party for the maintenance or repair of aircraft used on international air services by the designated airline of the other Contracting Party;
- (c) fuel and lubricants supplied in the territory of a Contracting Party to an aircraft of the designated airline of the other Contracting Party engaged on an international air service, even when these supplies are to be used on a part of the journey performed over the territory of the Contracting Party in which they are taken on board.

Materials referred to in sub-paragraphs (a), (b) and (c) above may be required to be kept under Customs supervision or control.

ARTICLE 9

Treatment of Regular Airborne Equipment, etc.

The regular airborne equipment, as well as the materials and supplies retained on board the aircraft 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. In such case, they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with Customs regulations.

ARTICLE 10

Tariffs

(1) The 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 cost of operation, reasonable profit and the tariffs of other airlines.

(2) The tariffs referred to in paragraph (1) of this Article shall, if possible, be agreed by the designated airlines of both Contracting Parties, after consultation with other airlines operating over the whole or part of the route, and such agreement shall, where possible, be reached through the tariff machinery of the International Air Transport Association.

(3) The tariffs so agreed shall be submitted for the approval of the aeronautical authorities of the Contracting Parties and received by them at least ninety (90) days before the proposed date of their introduction. In special cases, this time limit may be reduced subject to the agreement of the said authorities.

(4) This approval may be given expressly; if neither of the aeronautical authorities has expressed disapproval within forty-five (45) days from the date of submission, in accordance with paragraph (3) of this Article, these tariffs shall be considered as approved. In the event of the period for submission being reduced, as provided for in paragraph (3), the aeronautical authorities may agree that the period within which any disapproval must be notified shall be less than forty-five (45) days.

(5) If a tariff cannot be agreed in accordance with paragraph (2) of this Article, or if, during the period applicable in accordance with paragraph (4) of this Article, one aeronautical authority gives the other aeronautical authority notice of its disapproval of a tariff agreed in accordance with the provisions of paragraph (2) of this Article, the aeronautical authorities of the two Contracting Parties shall endeavour to determine the tariff by mutual agreement.

(6) If the aeronautical authorities cannot agree on any tariff submitted to them under paragraph (3) of this Article, or on the determination of any tariff under paragraph (5) of this Article, the dispute shall be settled in accordance with the provisions of Article 15 of the present agreement.

(7) A tariff established in accordance with the provisions of this Article shall remain in force until a new tariff has been established in accordance with the provisions of this Article.

ARTICLE 11

Statement of Statistics

The aeronautical authorities of either Contracting Party shall supply to the aeronautical authorities of the other Contracting Party at the latter's 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 12

Transfer of Earnings

Each Contracting Party grants to the designated airline of the other Contracting Party the right of transfer, in accordance with the laws and regulations of each Contracting Party, of the excess of its receipts in its

territory over its expenditure therein in connection with its business as an airline operator. Such transfers shall be effected on the basis of the official exchange rates or, where there are no official exchange rates, at the prevailing foreign exchange market rates for current payments.

ARTICLE 13

Airline Representation

The designated airline of one Contracting Party shall be entitled, in accordance with the laws and regulations relating to entry, residence and employment of the other Contracting Party, to bring in and maintain on the territory of such other Contracting Party those of its managerial, technical and other specialist staff who are required for the provision of air services.

ARTICLE 14

Consultations

(1) In a spirit of close co-operation, 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 the present Agreement including the Annex and shall also consult when necessary to provide for modification thereof.

(2) Either Contracting Party may request consultation which may be through discussion or by correspondence and shall begin within a period of sixty (60) days of the date of receipt of the request, unless both Contracting Parties agree to an extension of this period.

ARTICLE 15

Settlement of Disputes

(1) If any dispute arises between the Contracting Parties relating to the interpretation or application of the present Agreement including the Annex, the Contracting Parties shall in the first place endeavour to settle it by negotiation.

(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 of the Contracting Parties 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 channels requesting arbitration of the dispute by such a tribunal and the third arbitrator shall be appointed within a further period of sixty (60) days. If

either of the Contracting Parties fail 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 any such case, the third arbitrator shall be a national of a third State and shall act as President of the arbitral tribunal.

(3) The Contracting Parties shall comply with any decision given under paragraph (2) of this Article.

(4) Each Contracting Party shall be responsible for the cost of its designated arbitrator and subsidiary staff provided and both Contracting Parties shall share equally all such further expenses involved in the activities of the tribunal, including those of the President.

(5) If, and so long as, either Contracting Party or the designated airline of either Contracting Party fails to comply with a decision given under this Article, the other Contracting Party may limit, withhold or revoke any rights or privileges which it has granted by virtue of the present Agreement including the Annex to the Contracting Party in default or to its designated airline.

ARTICLE 16

Amendments

If either of the Contracting Parties considers it desirable to modify any provision of the present Agreement including the Annex, such modification, if agreed between the Contracting Parties and if necessary after consultation in accordance with Article 14 of the present Agreement, shall come into effect when confirmed by an exchange of Notes through diplomatic channels.

ARTICLE 16A

Registration of Agreement with I.C.A.O.

The present Agreement, its Annex, any amendments to either the Agreements or Annex and any exchange of Notes relating to either the Agreement or its Annex shall be registered with the International Civil Aviation Organisation.

ARTICLE 17

Effect of Multilateral Agreements

The present Agreement including the Annex shall be amended so as to conform with any multilateral convention which may become binding on both Contracting Parties.

ARTICLE 18

Termination

Either Contracting Party may at any time give notice to the other Contracting Party of its decision to terminate the present Agreement including the Annex; such notice shall be simultaneously communicated to the International Civil Aviation Organisation. In such case the Agreement including the Annex shall terminate twelve (12) months after the date of receipt of the notice 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

Entry into Force

1. The present Agreement including the Annex shall be applied provisionally from the date of signature, and shall enter into force on the date of an exchange of Notes between the Contracting Parties through diplomatic channels confirming that it has been approved in accordance with their constitutional procedures or that they have completed their constitutional procedures with respect thereto⁽²⁾.

2. If Notes are not exchanged within twelve (12) months from the date of signature, either Contracting Party may terminate the provisional application by giving twelve (12) months' notice in writing to the other Contracting Party.

In Witness Whereof the undersigned, being duly authorised thereto by their respective Governments, have signed the present Agreement.

Done in duplicate at Lagos this 8th day of June 1978.

I. U. W. OSISIOGU

J. R. WILLIAMS

For the Federal Military Government of the Federal Republic of Nigeria

For the Government of the United Kingdom of Great Britain and Northern Ireland

⁽²⁾ The Agreement entered into force on 13 July 1978.

ANNEX

SCHEDULE 1

Route to be operated by the designated airline of Nigeria:

<i>Points in Nigeria Territory</i>	<i>Intermediate Points</i>	<i>Points in United Kingdom Territory</i>	<i>Points Beyond</i>
Points in Nigeria	Las Palmas, Madrid, Rome, Frankfurt, Amsterdam, Brussels	London (a further point in the United Kingdom to be agreed)	Amsterdam, Frankfurt, Copenhagen, Paris.

Notes:

1. The designated airline of Nigeria may on any or all flights omit calling at any of the above-mentioned points provided that the agreed services on this route begin at a point in Nigerian territory.

2. No traffic rights (including own stopover) may be exercised between intermediate points and points in United Kingdom territory or between points in United Kingdom territory and points beyond except as may be from time to time jointly determined by the aeronautical authorities of the two Contracting Parties.

ANNEX

SCHEDULE 2

Route to be operated by the designated airline of the United Kingdom:

<i>Points in United Kingdom Territory</i>	<i>Intermediate Points</i>	<i>Points in Nigeria Territory</i>	<i>Points Beyond</i>
Points in the United Kingdom	Abidjan, Accra	Kano, Lagos	Abidjan, Accra, Douala, Kinshasa, Luanda, Lusaka, Libreville.

Notes:

1. The designated airline of the United Kingdom may on any or all flights omit calling at any of the above-mentioned points provided that the agreed services on this route begin at a point in United Kingdom territory.

2. No traffic rights (including own stopover) may be exercised between intermediate points and points in Nigeria territory or between points in Nigeria territory and points beyond except as may be from time to time jointly determined by the aeronautical authorities of the two Contracting Parties.