



Treaty Series No. 13 (2010)

Agreement

between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of the Netherlands in respect of the Netherlands Antilles concerning Air Services between and beyond the United Kingdom of Great Britain and Northern Ireland on the one hand, and the Netherlands Antilles on the other

London, 25 October 2006

[The Agreement entered into force on the 1 May 2008]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
July 2010*

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**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS IN
RESPECT OF THE NETHERLANDS ANTILLES CONCERNING AIR
SERVICES BETWEEN AND BEYOND THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND ON THE ONE HAND,
AND THE NETHERLANDS ANTILLES ON THE OTHER**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of the Netherlands in respect of the Netherlands Antilles (hereinafter referred to as the "Contracting Parties");

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944¹;

Desiring to conclude an Agreement supplementary to the said Convention for the purpose of establishing air services between and beyond the United Kingdom of Great Britain and Northern Ireland on the one hand, and the Netherlands Antilles on the other;

Have agreed as follows:

ARTICLE 1

Definitions

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

- (a) the term "the Chicago Convention" means the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944 and includes: (i) any amendment thereof which has been ratified by both Contracting Parties; and (ii) any Annex or any amendment thereto adopted under Article 90 of that Convention, insofar as such amendment or annex is at any given time effective for both Contracting Parties;
- (b) the term "aeronautical authority" means in the case of the United Kingdom of Great Britain and Northern Ireland, the Secretary of State for Transport, and for the purpose of Article 7 of this Agreement, the Civil Aviation Authority and in the case of the Kingdom of the Netherlands, the Minister of Transport and Communications of the Netherlands Antilles, or, in both cases, any person or body who may be

¹ Treaty Series No. 8 (1953 Cmnd 8742)

authorised to perform any functions at present exercisable by the above-mentioned authority or similar functions;

- (c) the term "designated airline" means an airline which has been designated and authorised in accordance with Article 4 of this Agreement;
- (d) the term "territory" means in relation to the United Kingdom of Great Britain and Northern Ireland, the land areas and territorial waters adjacent thereto under the sovereignty of the United Kingdom of Great Britain and Northern Ireland with the exception of the land areas and territorial waters adjacent thereto of Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Montserrat and the Turks and Caicos Islands and in relation to the Netherlands Antilles the land areas and the territorial waters adjacent thereto of the Netherlands Antilles;
- (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 Chicago Convention;
- (f) the term "this Agreement" includes the Annex hereto and any amendments to it or to this Agreement;
- (g) the term "user charges" means a charge made to airlines by the competent authority or permitted by that authority to be made for the provision of airport property or facilities or of air navigation facilities (including facilities for overflights), or related services and facilities, for aircraft, their crews, passengers and cargo;
- (h) the term "Air Operator's Certificate" means a document issued to an airline which affirms that the airline in question has the professional ability and organisation to secure the safe operation of aircraft for the aviation activities specified in the certificate;
- (i) the term "EC Member State" means a State that is now or in the future a contracting party to the Treaty establishing the European Community;
- (j) references to airlines of the United Kingdom of Great Britain and Northern Ireland shall be understood as referring to airlines designated by the United Kingdom of Great Britain and Northern Ireland.
- (k) references to airlines of the Kingdom of the Netherlands shall be understood as referring to airlines designated by the Netherlands Antilles;
- (l) references to nationals of the United Kingdom of Great Britain and Northern Ireland shall be understood as referring to nationals of European Community Member States;

- (m) references to nationals of the Kingdom of the Netherlands shall be understood as referring to nationals who are permanent residents of the Netherlands Antilles;

ARTICLE 2

Applicability of the Chicago Convention

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

ARTICLE 3

Grant of Rights

1. Each Contracting Party grants to the other Contracting Party the following rights in respect of its international air services:

- (a) the right to fly across its territory without landing;
- (b) the right to make stops in its territory for non-traffic purposes.

2. Each Contracting Party grants to the other Contracting Party the rights hereinafter specified in this Agreement for the purpose of operating international air services on the routes specified in the appropriate Section of the Schedule annexed to this Agreement. 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 or airlines designated by each Contracting Party shall enjoy in addition to the rights specified in paragraph 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 and cargo, including mail.

3. Nothing in paragraph 2 of this Article shall be deemed to confer on the designated airline or airlines of one Contracting Party the right to take on board, in the territory of the other Contracting Party, passengers and cargo, including mail, carried for hire or reward and destined for another point in the territory of the other Contracting Party.

4. If because of armed conflict, political disturbances or developments, or special and unusual circumstances, a designated airline of one Contracting Party is unable to operate a service on its normal routeing, the other Contracting Party shall use its best efforts to facilitate the continued operation of such service through appropriate temporary rearrangements of routes.

ARTICLE 4

Designation and Authorisation

1. Each Contracting Party shall have the right to designate airlines for the purpose of operating the agreed services on each of the specified routes and to withdraw or alter such designations. Such designations shall be made in writing and shall be transmitted to the other Contracting Party through diplomatic channels.

2. On receipt of such a designation, and of applications from the designated airline, in the form and manner prescribed for operating authorisations and technical permissions, the other Contracting Party shall grant the appropriate authorisations and permissions with minimum procedural delay, provided:

- (a) in the case of an airline designated by the United Kingdom of Great Britain and Northern Ireland:
 - (i) it is established in the territory of the United Kingdom under the Treaty establishing the European Community and has a valid operating licence in accordance with European Community law; and
 - (ii) effective regulatory control of the airline is exercised and maintained by the EC Member State responsible for issuing its Air Operator's Certificate and the relevant aeronautical authority is clearly identified in the designation; and
 - (iii) the airline is owned, directly or through majority ownership, and it is effectively controlled by EC Member States or the European Free Trade Association and/or by nationals of such states.
- (b) in the case of an airline designated by the Kingdom of the Netherlands :
 - (i) it is established in the territory of the Netherlands Antilles and is licensed in accordance with the applicable law of the Netherlands Antilles and;
 - (ii) the Netherlands Antilles aeronautical authority has and maintains effective regulatory control of the airline; and
 - (iii) the airline is owned, directly or through majority ownership, and is effectively controlled by the Netherlands Antilles and/or by nationals of the Kingdom of the Netherlands who are permanent residents of the Netherlands Antilles.

- (c) the designated airline is qualified to meet the conditions prescribed under the laws and regulations normally applied to the operation of international air services by the Contracting Party considering the application or applications.

3. When an airline has been so designated and authorised it may begin to operate the agreed services, provided that the airline complies with the applicable provisions of this Agreement.

ARTICLE 5

Revocation or Suspension of Operating Authorisations

1. Either Contracting Party may revoke, suspend or limit the operating authorisation or technical permissions of an airline designated by the other Contracting Party:

- (a) where, in the case of an airline designated by the United Kingdom of Great Britain and Northern Ireland:
 - (i) it is not established in the territory of the United Kingdom under the Treaty establishing the European Community or does not have a valid operating licence in accordance with European Community law; or
 - (ii) effective regulatory control of the airline is not exercised or not maintained by the EC Member State responsible for issuing its Air Operator's Certificate or the relevant aeronautical authority is not clearly identified in the designation; or
 - (iii) the airline is not owned, directly or through majority ownership, or is not effectively controlled by EC Member States or the European Free Trade Association and/or by nationals of such states.
- (b) where, in the case of an airline designated by the Kingdom of the Netherlands:
 - (i) it is not established in the territory of the Netherlands Antilles or is not licensed in accordance with the applicable law of the Netherlands Antilles; or
 - (ii) the Netherlands Antilles aeronautical authority does not have or maintain effective regulatory control of the airline; or

- (iii) the airline is not owned, directly or through majority ownership, or is not effectively controlled by the Netherlands Antilles and/or by nationals of the Kingdom of the Netherlands who are permanent residents of the Netherlands Antilles.
- (c) in the case of failure by that airline to comply with the laws or regulations normally and reasonably applied by the Contracting Party granting those rights; or
- (d) if the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement; or
- (e) in the case of failure by the other Contracting Party to take appropriate action to improve safety in accordance with paragraph 2 of Article 10 of this Agreement; or
- (f) in accordance with paragraph 6 of Article 10 of this 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

Fair Competition

1. There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to compete in operating the agreed services on the specified routes.

2. Each Contracting Party shall allow each designated airline to determine the frequency and capacity of the international air transport it offers. Consistent with this right, neither Contracting Party shall unilaterally limit the volume of traffic, frequency or regularity of service, or the aircraft type or types operated by the designated airlines of the other Contracting Party, except as may be required for customs, technical, operational, or environmental reasons under uniform conditions consistent with Article 15 of the Chicago Convention.

3. Neither Contracting Party shall impose on the other Contracting Party's designated airlines a first-refusal requirement, uplift ratio, no-objection fee, or any other requirement with respect to capacity, frequency or traffic that would be inconsistent with the purposes of this Agreement.

4. Neither Contracting Party shall require the filing of schedules, programs for non-scheduled flights, or operational plans by airlines of the other Contracting Party for approval, except as may be required on a non-discriminatory basis to

enforce the uniform conditions foreseen by paragraph 2 of this Article. If a Contracting Party requires filings for information purposes, it shall minimise the administrative burdens on air transport intermediaries and on designated airlines of the other Contracting Party of such filing requirements and procedures.

5. Neither Contracting Party shall allow its designated airline or airlines, either in conjunction with any other airline or airlines or separately, to abuse market power in a way which has or is likely or intended to have the effect of severely weakening a competitor or excluding a competitor from a route.

ARTICLE 7

Tariffs

1. For the purpose of this Agreement the term tariff means the prices to be paid for the carriage of passengers, baggage and freight and the conditions under which those prices apply, including prices and conditions for agency and other auxiliary services, but excluding remuneration or conditions for the carriage of mail.

2. Each Contracting Party shall allow tariffs for air services to be established by each designated airline based upon commercial considerations in the market place. Neither Contracting Party shall require their airlines to consult other airlines about the tariffs they charge or propose to charge for services covered by this Agreement.

3. Each Contracting Party may require notification or filing of any tariff to be charged by its own designated airline or airlines. Neither Contracting Party shall require notification or filing of any tariffs to be charged by the designated airline or airlines of the other Contracting Party. Tariffs may remain in effect unless subsequently disapproved under paragraphs 5 or 6 below.

4. Intervention by the Contracting Parties shall be limited to:

- (a) the protection of consumers from tariffs that are excessive due to the abuse of market power;
- (b) the prevention of tariffs whose application constitutes anti-competitive behaviour which has or is likely to have or is explicitly intended to have the effect of preventing, restricting or distorting competition or excluding a competitor from the route.

5. Each Contracting Party may unilaterally disallow any tariff filed or charged by one of its own designated airlines. However, such intervention shall be made only if it appears to the aeronautical authority of that Contracting Party that a tariff charged or proposed to be charged meets either of the criteria set out in paragraph 4 above.

6. Neither Contracting Party shall take unilateral action to prevent the coming into effect or continuation of a tariff charged or proposed to be charged by an airline of the other Contracting Party. If one Contracting Party believes that any such tariff is inconsistent with the considerations set out in paragraph 4 above, it may request consultations and notify the other Contracting Party of the reasons for its dissatisfaction. These consultations shall be held not later than 14 days after receipt of the request. Without a mutual agreement the tariff shall take effect or continue in effect.

7. Notwithstanding paragraphs 3, 5 and 6 above, neither Contracting Party shall require the filing of tariffs for the carriage of cargo between the United Kingdom of Great Britain and Northern Ireland and the Netherlands Antilles. Such tariffs shall take effect when the airline concerned so decides.

8. A Contracting Party shall not require the filing for its approval of tariffs to be charged by the designated airline or airlines of the other Contracting Party for carriage between the first Contracting Party and a third state. Such tariffs shall take effect when the airline concerned so decides.

9. Notwithstanding the provisions of this Article, the tariffs to be charged by the designated airlines of both Contracting Parties for carriage wholly within the European Community shall be subject to European Community law.

ARTICLE 8

Duties, Taxes and Fees

1. The Contracting Parties shall relieve from all customs duties, national excise taxes and similar national fees:

- (a) aircraft operated in international air services by the designated airline or airlines of either Contracting Party; and
- (b) the following items introduced by a designated airline of one Contracting Party into the territory of the other Contracting Party:
 - (i) repair, maintenance and servicing equipment and component parts;
 - (ii) passenger handling equipment and component parts;
 - (iii) cargo-loading equipment and component parts;
 - (iv) security equipment including component parts for incorporation into security equipment;
 - (v) instructional material and training aids;

- (vi) airline and operators' documents; and
- (c) the following items introduced by a designated airline of one Contracting Party into the territory of the other Contracting Party or supplied to a designated airline of one Contracting Party in the territory of the other Contracting Party:
 - (i) aircraft stores (including but not limited to such items as food, beverages and tobacco) whether introduced into or taken on board in the territory of the other Contracting Party;
 - (ii) fuel (subject to paragraph 5 of this Article), lubricants and consumable technical supplies;
 - (iii) spare parts including engines; and
- (d) computer equipment and component parts introduced by a designated airline of one Contracting Party into the territory of the other Contracting Party to assist in one or more of the following matters:
 - (i) the repair, maintenance or servicing of aircraft;
 - (ii) the handling of passengers at the airport or on board aircraft;
 - (iii) the loading of cargo onto or the unloading of cargo from aircraft;
 - (iv) the carrying out of security checks on passengers or cargo;

provided in the case of sub-paragraphs (b) - (d) they are for use on board an aircraft or within the limits of an international airport in connection with the establishment or maintenance of an international air service by the designated airline concerned.

2. The relief from customs duties, national excise taxes and similar national fees shall not extend to charges based on the cost of services provided to the designated airline or airlines of a Contracting Party in the territory of the other Contracting Party.

3. Equipment and supplies referred to in paragraph 1 of this Article may be required to be kept under the supervision or control of the appropriate authorities.

4. The reliefs provided for by this Article shall also be available in situations where the designated airline or airlines of one Contracting Party have entered into arrangements with another airline or airlines for the loan or transfer in the territory of the other Contracting Party of the items specified in paragraph 1 of this Article, provided such other airline or airlines similarly enjoy such relief from such other Contracting Party.

5. Nothing in this Agreement shall prevent the United Kingdom of Great Britain and Northern Ireland from imposing, on a non-discriminatory basis, taxes, levies,

duties, fees or charges on fuel supplied in its territory for use in an aircraft of a designated airline of the Netherlands Antilles that operates between a point in the territory of the United Kingdom and another point in the territory of the United Kingdom or in the territory of another EC Member State.

ARTICLE 9

Aviation Security

1. Each Contracting Party may request consultations at any time concerning security standards in any area relating to aircrews, aircraft or their operation adopted by the other Contracting Party. Such consultations shall take place within 30 days of that request.

2. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement. Without limiting the generality of their rights and obligations under international law, the Contracting Parties shall in particular act in conformity with the provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963¹, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970², the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971³, the Montreal Supplementary Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988⁴, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991⁵ and any aviation security agreement that becomes binding on both Contracting Parties.

3. The Contracting Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, their passengers and crew, airports and air navigation facilities, and any other threat to the security of civil aviation.

4. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organisation and designated as Annexes to the Chicago Convention to the extent that such security provisions are applicable to the Contracting Parties. Each Contracting Party shall require that airlines it has designated to operate the agreed

¹ Treaty Series No.126 (1969) Cmnd 4230

² Treaty Series No.39 (1972) Cmnd 4956

³ Treaty Series No. 10 (1974) Cmnd 5524

⁴ Treaty Series No. 20 (1991) Cm 1470

⁵ Treaty Series No. 134 (2000) Cm 5018

services on the specified routes, and the operators of airports in its territory, act in conformity with such aviation security provisions.

5. Each Contracting Party agrees that its designated airlines shall be required to observe the aviation security provisions referred to in paragraph 3 above required by the other Contracting Party for entry into the territory of that other Contracting Party. For departure from, or while within, the territory of the United Kingdom of Great Britain and Northern Ireland, designated airlines shall be required to observe aviation security provisions in conformity with European Community law. For departure from, or while within, the territory of the Netherlands Antilles, designated airlines shall be required to observe aviation security provisions in conformity with the law in force in the Netherlands Antilles, as well as relevant regulations applicable to security. Each Contracting Party shall ensure that adequate measures are effectively applicable to security applied within its territory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also act favourably upon any request from the other Contracting Party for reasonable special security measures to meet a particular threat.

6. When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of such aircraft, their passengers and crew, airports or air navigation facilities occurs, the Contracting Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

ARTICLE 10

Safety

1. Each Contracting Party may request consultations at any time concerning safety standards in any area relating to aircrews, aircraft or their operation adopted by the other Contracting Party. Such consultations shall take place within 30 days of that request.

2. If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards in any such area that are at least equal to the minimum standards established at that time pursuant to the Chicago Convention, the first Contracting Party shall notify the other Contracting Party of those findings and the steps considered necessary to conform with those minimum standards, and the other Contracting Party shall take appropriate corrective action. Failure by the other Contracting Party to take appropriate action within 15 days or such longer period as may be agreed, shall be grounds for the application of Article 5 (1) of this Agreement (revocation or suspension of operating authorisation).

3. Notwithstanding the obligations mentioned in Article 33 of the Chicago Convention it is agreed that any aircraft operated by or, under a lease arrangement, on behalf of the airline or airlines of one Contracting Party on services to or from the territory of the other Contracting Party may, while within the territory of the other Contracting Party, be made the subject of an examination by the authorised representatives of the other Contracting Party, on board and around the aircraft to check both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment (in this Article called “ramp inspection”), provided this does not lead to unreasonable delay.

4. If any such ramp inspection or series of ramp inspections gives rise to:

- (a) serious concerns that an aircraft or the operation of an aircraft does not comply with the minimum standards established at that time pursuant to the Chicago Convention; or
- (b) serious concerns that there is a lack of effective maintenance and administration of safety standards established at that time pursuant to the Chicago Convention;

the Contracting Party carrying out the inspection shall, for the purposes of Article 33 of the Chicago Convention, be free to conclude that the requirements under which the certificate or licences in respect of that aircraft or in respect of the crew of that aircraft had been issued or rendered valid or that the requirements under which that aircraft is operated are not equal to or above the minimum standards established pursuant to the Chicago Convention.

5. In the event that access for the purpose of undertaking a ramp inspection of an aircraft operated by the airline or airlines of one Contracting Party in accordance with paragraph 3 of this Article is denied by a representative of that airline or airlines, the other Contracting Party shall be free to infer that serious concerns of the type referred to in paragraph 4 of this Article arise and draw the conclusions referred in that paragraph.

6. Each Contracting Party reserves the right to suspend or vary the operating authorisation of an airline or airlines of the other Contracting Party immediately in the event the first Contracting Party concludes, whether as a result of a ramp inspection, a series of ramp inspections, a denial of access for ramp inspection, consultation or otherwise, that immediate action is essential to the safety of an airline operation.

7. Any action by one Contracting Party in accordance with paragraphs 2 or 6 of this Article shall be discontinued once the basis for the taking of that action ceases to exist.

ARTICLE 11

Regulatory Control

Where the United Kingdom of Great Britain and Northern Ireland has designated an airline whose regulatory control is exercised and maintained by another EC Member State, the rights of the other Contracting Party under Article 4 and 5 shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other EC Member State and in respect of the operating authorisation of that airline.

ARTICLE 12

Codeshare

Any designated airline may, subject to applicable laws and regulations governing competition, enter into codesharing arrangements with any other airline or airlines, provided that:

- (i) each flight forming part of a service to which the arrangements apply is operated by an airline entitled to operate that flight;
- (ii) no service is held out by an airline of one side for the carriage of local passengers between a point in the territory of the other side and a point in a third party, or between two points in the territory of the other side, unless that airline is entitled to operate and carry local traffic between those two points in its own right;
- (iii) in respect of each ticket sold, the purchaser is informed at the point of sale which airline will operate each sector of the service.

For the avoidance of doubt, nothing in this Article confers frequency or traffic rights additional to those which have been agreed upon in this Agreement, unless the Contracting Parties agree otherwise.

ARTICLE 13

Leasing

The designated airlines of each Contracting Party shall have the right to perform services using aircraft (or aircraft and crew) leased from any company, including other airlines, subject to arrangements made from time to time between the Contracting Parties.

ARTICLE 14

Ground handling

Subject to the laws and regulations of each Contracting Party including, in the case of the United Kingdom of Great Britain and Northern Ireland, European Community law, each designated airline shall have in the territory of the other Contracting Party the right to perform its own ground handling (“self-handling”) or, at its option, the right to select among competing suppliers that provide ground handling services in whole or in part. Where such laws and regulations limit or preclude self-handling and where there is no effective competition between suppliers that provide ground handling services, each designated airline shall be treated on a non-discriminatory basis as regards their access to self-handling and ground handling services provided by a supplier or suppliers.

ARTICLE 15

Transfer of Earnings

Each designated airline may on demand convert and remit local revenues in excess of sums locally disbursed to the country of its choice. Prompt conversion and remittance shall be permitted without restrictions at the rate of exchange applicable to current transactions which is in effect at the time such revenues are presented for conversion and remittance, and shall not be subject to any charges except those normally made by banks for carrying out such conversion and remittance.

ARTICLE 16

Airline Representation and Sales

An airline which:

- (a) is incorporated and has its principal place of business in the territory of one Contracting Party or an EC Member State; and
- (b) holds a current Air Operator’s Certificate issued by the aeronautical authority of that Contracting Party or an EC Member State;

may:

- (i) in accordance with the laws and regulations relating to entry, residence and employment of the other Contracting Party bring in and maintain in the territory of the other Contracting Party those of their own managerial, technical, operational and other specialist staff which the airline reasonably considers necessary for the provision of air services;

- (ii) use the services and personnel of any other organisation, company or airline operating in the territory of the other Contracting Party;
- (iii) establish offices in the territory of the other Contracting Party;
- (iv) engage in the sale and marketing of air transportation in the territory of the other Contracting Party, either directly or through agents or other intermediaries appointed by the airline. The airline may sell, and any person shall be free to purchase, such transportation in local currency or in any freely convertible other currency.

ARTICLE 17

User Charges

1. Neither Contracting Party shall impose or permit to be imposed on the designated airline or airlines of the other Contracting Party user charges higher than those imposed on its own airlines operating similar international air services.

2. Each Contracting Party shall encourage consultation on user charges between their competent charging authorities and airlines using the services and facilities provided by those charging authorities, where practicable through those airlines' representative organisations. Reasonable notice of any proposals for changes in user charges should be given to such users to enable them to express their views before changes are made. Each Contracting Party shall further encourage its competent charging authorities and such users to exchange appropriate information concerning user charges.

ARTICLE 18

Intermodal Transport

The airlines of each Contracting Party shall be permitted to employ, in connection with air transport, any intermodal transport to or from any points in the territories of the Contracting Parties or third countries. Airlines may elect to perform their own intermodal transport or to provide it through arrangements, including codeshare, with other carriers. Such intermodal services may be offered as a through-service and at a single price for the air and intermodal transport combined, provided that passengers and shippers are informed as to the providers of the transport involved.

ARTICLE 19

Consultation

Either Contracting Party may at any time request consultations on the implementation, interpretation, application or amendment of this Agreement or compliance with this Agreement. Such consultations, which may be between aeronautical authorities, shall begin within a period of 60 days from the date the other Contracting Party receives a written request, unless otherwise agreed by the Contracting Parties.

ARTICLE 20

Settlement of Disputes

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 try to settle it by negotiation.

2. If the Contracting Parties fail to reach a settlement of the dispute by negotiation, it may be referred by them to such person or body as they may agree on or, at the request of either Contracting Party, shall be submitted for decision to a tribunal of three arbitrators which shall be constituted in the following manner:

- (a) within 30 days after receipt of a request for arbitration, each Contracting Party shall appoint one arbitrator. A national of a third State, who shall act as President of the tribunal, shall be appointed as the third arbitrator by agreement between the two arbitrators, within 60 days of the appointment of the second;
- (b) if within the time limits specified above any appointment has not been made, either Contracting Party may request the President of the International Court of Justice to make the necessary appointment within 30 days. If the President has the nationality of one of the Contracting Parties, the Vice-President shall be requested to make the appointment. If the Vice-President has the nationality of one of the Contracting Parties, the Member of the International Court of Justice next in seniority who does not have the nationality of one of the Contracting Parties shall be requested to make the appointment.

3. Except as hereinafter provided in this Article or as otherwise agreed by the Contracting Parties, the tribunal shall determine the limits of its jurisdiction and establish its own procedure. At the direction of the tribunal, or at the request of either of the Contracting Parties, a conference to determine the precise issues to be arbitrated and the specific procedures to be followed shall be held not later than 30 days after the tribunal is fully constituted.

4. Except as otherwise agreed by the Contracting Parties or prescribed by the tribunal, each Contracting Party shall submit a memorandum within 45 days after the tribunal is fully constituted. Each Contracting Party may submit a reply within 60 days of submission of the other Contracting Party's memorandum. The tribunal shall hold a hearing at the request of either Contracting Party, or at its discretion, within 30 days after replies are due.

5. The tribunal shall attempt to give a written decision within 30 days after completion of the hearing or, if no hearing is held, 30 days after the date both replies are submitted. The decision shall be taken by a majority vote.

6. The Contracting Parties may submit requests for clarification of the decision within 15 days after it is received and such clarification shall be issued within 15 days of such request.

7. The decision of the tribunal shall be binding on the Contracting Parties.

8. Each Contracting Party shall bear the costs of the arbitrator appointed by it. The other costs of the tribunal shall be shared equally by the Contracting Parties including any expenses incurred by the President, Vice-President or Member of the International Court of Justice in implementing the procedures in paragraph 2 (b) of this Article.

ARTICLE 21

Amendment

The Contracting Parties shall agree any amendments to this Agreement by an Exchange of Notes.

ARTICLE 22

Termination

Either Contracting Party may at any time give notice in writing to the other Contracting Party of its decision to terminate this Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organisation. This Agreement shall terminate at midnight (at the place of receipt of the notice) immediately before the first anniversary of the date of receipt of the notice by the other Contracting Party, unless the notice is withdrawn by agreement before the end of this period. In the absence of acknowledgement of receipt by the other Contracting Party, the notice shall be deemed to have been received 14 days after receipt of the notice by the International Civil Aviation Organisation.

ARTICLE 23

Applicability

As regards the Kingdom of the Netherlands, this Agreement shall apply to the Netherlands Antilles only. As regards the United Kingdom of Great Britain and Northern Ireland, this Agreement shall apply to the land areas and territorial waters adjacent thereto under the sovereignty of the United Kingdom of Great Britain and Northern Ireland with the exception of the land areas and territorial waters adjacent thereto of Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Montserrat and the Turks and Caicos Islands.

ARTICLE 24

Entry into Force

1. Each Contracting Party shall notify the other Contracting Party through diplomatic channels of the completion of its constitutional formalities required to bring this Agreement into force. The Agreement shall come into force on the first day of the month following the date of the last notification.

2. Upon entry into force this Agreement shall supersede the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of the Netherlands for Certain Air Services, done at London on 13 August 1946 (“the 1946 Agreement”)¹, as subsequently amended, insofar as the 1946 Agreement applies to air services between and beyond the territory of the United Kingdom of Great Britain and Northern Ireland, as defined in Article 1 (d) of this Agreement, on the one hand and the Netherlands Antilles on the other. This Agreement does not affect the operation of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of the Netherlands concerning Air Services, done at London on the 10 January 2000².

¹ Treaty Series No. 23 (1946) Cmnd 6893

² Treaty Series No. 10 (2001) Cm 5043

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

DONE in duplicate at London this twenty fifth day of October 2006, in the English language.

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

**For the Government of the Kingdom
of the Netherlands in respect of the
Netherlands Antilles:**

GILLIAN MERRON

KENNETH GIJSBERTHA

ROUTE SCHEDULE

Section 1

Routes to be operated by the designated airline or airlines of the United Kingdom:

Points in the United Kingdom - Intermediate Points - Points in the Netherlands Antilles - Points Beyond

NOTES:

1. Intermediate points or points beyond may be omitted on any flight provided that the service begins or ends in the United Kingdom.

Section 2

Routes to be operated by the designated airline or airlines of the Netherlands Antilles:

Points in the Netherlands Antilles - Intermediate Points - Points in the United Kingdom - Points Beyond

NOTES:

1. Intermediate points or points beyond may be omitted on any flight provided that the service begins or ends in the Netherlands Antilles.



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