

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2014 Nr. 130

A. TITEL

*Luchtvaartverdrag tussen het Koninkrijk der Nederlanden en de
Republiek Mauritius;
(met bijlagen)
Port Louis, 28 mei 2014*

B. TEKST

**Air Services Agreement between the Kingdom of the Netherlands
and the Republic of Mauritius**

Preamble

The Kingdom of the Netherlands

and

the Republic of Mauritius,

hereinafter referred to as the Contracting Parties,

Being parties to the Convention on International Civil Aviation opened
for signature at Chicago on 7 December 1944;

Desiring to contribute to the progress of international aviation;

Desiring to conclude a new Agreement for the purpose of replacing
the Air Services Agreement between the Kingdom of the Netherlands
and the Republic of Mauritius of 15 November 1973, signed at Port
Louis;

Have agreed as follows:

CHAPTER I

INTRODUCTION

Article 1

Definitions

For the purpose of this Agreement

a) the term “Aeronautical Authorities” means: for the Kingdom of the Netherlands, the Minister of Infrastructure and the Environment of the Netherlands; for the Republic of Mauritius: the national Minister to whom the responsibility for civil aviation is assigned, or in either case any person or body authorized to perform any functions at present exercised by the said Authorities;

b) the terms “Agreed Service” and “Specified Route” mean: International Air Service pursuant to this Agreement and the route specified in the Annex to this Agreement respectively;

c) the term “Agreement” means: this Agreement, its Annexes drawn up in application thereof, as well as any amendment to the Agreement or the Annexes;

d) the terms “Air Service”, “International Air Service” and “Airline” shall have the meaning respectively assigned to them in Article 96 of the Convention;

e) the term “Capacity” means: the combination of (a) frequency per week, (b) the configuration and (c) the type of aircraft used on the route offered to the public by the Designated Airline(s);

f) the term “Change of Aircraft” means: the operation of one of the Agreed Services by a Designated Airline in such a way that one or more sectors of the Specified Route are flown by different aircraft;

g) the term “the Convention” means: the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944, and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or the Convention under Articles 90 and 94 thereof, insofar as those Annexes and amendments have become effective for, or been ratified by both Contracting Parties;

h) the term “Designated Airline” means: the Airline which has been designated and authorized in accordance with Article 3 of this Agreement (Designation and Authorization);

i) the term “Intermodal Air Transportation” means: the public carriage by aircraft and by one or more surface modes of transport of passengers, baggage, cargo and mail, separately or in combination, for remuneration or hire;

j) the term “Nationals”, in the case of the Netherlands, shall be understood as referring to Nationals of European Union Member States;

k) the term “Territory” in relation to either Contracting Party shall be deemed to be the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of the Contracting Party;

l) the term “User Charge” means: a charge imposed on Airlines for the provision of airport, air navigation, or aviation security facilities or services including related services and facilities.

CHAPTER II

OBJECTIVES

Article 2

Grant of rights

1. Each Contracting Party grants to the other Contracting Party except as otherwise specified in Annex 2 the following rights for the conduct of international air transportation by the Designated Airline of the other Contracting Party:

- a) the right to fly across its Territory without landing;
- b) the right to make stops in its Territory for non-traffic purposes; and
- c) while operating an Agreed Service on a Specified Route, the right to make stops in its Territory for the purposes of taking up and discharging international traffic in passengers, baggage, cargo and mail, separately or in combination.

2. Nothing in paragraph 1 of this Article shall be deemed to grant the right to one Contracting Party’s Airline to participate in air transportation between points in the Territory of the other Contracting Party (cabotage).

Article 3

Designation and Authorization

1. Each Contracting Party shall have the right, by written notification through diplomatic channels to the other Contracting Party, to designate one Airline for passenger/combination services and one (the same or an other) Airline for all-cargo services to operate International Air Services on the routes specified in Annex 2 and to substitute an other Airline for an Airline previously designated.

2. On receipt of such a notification, each Contracting Party shall, without delay, grant to the Airline(s) so designated by the other Contracting Party the appropriate operating authorizations subject to the provisions of this Article, unless it is not satisfied that:

a) in the case of the Airline designated by the Kingdom of the Netherlands:

- (i) it is established in the Territory of the Kingdom of the Netherlands under the Treaty on the European Union and the Treaty on the functioning of the European Union and has a valid Operating Licence in accordance with European Union law; and
- (ii) effective regulatory control of the Airline is exercised and maintained by the European Union Member State responsible for issuing its Air Operator 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 (a) European Union Member State(s) and/or Nationals of European Union Member State(s), and/or by (an) other State(s) listed in Annex 1 and/or Nationals of such other State (s).

b) in the case of the Airline designated by the Republic of Mauritius:

- (i) it is established in the Territory of the Republic of Mauritius and has a valid Operating Licence in accordance with applicable law of the Republic of Mauritius; and
- (ii) effective regulatory control of the Airline is exercised and maintained by the Republic of Mauritius; and
- (iii) the Airline is owned directly or through majority ownership, and it is effectively controlled by the Republic of Mauritius and/or Nationals of the Republic of Mauritius and that:

c) the Government designating the Airline is maintaining and administering the standards set forth in Article 16 (Safety) and Article 17 (Aviation Security).

d) the Designated Airline is qualified to meet the conditions prescribed under the laws and regulations normally applied to the operations of international air transportation by the Contracting Party considering the application or applications.

3. Upon receipt of the operating authorization of paragraph 2 of this Article the Designated Airline(s) may at any time begin to operate the Agreed Services, in part or in whole, provided that it complies with the provisions of this Agreement.

Article 4

Revocation and Suspension of Authorization

1. Each Contracting Party shall have the right to withhold, revoke, suspend or limit the operating authorizations of the Designated Airline by the other Contracting Party where:

a) in the case of the Airline designated by the Kingdom of the Netherlands:

- (i) it is not established in the Territory of the Kingdom of the Netherlands under the Treaty on the European Union and the Treaty on the functioning of the European Union or does not have a valid Operating Licence in accordance with European Union law; or
 - (ii) effective regulatory control of the Airline is not exercised or not maintained by the European Union Member State responsible for issuing its Air Operator 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 (a) European Union Member State(s) and/or Nationals of Member State(s), and/or by (a) other State(s) listed in Annex 1 and/or Nationals of such other State(s); and
 - (iv) the Airline is already authorised to operate under a bilateral agreement between the Kingdom of the Netherlands and another European Union Member State and the Republic of Mauritius can demonstrate that, by exercising traffic rights under this Agreement on a route that includes a point in any other Member State, it would be circumventing restrictions on traffic rights imposed by that other agreement; or
 - (v) the Airline holds an Air Operator Certificate issued by a European Union Member State and there is no bilateral Air Services agreement between the Republic of Mauritius and that European Union Member State and that European Union Member State has denied traffic rights to the Airline designated by the Republic of Mauritius.
- b) in the case of the Airline designated by the Republic of Mauritius:
- (i) it is not established in the Republic of Mauritius or does not have a valid Operating licence in accordance with applicable law of the Republic of Mauritius; or
 - (ii) effective regulatory control is not exercised or not maintained by the Republic of Mauritius; and.
 - (iii) the Airline is not owned, directly or through majority ownership, or is not effectively controlled by the Republic of Mauritius and/or Nationals of the Republic of Mauritius.
- 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 and security in accordance with Article(s) 16 and 17.

2. Unless immediate action is essential to prevent further non-compliance with paragraph 1 of this Article, the rights established by

this Article shall be exercised only after consultation within 30 calendar days with the other Contracting Party.

CHAPTER III
COMMERCIAL PROVISIONS

Article 5

Prices

1. For the purposes of these arrangements the term “Prices” 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 Prices for Air Services to be established by each Designated Airline individually based upon commercial considerations in the market place. Neither Contracting Party shall require their Airline to consult other Airlines about the Prices they charge or propose to charge for services covered by these arrangements.

3. Neither Contracting Party shall require notification of any Prices to be charged by the Designated Airline of the other Contracting Party. For the avoidance of doubt, this includes Prices to be charged by the Designated Airline of the other Contracting Party for carriage between the first Contracting Party and a third State. Prices may remain in effect unless subsequently disapproved under paragraph 5 or 6 below.

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

- a) the protection of consumers from Prices that are excessive due to the misuse of a dominant position;
- b) the prevention of Prices 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.
- c) the protection of Airlines from prices that are artificially low due to direct or indirect subsidy or support; and
- d) the protection of Airline from prices that are artificially low, where evidence exists as to an intent to eliminate competition.

5. Each Contracting party may unilaterally disallow any Price filed or charged by its own Designated Airline. However, such intervention shall be made only if it appears to the Aeronautical Authority of that Contracting party that a Price charged or proposed to be charged meets any of the criteria set out in paragraph 4 above.

6. Neither Contracting Party shall take unilateral action to prevent the coming into effect or the continuation of a Price charged or proposed to be charged by an Airline of the other Contracting Party. If one Contracting Party believes that any such Price is inconsistent with the considerations set out in paragraph 4 above, it may request consultations to 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 current Price shall continue to be in effect and the new Price shall not take effect or shall cease to be in effect.

7. Notwithstanding the provisions of this Article, the Prices to be charged by the Designated Airline of either Contracting Party for carriage wholly within the European Union shall be subject to European Union law.

Article 6

Commercial Activities

1. The Designated Airline of each Contracting Party shall be allowed:
 - a) to establish in the Territory of the other Contracting Party offices for the promotion and sale of air transportation and ancillary or supplemental services (including the right to sell and to issue any ticket and/or airway bill, both its own tickets and/or airway bills of any other carrier) as well as other facilities required for the provision of air and/or intermodal transportation;
 - b) in the Territory of the other Contracting Party to engage directly and, at its discretion, through its agents, and/ or other Airlines in the sale of air and/or intermodal transportation and ancillary or supplemental facilities and services;
 - c) to sell such transportation and ancillary or supplemental facilities and services and any person shall be free to purchase such transportation or services in any currency.
2. The Designated Airline of each Contracting Party shall be allowed to bring in and maintain in the Territory of the other Contracting Party its managerial, commercial, operational and technical staff as it may require in connection with the provision of air transportation and ancillary or supplemental facilities and services.
3. These staff requirements may, at the option of the Designated Airline concerned, be satisfied by its own personnel or by using the services of any other organization, company or Airline operating in the Territory of the other Contracting Party, authorized to perform such services in the Territory of that Contracting Party.

4. Subject to the laws and regulations of each Contracting Party including, in the case of the Netherlands, European Union 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 services provided by a supplier or suppliers.

5. The Airline(s) 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. The Airline(s) may elect to perform their own intermodal transport or to provide it through arrangements, including code share, with other Airlines and/or other surface transport providers. Such intermodal services may be offered as a through services 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.

6. The activities mentioned in this Article shall be carried out in accordance with the laws and regulations of the other Contracting Party. In case of the Netherlands this includes applicable European Union law.

Article 7

Code share and cooperative arrangements

1. In operating or holding out Air Services on the agreed routes, the Designated Airline(s) of one Contracting Party may enter into commercial and/or cooperative marketing arrangements including but not limited to blocked space, codesharing and leasing arrangements with:

- a) an Airline or Airlines of the same Contracting Party;
- b) an Airline or Airlines of the other Contracting Party, including domestic code share services operated by such Airline;
- c) an Airline or Airlines of a third country.

Provided that all Airlines in such arrangements:

- (i) hold the appropriate authority;
- (ii) meet the requirements normally applied to such arrangements; must in respect of any ticket or airway bill sold by them, make it clear to the purchaser at the point of sale which Airline or Airlines will actually operate each sector of the service and with which Airline or Airlines the purchaser is entering into a contractual relationship.

2. Where a Designated Airline operates services under code-share arrangements, as the operating Airline, the operated Capacity shall be counted against the Capacity entitlements of the Contracting Party designating the aforementioned Airline. Capacity offered by a Designated Airline acting as the marketing Airline on the services operated by other Airlines shall not be counted against the Capacity entitlements of the Contracting Party designating the said marketing Airline.

Article 8

Change of Aircraft

1. On any segment or segments of the Specified Routes, the Designated Airline(s) may perform International Air Transportation without any limitation as to change at any point on the Specified Route, in type or number of aircraft operated, provided that in the outbound direction the transportation beyond such point is a continuation of the transportation from the Territory of the Contracting Party that has Designated the Airline(s) and, in the inbound direction, the transportation to the Territory of the Contracting Party that has designated the Airline(s) is a continuation of the transportation from beyond such point.

2. For the purpose of Change of Aircraft operations, the Designated Airline may use its own equipment and, subject to national regulations, leased equipment, or equipment of an other Airline under a commercial arrangement and may operate under commercial and/or cooperative marketing arrangements with (an) other Airline(s).

3. The Designated Airline may use different or identical flight numbers for the sectors of its Change of Aircraft operations.

Article 9

Fair Competition

1. Each Contracting Party shall, in conformity with its laws and regulations, allow a fair and equal opportunity for the Designated Airline(s) of the other Contracting Party to compete in providing the International Air Transportation governed by this Agreement.

2. Each Contracting Party shall, in conformity with its laws and regulations, take all appropriate action within its jurisdiction to eliminate all forms of discrimination or unfair competitive practices adversely affecting the competitive position of the Designated Airline(s) of the other Contracting Party.

3. Each Contracting Party shall, within the limits agreed between the Contracting Parties, allow each Designated Airline individually to determine the frequency and Capacity of the International Air Transportation it offers based upon commercial considerations in the marketplace. Consistent with this right, neither Contracting Party shall unilaterally limit the volume of traffic, frequency or regularity of service, or the aircraft type(s) operated by the Designated Airline(s) of the other Contracting Party.

4. Neither Contracting Party shall impose on the other Contracting Party's Designated Airline 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.

CHAPTER IV

FINANCIAL PROVISIONS

Article 10

Taxes, Customs Duties and Charges

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

a) aircraft operated in International Air Services by the Designated Airline(s) of either Contracting Party; and

b) the following items introduced by the 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 the Designated Airline(s) of one Contracting Party into the Territory of the other Contracting Party or supplied to the Designated Airline(s) 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(s) 5 of this Article), oil, lubricants and consumable technical supplies;
- (iii) spare parts including engines; and

d. computer equipment and component parts introduced by the Designated Airline(s) 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 International Air Services by the Designated Airline concerned.

2. The regular airborne equipment, spare parts, aircraft stores and supplies of fuels, oil and lubricants 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 Contracting Party, who may require that those materials be placed under their supervision up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.

3. The exemption 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(s) of a Contracting Party in the Territory of the other Contracting Party.

4. 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.

5. The exemptions provided for by this Article shall also be available in situations where the Designated Airline of one Contracting Party has entered into arrangements with an other Airline 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 similarly enjoys such exemption from such other Contracting Party.

6. In accordance with European Union law, nothing in this Agreement shall prevent the Netherlands 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 the Designated Airline of the Republic of Mauritius that operates between a point in the Territory of the European part of the Netherlands and another point in the Territory of the European part of the Netherlands or in the Territory of another European Union Member State.

Article 11

User Charges

1. User Charges that may be imposed and/or controlled by the competent charging authorities or bodies of each Contracting Party on the Airline(s) of the other Contracting Party shall be just, transparent, reasonable, not discriminatory, and equitably appointed among categories of users. In any event, any such Users Charges shall be imposed on the Airline(s) of the other Contracting Party on terms not less favorable than the most favorable terms available to any other Airline(s) at the time the charges are imposed.

2. User Charges imposed on the Airline(s) of the other Contracting Party may reflect, but shall not exceed, the full cost to the competent charging authorities or bodies of providing the appropriate airport, airport environmental, air navigation, and aviation security facilities and services at the airport or within the airport system. Such charges may include a reasonable return on assets, after depreciation. Facilities and services for which charges are made shall be provided on an efficient and economic basis.

3. Each Contracting Party shall encourage consultations between the competent charging authorities or bodies in its Territory and the Airline(s) using the services and facilities, and shall encourage the competent charging authorities or bodies and the Airlines to exchange such information as may be necessary to permit an accurate review of the reasonableness of the charges in accordance with the principles of paragraphs (1) and (2) of this Article. Each Contracting Party shall encourage the competent charging authorities to provide users with reasonable notice of any proposal for charges to enable users to express their views before changes are made.

4. Neither Contracting Party shall be held to be in breach of a provision of this Article, unless:

- (i) it fails to undertake a review of the charge or practice that is the subject of complaint by the other Contracting Party within a reasonable amount of time; or
- (ii) following such a review it fails to take all steps within its power to remedy any charge or practice that is inconsistent with this Article.

Article 12

Double Taxation

1. Income and profits from the operation of aircraft in international traffic shall be taxable only in the State in which the Designated Airline is established.

2. Gains from the alienation of aircraft operated in international traffic shall be taxable only in the State in which the Designated Airline is established.

3. Capital represented by aircraft operated in international traffic and by moveable property pertaining to the operation of such aircraft shall be taxable only in the State in which the Designated Airline is established.

4. The provisions of paragraph 1 of this Article shall also apply to income and profits from the participation in a pool, a joint business, a cooperative marketing arrangement or an international operating agency.

5. If an agreement between the Contracting Parties on avoidance of double taxation and the prevention of fiscal evasion on income and on capital in which air transport is addressed envisages procedures different from those referred to in paragraph 1- 4 of this Article, the provisions of the agreement on avoidance of double taxation on income or capital shall be applicable.

Article 13

Transfer of Funds

1. The Designated Airline(s) shall be entitled to transfer, from the Territory of sale to their home Territory the excess, in the Territory of sale, of receipts over expenditure. Included in such net transfer shall be revenues from sales, made directly or through agents, of air transport facilities and services, and ancillary or supplemental services, and normal commercial interest earned on such revenues while on deposit awaiting transfer.

2. 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 carrying out such conversion and remittance.

CHAPTER V
REGULATORY PROVISIONS

Article 14

Application of Laws, Regulations and Procedures

1. The laws, regulations and procedures of either Contracting Party relating to the entrance or entry into or departure from its Territory of aircraft engaged in International Air Services, or to the operation and navigation of such aircraft, shall be complied with by the Designated Airline(s) of the other Contracting Party upon their entrance into, and until and including their departure from, the said Territory.

2. The laws, regulations and procedures of either Contracting Party relating to immigration, passports, or other approved travel documents, entry, clearance, customs and quarantine shall be complied with by, or on behalf of, crews, passengers, cargo and mail carried by aircraft of the Designated Airline(s) of the other Contracting Party upon their entrance into, and until and including their departure from, the Territory of the said Contracting Party.

3. Passengers, baggage, cargo and mail in transit across the Territory of either Contracting Party and not leaving the area of the airport reserved for such purpose shall, except in respect of security measures against violence and air piracy, be subject to no more than a simplified control.

4. Neither of the Contracting Parties shall give preference to any other Airline(s) over the Designated Airline(s) of the other Contracting Party in the application of its customs, immigration, quarantine, and similar regulations; or in the use of airports, airways and air traffic services and associated facilities under its control.

5. Each Contracting Party shall, upon request of the other Contracting Party, supply copies of the relevant laws, regulations and procedures referred to in this Agreement.

Article 15

Recognition of Certificates and Licenses

Certificates of airworthiness, certificates of competency and licenses issued, or rendered in reciprocity, by one Contracting Party and still valid, shall be recognized as valid by the other Contracting Party for the purpose of operating the Agreed Services on the Specified Routes,

provided that the requirements under which such certificates and licenses were issued, or rendered in reciprocity, are equal to or higher than the minimum requirements which are, or may be in the future, established under the Convention.

Each Contracting Party, however, reserves the right to refuse to recognize, for flights above its Territory, certificates of competency and licenses granted to or validated for its own Nationals by the other Contracting Party.

Article 16

Safety

1. Each Contracting Party may request consultations at any time concerning safety standards in any area relating to aircrew, aircraft or their operation adopted by the other Contracting Party. Such consultations shall take place within 30 (thirty) 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 and requirements in any such area that are at least equal to the minimum standards established at that time pursuant to the 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 that 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 4 of this Agreement (Revocation and Suspension of Authorization).

3. Notwithstanding the obligations mentioned in Article 33 of the Convention it is agreed that any aircraft operated by or, under a lease arrangement, on behalf of the Airline(s) 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 authorized 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 conditions of the aircraft and its equipment (ramp inspections), 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 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 Convention,

the Contracting Party carrying out the inspection shall, for the purpose of Article 33 of the Convention, be free to conclude that the requirements under which the certificate or licenses 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 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 above, is denied by the representative of that Airline or those Airlines, the other Contracting Party shall be free to infer that serious concerns of the type referred to in paragraph 4 above arise and to draw the conclusions referred to in that paragraph.

6. Each Contracting Party reserves the right to suspend or vary the operating authorization 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, consultations or otherwise, that immediate action is essential to the safety of the Airline's operation.

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

8. Each Contracting Party shall see to it that the Designated Airline(s) will be provided with communicative, aviation and meteorological facilities and any other services necessary for the safe operations of the Agreed Services.

Article 17

Aviation Security

1. The Contracting Parties reaffirm, consistent with their rights and obligations under international law, that their obligations 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 1963, the Convention

for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, its Supplementary Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988, and any other convention on aviation security to which the Contracting Parties shall become a party.

2. 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.

3. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security standards and, so far as they are applied by them, the Recommended Practices established by the International Civil Aviation Organization and designated as Annexes to the Convention; and shall require that operators of aircraft of their registry, operators who have their principal place of business or permanent residence in their Territory, and the operators of airports in their Territory, act in conformity with such aviation security provisions. In this paragraph the reference to aviation security standards includes any difference notified by the Contracting Party concerned.

4. Each Contracting Party shall ensure that effective measures are taken within its Territory to protect aircraft, to screen passengers and their carry-on items, and to carry out appropriate checks on crew, cargo (including hold baggage) and aircraft stores prior to and during boarding or loading and that those measures are adjusted to meet the increase in the threat. Each Contracting Party agrees that its Designated Airline(s) may be required to observe the aviation security provisions referred to in paragraph 3 required by the other Contracting Party for entrance into, departure from, or while within, the Territory of that other Contracting Party. Each Contracting Party shall also act favorably upon any request from the other Contracting Party for reasonable special security measures to meet a particular threat.

5. 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 as rapidly as possible, commensurate with minimum risk to life, such incident or threat.

6. When a Contracting Party has reasonable grounds to believe that the other Contracting Party has departed from the provisions of this Article, the first Contracting Party may request immediate consultations with the other Contracting Party. Such consultations shall take place within 30 days of that request. These consultations will be aimed to reach an agreement upon the measures suitable to eliminate the more immediate reasons of worry and to adopt in the framework of the ICAO security standards, the actions necessary to establish the appropriate conditions of security.

7. Each Contracting Party shall take such measures, as it may find practicable, to ensure that an aircraft subject to an act of unlawful seizure or other acts of unlawful interference which has landed in its Territory is detained on the ground unless its departure is necessitated by the overriding duty to protect human life. Wherever practicable, such measures shall be taken on the basis of mutual consultations.

CHAPTER VI

PROCEDURAL PROVISIONS

Article 18

Timetable

Neither Contracting Party shall require the filing of schedules, programs for flights or operational plans by a Designated Airline 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 Article 9 (Fair Competition) or as may be specifically authorized in Annex 2 to this Agreement. If a Contracting Party requires filings for information purposes, it shall minimize the administrative burdens of filing requirements and procedures on air transportation intermediaries and on the Designated Airline(s) of the other Contracting Party.

Article 19

Consultation and Amendment

1. In a spirit of close cooperation the Aeronautical Authorities of the Contracting Parties may consult each other from time to time with a view to ensuring the implementation of, and satisfactory compliance with, the provisions of this Agreement.

2. Either Contracting Party may request consultations with a view to amend this Agreement and/or its Annexes. These consultations shall begin within sixty (60) days from the date of the receipt of the request

by the other Contracting Party, unless otherwise agreed. Such consultations may be conducted through discussion or by correspondence.

3. Any amendment of this Agreement and/or of Annex 2, section 2, shall be agreed upon by the Contracting Parties and shall come into force on the date on which the Contracting Parties have informed each other in writing, through the exchange of diplomatic notes, of the completion of their respective constitutional requirements.

4. Notwithstanding the provisions of paragraph 3 above any amendment of the Annexes 1 and 2, section 1, to this Agreement shall be agreed upon by the Aeronautical Authorities, through an exchange of diplomatic notes, and shall take effect on a date to be determined in the notes.

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 endeavour to settle their dispute by direct consultations.

2. If the Contracting Parties fail to reach a settlement by consultation, the dispute may at the request of either Contracting Party be submitted for decision to a tribunal of three arbitrators, one to be named by each Contracting Party and the third to be agreed upon by the two arbitrators so chosen, provided that such third arbitrator shall not be a national of either Contracting Party. Each of the Contracting Parties shall designate an arbitrator within a period of sixty (60) days from the date of receipt by either Contracting Party from the other Contracting Party of a diplomatic note requesting arbitration of the dispute and the third arbitrator shall be agreed upon within a further period of sixty (60) days. If either of the Contracting Parties fails to designate its own arbitrator within the period of sixty (60) days or if the third arbitrator is not agreed upon within the period indicated, the President of the Council of the International Civil Aviation Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators.

3. The Contracting Parties undertake to comply with any decision given under paragraph 2 of this Article.

4. Each Contracting Party shall bear the expenses and remuneration necessary for its arbitrator, the fee for the third arbitrator and the expenses necessary for this one as well as those due to the activity of the arbitration shall be equally shared by the Contracting Parties.

CHAPTER VII

FINAL PROVISIONS

Article 21

Termination

1. Either Contracting Party may, at any time, give notice in writing through diplomatic channels to the other Contracting Party of its decision to terminate this Agreement.

2. Such notice shall be simultaneously communicated to the International Civil Aviation Organization. In such case this Agreement shall terminate 12 (twelve) months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement between the Contracting Parties before the expiry of this period. In the absence of acknowledgement of receipt of the notice of termination by the other Contracting Party, such notice shall be deemed to have been received fourteen (14) working days after the receipt of that notice by the International Civil Aviation Organization.

Article 22

Registration with ICAO

This Agreement, including any amendments thereto, shall be registered with the International Civil Aviation Organization.

Article 23

Multilateral Agreements and Conventions

1. The provisions of the Convention shall be applicable to this Agreement.

2. If a multilateral agreement or convention, accepted by both Contracting Parties, concerning any matter covered by this Agreement, enters into force, the relevant provisions of that multilateral agreement or convention shall supersede the relevant provisions of this Agreement.

3. The Contracting Parties may consult each other to determine the consequences for the Agreement of the supersession, as mentioned under paragraph 2 of this Article and to agree upon required amendments to the Agreement.

Article 24

Applicability of the Agreement

As regards the Kingdom of the Netherlands this Agreement shall apply to the Territory in Europe only.

Article 25

Entry into Force

1. This Agreement shall enter into force on the first day of the second month following the date on which the Contracting Parties have informed each other in writing that the formalities and constitutional requirements in their respective countries have been complied with.

2. The Air Services Agreement between the Kingdom of the Netherlands and the Republic of Mauritius of 15 November 1973 shall cease to have effect on the date on which this Agreement enters into force.

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

DONE at Port Louis on 28 May 2014 in two original copies, in English language, each copy being equally authentic.

For the Kingdom of the Netherlands,

J.R.T. FREDERIKS

For the Republic of Mauritius,

S.C. SEEBALLUCK

Annex 1*List of other States referred to in Articles 3 and 4 of this Agreement*

- a) The Republic of Iceland (under the Agreement of the European Economic Area);
- b) The Principality of Liechtenstein (under the Agreement of the European Economic Area);
- c) The Kingdom of Norway (under the Agreement of the European Economic Area);

d) The Swiss Confederation (under the Agreement between the European Community and the Swiss Confederation on Air Transport).

Annex 2

I Route Schedule

1. Each Designated Airline of the Kingdom of the Netherlands shall be entitled to operate Air Services on the route specified hereunder with any type of aircraft in any configuration:

Any point(s) in the Netherlands – Any intermediate point(s) – Any point(s) in Mauritius – Any point(s) beyond and vice versa.

2. Each Designated Airline of the Republic of Mauritius shall be entitled to operate Air Services on the routes specified hereunder with any type of aircraft in any configuration:

Any point(s) in Mauritius – Any intermediate point(s) – Any point(s) in the Netherlands – Any point(s) beyond and vice versa.

3. Any or all of the intermediate points and/or points beyond on the Specified Routes may, at the discretion of each Designated Airline, be omitted on any or all of the flights, provided that those flights originate, respectively terminate in the Territory of the Contracting Party which has Designated the Airline.

4. Notwithstanding Article 9 paragraph 3, each Contracting Party shall be allowed to operate seven (7) weekly frequencies with passenger/combination aircraft and seven (7) weekly frequencies with all cargo aircraft on the routes mentioned above in any combination and in any order, without restrictions as to the aircraft type and configuration.

5. Each Designated Airline shall have the right to exercise own stop-over rights at all intermediate and all beyond points.

6. Each Designated Airline may combine different flight numbers within one aircraft operation.

7. Each Designated Airline shall have the right to intermingle on the Specified Routes.

II Fifth freedom rights

The Designated Airline of the Republic of Mauritius and of the Kingdom of the Netherlands shall have no fifth freedom traffic rights on intermediate and/or beyond points unless these rights have been discussed and agreed upon on a reciprocal basis by the Aeronautical Authorities of each Contracting Party. In the case of the Netherlands, the request for fifth freedom traffic rights shall be subject to national administrative laws, this means that the granting of fifth freedom traffic rights will take place after internal consultations. Such rights shall become available to

the Designated Airline(s) immediately upon agreement between the civil aviation authorities of both Contracting Parties.

D. PARLEMENT

Het verdrag, met bijlagen, behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan het Verdrag, met bijlagen, kan worden gebonden.

G. INWERKINGTREDING

De bepalingen van het verdrag, met bijlagen, zullen ingevolge artikel 25, eerste lid, van het verdrag in werking treden op de eerste dag van de tweede maand volgend op de datum waarop de verdragsluitende partijen elkaar schriftelijk ervan in kennis hebben gesteld dat aan de formaliteiten en constitutionele vereisten in hun onderscheiden landen is voldaan.

J. VERWIJZINGEN

Verbanden

Het verdrag, met bijlagen, dient ter vervanging van:

- Titel : Overeenkomst tussen de Regering van het Koninkrijk der Nederlanden en de Regering van Mauritius inzake luchtdiensten;
Port Louis, 15 november 1973
Tekst : *Trb.* 1974, 17 (Engels en vertaling)
Laatste *Trb.* : *Trb.* 1974, 195

Overige verwijzingen

- Titel : Verdrag inzake de internationale burgerluchtvaart;
Chicago, 7 december 1944
Tekst : *Stb.* 1947, 165 (Engels)
Trb. 1973, 109 (vertaling, geconsolideerd)
Laatste *Trb.* : *Trb.* 2012, 126
- Titel : Verdrag betreffende de werking van de Europese Unie;
Rome, 25 maart 1957
Tekst : *Trb.* 1957, 74 (Frans)
Trb. 2008, 51 (Nederlands, geconsolideerd)
Laatste *Trb.* : *Trb.* 2013, 83

- Titel : Verdrag inzake strafbare feiten en bepaalde andere handelingen begaan aan boord van luchtvaartuigen; Tokio, 14 september 1963
- Tekst : *Trb.* 1964, 115 (Engels en Frans)
Trb. 1964, 186 (vertaling)
- Laatste *Trb.* : *Trb.* 1995, 203
- Titel : Verdrag tot bestrijding van het wederrechtelijk in zijn macht brengen van luchtvaartuigen; 's-Gravenhage, 16 december 1970
- Tekst : *Trb.* 1971, 50 (Engels, Frans en vertaling)
- Laatste *Trb.* : *Trb.* 2013, 209
- Titel : Verdrag tot bestrijding van wederrechtelijke gedragingen gericht tegen de veiligheid van de burgerluchtvaart; Montreal, 23 september 1971
- Tekst : *Trb.* 1971, 218 (Engels, Frans en vertaling)
- Laatste *Trb.* : *Trb.* 1995, 205
- Titel : Protocol tot bestrijding van wederrechtelijke daden van geweld op luchthavens voor de internationale burgerluchtvaart bij het Verdrag tot bestrijding van wederrechtelijke gedragingen tegen de veiligheid van de burgerluchtvaart, gedaan te Montreal op 23 september 1971; Montreal, 24 februari 1988
- Tekst : *Trb.* 1988, 88 (Engels, Frans en vertaling)
- Laatste *Trb.* : *Trb.* 2011, 41
- Titel : Verdrag betreffende de Europese Unie; Maastricht, 7 februari 1992
- Tekst : *Trb.* 2008, 53 (Nederlands, geconsolideerd)
- Laatste *Trb.* : *Trb.* 2012, 182

Uitgegeven de achtste juli 2014.

De Minister van Buitenlandse Zaken,

F.C.G.M. TIMMERMANS