

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1953 No. 85

A. TITEL

*Luchtvaartovereenkomst tussen het Koninkrijk der Nederlanden
en Ceylon; Colombo, 14 September 1953*

B. TEKST

**Agreement between the Government of the Kingdom of the
Netherlands and the Government of Ceylon for air services
between and beyond their respective territories**

The Government of the Kingdom of the Netherlands and the
Government of Ceylon,

Being parties to the Convention on International Civil Aviation
opened for signature at Chicago on the 7th day of December, 1944,
and

Desiring to conclude an Agreement, supplementary to the said
Convention, for the purpose of establishing air services between and
beyond Netherlands and Ceylonese territories,

Have agreed as follows:

Article 1

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

(a) the term "the Convention" means the Convention on International Civil Aviation opened for signature at Chicago on the 7th day of December, 1944, and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or Convention under Articles 90 or 94 thereof;

(b) the term "aeronautical authorities" means, in the case of the Netherlands, the Director General of Civil Aviation and any person or body authorised to perform any functions presently exercised by the said Director General or similar functions, and, in the case of

Ceylon, the Director of Civil Aviation and any person or body authorised to perform any functions presently exercised by the said Director of Civil Aviation or similar functions;

(c) the term "designated airline" means an airline which the aeronautical authorities of either Contracting Party shall have notified in writing to the aeronautical authorities of the other Contracting Party as an airline designated by it in accordance with Article 2 of the present Agreement to operate air services on the routes specified in such notification;

(d) the term "territory" in relation to a Contracting Party means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or trusteeship of that Contracting Party;

(e) the term "change of gauge" means the operation of one of the agreed services by a designated airline in such a way that the section of the route nearer the terminal in the territory of the Contracting Party designating the airline is flown by aircraft different in capacity from those used on the more distant section; and

(f) the terms "air service", "international air service", "airline" and "stop for non-traffic purposes" have the meanings respectively assigned to them in Article 96 of the Convention.

Article 2

(1) Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines for the purpose of operating by virtue of the present Agreement air services on the routes specified in the appropriate section of the Schedule to the present Agreement (hereinafter respectively referred to as the agreed services and the specified routes). On receipt of the designation of an airline, that other Contracting Party shall, subject to the provisions of paragraph (2) of this Article and of Article 3 of the present Agreement, without delay grant to that airline the appropriate operating authorisation.

(2) Before granting the authorisation referred to in paragraph (1) of this Article, the aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations which they normally apply in conformity with the provisions of the Convention to the operation of commercial airlines.

(3) At any time after the provisions of paragraph (1) of this Article have been complied with, an airline so designated and authorised may begin to operate the agreed services.

Article 3

(1) Each Contracting Party shall have the right to refuse to accept the designation of an airline and to withhold or revoke the grant to an airline of the rights specified in the present Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those rights in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of the Contracting Party designating the airline.

(2) Each Contracting Party shall have the right, after consultation with the other Contracting Party, to suspend the exercise by an airline of the rights specified in the present Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those rights in any case where the airline fails to comply with the laws or regulations of the Contracting Party granting those rights or otherwise fails to operate in accordance with the conditions prescribed in the present Agreement.

Article 4

(1) Subject to the provisions of the present Agreement, a designated airline of one Contracting Party shall enjoy, while operating the agreed services on a specified route, the rights (a) to fly its aircraft across the territory of the other Contracting Party, (b) to make stops in the said territory for non-traffic purposes, and (c) to make stops in the said territory at the points specified for that route in the Schedule to the present Agreement for the purpose of putting down and taking on international traffic in passengers, cargo and mail coming from or destined for other points so specified.

(2) Paragraph (1) of this Article shall not be deemed to confer on the airlines of one Contracting Party the right to take up, in the territory of the other Contracting Party, passengers, cargo or mail carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

Article 5

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

(2) In operating the agreed services, the designated airlines of each Contracting Party shall take into account the interests of the airlines of the other Contracting Party so as not to affect unduly the services which the latter provide on the whole or part of the same routes.

(3) The agreed services provided by the designated airlines of the Contracting Parties shall bear a close relationship to the requirements

of the public for transportation on the specified routes and shall have as their primary objective the provision, at a reasonable load factor, of capacity required for the carriage of passengers, cargo and mail destined for or coming from the territory of the Contracting Party designating the airline. A designated airline of one Contracting Party may provide for the carriage of traffic between the territory of the other Contracting Party and third countries on condition that capacity is related to:

(a) the requirements of traffic destined for or coming from the territory of the former Contracting Party;

(b) the traffic requirements of the area through which the airline passes, after account has been taken of other air services provided by airlines of the States comprising the area; and

(c) the requirements of through airline operation.

(4) There shall be frequent and close collaboration between the aeronautical authorities of the Contracting Parties for the purpose of ensuring the observation of the principles and the implementation of the provisions of the present Agreement.

Article 6

A designated airline of one Contracting Party may make a change of gauge at a point in the territory of the other Contracting Party only on the following conditions:

(i) that it is justified by reason of economy of operation;

(ii) that the aircraft used on the section more distant from the terminal in the territory of the former Contracting Party are smaller in capacity than those used on the nearer section;

(iii) that the aircraft of smaller capacity shall operate only in connection with the aircraft of larger capacity and shall arrive at the point of change for the purpose of carrying traffic transferred from, or to be transferred into, the aircraft of larger capacity; and their capacity shall be determined with primary reference to this purpose;

(iv) that there is an adequate volume of through traffic; and

(v) that the provisions of Article 5 of the present Agreement shall govern all arrangements made with regard to change of gauge.

Article 7

(1) Each designated airline shall submit for approval to the aeronautical authorities of the Contracting Parties the tariffs that it proposes to charge, in respect of the agreed services, for the carriage of international traffic to or from the territory of either Contracting Party. Such tariffs shall where possible be agreed with the other designated airlines concerned and with any other airlines

operating over the whole or part of the route in question, consultation being effected through the rate-fixing machinery of the International Air Transport Association.

(2) If the aeronautical authorities of either Contracting Party do not approve a tariff submitted to them in accordance with paragraph (1) of this Article, the aeronautical authorities of both Contracting Parties shall endeavour to fix the appropriate tariff by agreement between themselves.

(3) If the said authorities should fail to agree on any tariff, the Contracting Parties themselves shall endeavour to resolve the dispute. If the Contracting Parties should fail to agree, the matter shall be referred for decision as provided in Article 11 of the present Agreement.

(4) If the aeronautical authorities of either Contracting Party inform the aeronautical authorities of the other Contracting Party in writing that they formally disapprove any tariff submitted to them in accordance with paragraph (1) of this Article, that tariff shall not go into effect until it has been approved by the aeronautical authorities of both Contracting Parties or by the Contracting Parties themselves, as the case may be.

(5) Pending the fixing of tariffs in accordance with the provisions of this Article, the tariffs already in force shall be charged.

(6) The tariffs referred to in paragraph (1) of this Article shall be fixed at reasonable levels, due regard being paid to all relevant factors, including economical operation, reasonable profit, difference of characteristics of service (including standards of speed and accommodation) and the tariffs charged by other airlines on any part of the route.

Article 8

(1) To the extent to which they are applicable to the air services established under the present Agreement, Articles 9, 11, 13, 15, 24, 31, 32 and 33 of the Convention shall remain in force in their present form between the Contracting Parties for the duration of the Agreement, as if they were an integral part of the Agreement, unless both Contracting Parties ratify any amendment to these Articles which shall have come into force in accordance with Article 94 of the Convention, in which case the Article as amended shall remain in force for the duration of the present agreement.

(2) Fuel, lubricating oils, spare parts, regular aircraft equipment and aircraft stores introduced into the territory of one Contracting Party, or taken on board aircraft in that territory, by or on behalf of the other Contracting Party or its designated airline or airlines and intended solely for use by or in the aircraft of those airlines shall be accorded the following treatment by the first Contracting

Party in respect of customs duties, inspection fees and other similar national or local duties and charges:

(a) in the case of fuel and lubricating oils remaining on board aircraft at the last airport of call before departure from the said territory, exemption; and

(b) in the case of fuel and lubricating oils not included under (a) and spare parts, regular aircraft equipment and aircraft stores, treatment not less favourable than that accorded to similar supplies introduced into the said territory, or taken on board aircraft in that territory, and intended for use by or in the aircraft of a national airline of first Contracting Party, or of the most favoured foreign airline, engaged in international air services.

This treatment shall be in addition to and without prejudice to that which each Contracting Party is under obligation to accord under Article 24 of the Convention.

Article 9

If either of the Contracting Parties wishes to discuss with the other Contracting Party any matter relating to the present Agreement, it may request consultation between the aeronautical authorities of the two Contracting Parties, and such consultation shall begin within sixty days of the date of receipt by the other Contracting Party of the request. If such consultation results in agreement between the said authorities on any modification to the terms of the present Agreement, such modification shall come into effect when it has been confirmed by an exchange of Notes through the diplomatic channel stating, moreover, that the formalities required by the National Legislation of each Contracting Party have been accomplished.

Article 10

If a general multilateral convention on traffic rights for scheduled international air services comes into force in respect of both Contracting Parties, the present Agreement shall be amended so as to conform with the provisions of such convention.

Article 11

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

(2) If the Contracting Parties fail to reach a settlement by negotiation, they must refer the dispute for decision to an arbitral tribunal set up by agreement between them or to the International Court of Justice.

(3) The Contracting Parties undertake to comply with any decision given by said Arbitral Tribunal or by the International Court of Justice.

(4) If and so long as either Contracting Party or a designated airline of either Contracting Party fails to comply with a decision given under paragraph (2) of this Article, the other Contracting Party may limit, withhold or revoke any rights which it has granted by virtue of the present Agreement to the Contracting Party in default or to the designated airline or airlines of the Contracting Party in default or to the designated airline in default.

Article 12

The present Agreement shall be registered with the Council of the International Civil Aviation Organisation.

Article 13

The present Agreement shall terminate one year after the date of receipt by one Contracting Party from the other Contracting Party of notice to terminate, unless the notice is withdrawn by agreement before the expiry of this period. Such notice shall be simultaneously communicated to the Council of the International Civil Aviation Organisation. In the absence of acknowledgment of receipt, notice shall be deemed to have been received fourteen days after receipt of the notice by the Council of the International Civil Aviation Organisation.

Article 14

The present Agreement shall be provisionally applicable from the date of its signature and shall come into force on a date to be laid down in an exchange of notes stating that the formalities required by the national legislation of each Contracting Party have been accomplished.

In witness whereof the undersigned plenipotentiaries, being duly authorised thereto by their respective Governments, have signed the present Agreement and have affixed thereto their seals.

Done this fourteenth day of September 1953 in duplicate at Colombo in the English language.

(sd.) D. M. DE SMIT

For the Government of the
Kingdom of the Netherlands.

(sd.) P. NADESAN

For the Government of Ceylon.

Schedule

I. Routes to be served by the designated airline or airlines of the Government of the Kingdom of the Netherlands are based on the following pattern:

Amsterdam
via
Points in Europe
Beyrouth—Damascus—Cairo
Baghdad—Basrah
Karachi
Colombo

Points in the Far East and beyond in
both directions.

Note: Points on the routes may, at the option of the designated airline, be omitted on any or all flights.

II. The designated airline or airlines of the Government of Ceylon are accorded rights of transit and non traffic stop in Netherlands territory as well as the right to pick up and discharge international traffic in passengers, cargo, and mail, in the Netherlands on a route or routes as may be determined at a later date from Ceylon via intermediate points to the Netherlands and beyond in both directions.

Note: Points on the routes may, at the option of the designated airline, be omitted on any or all flights.

D. GOEDKEURING

De Overeenkomst behoeft de goedkeuring der Staten-Generaal ingevolge artikel 60, lid 2, der Grondwet alvorens voor Nederland in werking te kunnen treden.

G. INWERKINGTREDING

De bepalingen der Overeenkomst zullen ingevolge artikel 14 in werking treden na notawisseling tussen beide Regeringen houdende dat de formaliteiten, voorgeschreven door de nationale wetgeving van iedere Overeenkomstsluitende Partij, zijn vervuld. In afwachting van deze notawisseling wordt de Overeenkomst van de datum van sluiting af voorlopig toegepast.

J. GEGEVENS

Het Verdrag inzake de internationale burgerlijke luchtvaart, ondertekend te Chicago op 7 December 1944, naar welk Verdrag in de preambule en elders in de onderhavige Overeenkomst wordt verwezen, is bij Koninklijk besluit van 3 Juni 1947 bekendgemaakt in *Stb.* No. H 165.

De Internationale Luchtvervoers Vereniging (International Air Transport Association), waarnaar in artikel 7, eerste lid van de Overeenkomst wordt verwezen, is een in 1919 te 's-Gravenhage opgerichte particuliere organisatie van luchtvaartmaatschappijen.

Voor het in artikel 11 genoemde Internationaal Gerechtshof zie *Trbl.* 1951 No. 90, 1952 No. 9 en 1953 No. 57.

De in artikelen 12 en 13 genoemde Internationale Burgerlijke Luchtvaart Organisatie is opgericht bij bovengenoemd Verdrag van Chicago van 7 December 1944.

Uitgegeven de *twintigste* October 1953.

De Minister van Buitenlandse Zaken,
J. W. BEYEN.