

No. 10164

NETHERLANDS
and
INDONESIA

**Agreement for air services between and beyond their
respective territories (with annex). Signed at The
Hague on 12 July 1966**

Authentic text: English.

Registered by the International Civil Aviation Organization on 5 January 1970.

PAYS-BAS
et
INDONÉSIE

**Accord relatif aux services aériens entre les territoires
des deux pays et au-delà (avec annexe). Signé à La
Haye le 12 juillet 1966**

Texte authentique: anglais.

Enregistré par l'Organisation de l'aviation civile internationale le 5 janvier 1970.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF
THE KINGDOM OF THE NETHERLANDS AND THE
GOVERNMENT OF THE REPUBLIC OF INDONESIA
FOR AIR SERVICES BETWEEN AND BEYOND THEIR
RESPECTIVE TERRITORIES

The Government of the Kingdom of the Netherlands and the Government of the Republic of Indonesia being parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944,² and

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

Have agreed as follows:

Article I

(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 seventh day of December 1944 and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or Convention under Article 90 or 94 thereof;
- (b) the term “aeronautical authorities” means, in the case of the Republic of Indonesia, the Minister of Air Communications and any person or body authorised to perform functions on civil aviation exercised by the said Minister or similar functions, and, in the case of the Kingdom of the Netherlands, any person or body authorised by the Minister of Transport and Waterstaat to perform functions on civil aviation;
- (c) the term “designated airline” means an airline which one Contracting Party shall have designated, by written notification to the other Contracting Party, in accordance with Article 3 of the present Agreement,

¹ Provisionally applicable from the date of signature, on 12 July 1966, in accordance with article 14.

² United Nations, *Treaty Series*, vol. 15, p. 295; for the texts of the protocols amending this Convention, see vol. 320, pp. 209 and 217; vol. 418, p. 161, and vol. 514, p. 209.

for the operation of air services on the routes specified in such notification;

- (d) the term "territory" in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty of that State;
- (e) the terms "air service", "international air service", "airline" and "stop for non-traffic purposes" have the meanings respectively assigned to them in Article 96 of the Convention; and
- (f) the term "Annex" means the Annex to the present Agreement or as amended in accordance with the provisions of Article 11 of the present Agreement.

(2) The Annex forms an integral part of the present Agreement and all reference to the "Agreement" shall include reference to the Annex except where otherwise provided.

Article 2

(1) Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing air services on the routes specified in the appropriate Section of the Annex thereto (hereinafter called "the agreed service" and "the specified routes").

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

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

(3) Nothing in paragraph (2) of this Article shall be deemed to confer on the airline of one Contracting Party the privilege of taking 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.

(4) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, the operation of agreed services in areas of hostilities or military occupation, or in areas affected thereby, shall in accordance with Article 9 of the Convention, be subject to the approval of the competent military authorities.

Article 3

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

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

(3) The aeronautical authorities of each 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 normally and reasonably applied by them in conformity with the provisions of the Convention to the operation of international commercial air services.

(4) 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 privileges specified in paragraph (2) of Article 2 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those privileges 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.

(5) At any time after the provisions of paragraphs (1) and (2) of this Article have been complied with, an airline so designated and authorised may begin to operate the agreed services, provided that a service shall not be operated unless a tariff is in force in respect of it established in accordance with the provisions of Article 7 of the present Agreement.

Article 4

(1) Each Contracting Party shall have the right to revoke an operating authorisation or to suspend the exercise of the rights specified in Article 2 of the present Agreement by an airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of these rights:

- (a) 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 such Contracting Party; or
- (b) in the case of failure by that airline to comply with the laws or regulations of the Contracting Party granting these rights; or

(c) in case the airline otherwise fails to operate in accordance with the conditions prescribed under the present Agreement.

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

Article 5

(1) Aircraft operated on international services by the designated airlines of either Contracting Party, as well as their regular equipment, spare parts, supplies of fuels and lubricants, and aircraft stores (including food, beverages and tobacco) on board such aircraft shall be exempt from all customs duties, inspection fees and other duties or taxes on arriving in the territory of the other Contracting Party, provided such equipment and supplies remain on board the aircraft up to such time as they are re-exported.

(2) Supplies of fuels, lubricants, spare parts, regular equipment and aircraft stores introduced into the territory of one Contracting Party by or on behalf of a designated airline of the other Contracting Party or taken on board the aircraft operated by such designated airline and intended solely for use in the operation of international services shall be accorded treatment not less favourable than that accorded to similar supplies introduced into the territory of the first Contracting Party, or taken on board aircraft in that territory and intended solely for use by or in the aircraft of a national airline of the first Contracting Party or of the most favoured foreign airline engaged in international services. The materials referred to in this paragraph shall be kept under customs supervision or control.

(3) The regular airborne equipment, spare parts, aircraft stores and supplies of fuels 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 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.

Article 6

(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 and beyond their respective territories.

(2) In operating the agreed services, the designated airlines of each Contracting Party shall take into account the interests of the designated 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 close relationship to the requirements of the public for transportation on the specified routes and shall have as their primary objective the provisions, at a reasonable load factor, of capacity adequate to meet the current and reasonably anticipated requirements for the carriage of passengers, cargo and mail originating from or destined for the territory of the Contracting Party which has designated the airline.

Provision for the carriage of passengers, cargo and mail both taken up and or put down at points on the specified routes in the territories of States other than that designating the airline shall be made in accordance with the general principles that capacity shall be related to:

- (i) the requirements of traffic to and from the territory of the Contracting Party which has designated the airline;
- (ii) traffic requirements of the area through which the airline passes, after taking account of other transport services established by airlines of the States comprising the area; and
- (iii) the requirements of through airline operation.

Article 7

(1) The tariffs on any agreed service shall be established at reasonable levels, due regard being paid to all relevant factors including cost of operation, reasonable profit, characteristics of service (such as standards of speed accommodation) and the tariffs of other airlines for any part of the specified route.

These tariffs shall be fixed in accordance with the following provisions of this Article.

(2) The tariffs referred to in paragraph (1) of this Article shall, if possible be agreed in respect of each of the specified routes between the designated airlines concerned, in consultation with other airlines operating over the whole or part of that route, and such agreement shall be reached through the rate fixing machinery of the International Air Transport Association.

The tariffs so agreed shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

(3) If the designated airlines cannot agree on any of these tariffs, or if for some other reason a tariff cannot be agreed in accordance with the

provisions of paragraph (2) of this Article, the aeronautical authorities of the Contracting Parties shall try to determine the tariff by agreement between themselves.

(4) If the aeronautical authorities cannot agree on the approval of any tariff submitted to them under paragraph (2) of this Article or on the determination of any tariff under paragraph (3), the dispute shall be settled in accordance with the provisions of Article 10 of the present Agreement.

(5) Subject to the provisions of paragraph (3) of this Article, no tariff shall come into force if the aeronautical authorities of either Contracting Party have not approved it.

(6) The tariffs established in accordance with the provisions of this Article shall remain in force until new tariffs have been established in accordance with the provisions of this Article.

Article 8

The aeronautical authorities of each Contracting Party shall supply to the aeronautical authorities of the other Contracting Party at their request such periodic or other statements of statistics as may be reasonably required for the purpose of reviewing in the light of the development of the traffic on the agreed services the capacity provided on same by the designated airlines of the first Contracting Party.

Article 9

There shall be regular and frequent consultation between the aeronautical authorities of the Contracting Parties to ensure close collaboration in all matters affecting the fulfilment of the present Agreement.

Article 10

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

(2) If the Contracting Parties fail to reach a settlement by negotiation, they may agree to refer the dispute for decision to some person or body, or the dispute may at the request of either Contracting Party be submitted for decision to a tribunal of three arbitrators, one to be nominated by each Contracting Party and the third to be appointed by the two so nominated.

Each of the Contracting Parties shall nominate an arbitrator within a period of sixty days from the date of receipt by either Contracting Party

from the other of a notice through diplomatic channels requesting arbitration of the dispute and the third arbitrator shall be appointed within a further period of sixty days.

If either of the Contracting Parties fails to nominate an arbitrator within the period specified, or if the third arbitrator is not appointed within the period specified, the President of the Council of the Civil Aviation Organisation may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. In such case, the third arbitrator shall be a national of a third state and shall act as president of the arbitral body.

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

Article 11

(1) If either of the Contracting Parties considers it desirable to modify any provision of the present Agreement or its Annex, it may request consultation with the other Contracting Party; such consultation, which may be between the aeronautical authorities and which may be through discussion or by correspondence, shall begin within a period of sixty (60) days from the date of the request.

(2) Any modification of the present Agreement decided upon during the consultation referred to in paragraph (1) above shall be agreed upon in writing between the Contracting Parties and shall take effect on the date on which both Governments have informed each other in writing that the formalities constitutionally required in their respective countries have been complied with.

(3) Any modification of the Annex of the present Agreement decided upon during the consultations referred to in paragraph (1) above shall be agreed upon in writing between the aeronautical authorities and shall take immediate effect.

(4) The present Agreement and its Annex will be amended so as to conform with any multilateral convention which may become binding on both Contracting Parties.

Article 12

Either Contracting Party may at any time give notice to the other if it desires to terminate the present Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organisation. If such notice is given, the present Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry of this period.

In the absence of acknowledgement of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organisation.

Article 13

The present Agreement and any Exchange of Notes in accordance with Article 11 shall be registered with 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 the date on which both Governments have informed each other in writing that the formalities constitutionally required in their respective countries have been complied with.

As regards the Kingdom of the Netherlands the Agreement shall be applicable to the Kingdom in Europe only.

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

DONE at The Hague, this 12th day of July 1966 in duplicate in the English language.

For the Government of the Kingdom of the Netherlands:

J. LUNS

For the Government of the Republic of Indonesia:

SOEDJARWO

ANNEX

A

1. Routes to be operated by the airline or airlines designated by the Government of the Republic of Indonesia :

Djakarta – Singapore – Kuala Lumpur – Bangkok – Phnom Penh – Bombay – Karachi – Cairo – Beirut – Algiers – Rome – Paris – Moscow – Prague – Frankfurt – Amsterdam and from there to points beyond to be specified later.

2. Routes to be operated by the airline or airlines designated by the Government of the Kingdom of the Netherlands :

Amsterdam - Frankfurt - Zürich - Rome - Prague - Vienna - Athens - Beirut -
Cairo - Karachi - New Delhi - Calcutta - Bangkok - Kuala Lumpur -
Singapore - Djakarta and from there to points beyond to be specified later.

B

The airlines may at their discretion omit points mentioned in the routes described above.