

**No. 25168**

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**NETHERLANDS  
and  
SEYCHELLES**

**Agreement for air services between and beyond their respective territories (with annex). Signed at Victoria, Mahé, Seychelles, on 28 May 1985**

*Authentic text: English.*

*Registered by the Netherlands on 30 July 1987.*

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**PAYS-BAS  
et  
SEYCHELLES**

**Accord relatif aux services aériens entre leurs territoires respectifs et au-delà (avec annexe). Signé à Victoria, Mahé (Seychelles), le 28 mai 1985**

*Texte authentique : anglais.*

*Enregistré par les Pays-Bas le 30 juillet 1987.*

## AGREEMENT<sup>1</sup> BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE REPUBLIC OF SEYCHELLES FOR AIR SERVICES BE- TWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES

The Kingdom of the Netherlands and the Republic of Seychelles (hereinafter described as the Contracting Parties);

Being Parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944;<sup>2</sup> and

Desiring to conclude an Agreement supplementary to the said Convention for the purpose of establishing air services between and beyond their respective territories;

Have agreed as follows:

### *Article 1.* DEFINITIONS

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

1.1. The term "Convention" means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944, and includes any Annex and amendment adopted under Articles 90 and 94 thereof so far as those Annexes and amendments have become effective for, or been ratified by, both Contracting Parties;

1.2. The term "aeronautical authorities" means, in the case of the Kingdom of the Netherlands the Minister of Transport and Public Works or any person or body authorised to perform any functions presently, or which may in the future be, exercised by the said Minister; and in the case of the Republic of Seychelles the Minister in charge of Civil Aviation or any person or body authorised to perform a particular function to which this Agreement relates;

1.3. The term "designated airline" means an airline which has been designated and authorised in accordance with Article 4 of this Agreement;

1.4. The term "territory" in relation to a State has the meaning assigned to it in Article 2 of the Convention;

1.5. 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;

1.6. The term "specified routes" means the routes specified in the appropriate Section of the Schedule annexed to this Agreement and drawn up in application thereof;

1.7. The term "agreed services" means scheduled international air services for the transport of passengers, baggage, cargo and mail on the specified routes;

1.8. The term "tariffs" means the prices to be paid for the carriage of passengers, baggage and cargo and the conditions under which those prices apply, including prices, commissions and conditions of agency and other auxiliary services, but excluding remuneration and conditions for the carriage of mail.

<sup>1</sup> Came into force provisionally on 28 May 1985, the date of signature, and definitively on 12 December 1985, the date on which the Contracting Parties informed each other of the completion of the required constitutional formalities, in accordance with article 21.

<sup>2</sup> 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; vol. 514, p. 209; vol. 740, p. 21; vol. 893, p. 117; vol. 958, p. 217; vol. 1008, p. 213, and vol. 1175, p. 297.

## *Article 2.* APPLICABILITY OF THE CHICAGO CONVENTION

The provisions of the Convention shall be applied to this Agreement.

## *Article 3.* GRANT OF RIGHTS

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

3.1.1. The right to fly across its territory without landing; and

3.1.2. The right to make stops in its territory for non-traffic purposes.

3.2. While operating an agreed service on a specified route the airline designated by each Contracting Party shall enjoy, in addition to the rights specified in paragraph 3.1 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.

3.3. Nothing in paragraph 3.2 of this Article shall be deemed to confer on the designated airline of one Contracting Party the privilege of taking on board, in the territory of the other Contracting Party, passengers and cargo, including mail, carried for hire or reward, destined for another point in the territory of the other Contracting Party.

## *Article 4.* DESIGNATION OF AIRLINES

4.1. Each Contracting Party shall have the right to designate by diplomatic note to the other Contracting Party one airline for the purpose of operating the agreed services on the specified routes and to substitute another airline for the one previously designated.

4.2. On receipt of such designation, the aeronautical authorities of the other Contracting Party shall, without delay, and subject to the provisions of paragraphs 4.3 and 4.4 of this Article, grant to the airline designated in accordance with paragraph 4.1 of this Article the appropriate operating authorizations.

4.3. The aeronautical authorities of one Contracting Party may require the airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied to the operation of international air services by such authorities in conformity with the provisions of the Convention.

4.4. Each Contracting Party shall have the right to refuse to grant the operating authorizations referred to in paragraph 4.2 of this Article, or to impose such conditions as it may deem necessary on the exercise by a designated airline of the rights specified in Article 3 of this Agreement, in any case where the said Contracting Party is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of such Contracting Party.

4.5. When an airline has been so designated and authorized, it may at any time begin to operate the agreed services for which it is designated provided that a tariff established in accordance with the provisions of Article 7 of this Agreement shall be in force in respect of those services.

## *Article 5.* REVOCATION OR SUSPENSION OF OPERATING AUTHORIZATIONS

5.1. Each Contracting Party shall have the right to revoke an operating authorization or to suspend the exercise of the rights granted under this 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:

5.1.1. 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

5.1.2. In the case of failure by that airline to comply with the laws or regulations of the Contracting Party granting these rights; or

5.1.3. In the case of that airline otherwise failing to operate in accordance with the conditions prescribed under this Agreement.

5.2. Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph 5.1 of this Article is essential to prevent further infringements of the laws or regulations or the provisions of this Agreement, such right shall be exercised only after consultation between the Contracting Parties.

#### *Article 6. PRINCIPLES GOVERNING THE OPERATION OF AGREED SERVICES*

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 their respective territories.

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

6.3. 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 provision, at a reasonable load factor, of capacity adequate for the current and reasonably anticipated requirements for the carriage of passengers and cargo including mail originating from or destined for the territory of the Contracting Party which has designated the airline. Provision for the carriage of passengers and cargo including mail both taken on board and discharged 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:

6.3.1. Traffic requirements to and from the territory of the Contracting Party which has designated the airline;

6.3.2. Traffic requirements of the area through which the agreed services pass, after taking account of other transport services established by airlines of the States comprising the area; and

6.3.3. The requirements of through airline operation.

#### *Article 7. TARIFFS*

7.1. Tariffs to be charged by the designated airline of one Contracting Party for carriage to or from the territory of the other Contracting Party shall be established at reasonable levels, due regard being paid to all relevant factors, including costs of operation, reasonable profit, and the tariffs of other airlines for any part of the specified routes.

7.2. Tariffs referred to in paragraph 7.1 of this Article shall, if possible, be agreed by the designated airlines of both Contracting Parties, and such agreement shall, wherever possible, be reached by the use of the procedures of the International Air Transport Association for the working out of tariffs.

7.3. Tariffs so agreed shall be submitted for approval of the aeronautical authorities of both Contracting Parties at least sixty (60) days before the proposed date of their introduction. Subject to the agreement of the said authorities this period may be reduced in special cases but shall be not less than thirty (30) days before the proposed date of their introduction.

7.4. Approval of tariffs may be given expressly; or, if neither of the aeronautical authorities has expressed disapproval within thirty (30) days from the date of submission, in accordance with paragraph 7.3 of this Article, the tariffs shall be considered as approved.

In the event of the period for submission being reduced, as provided for in paragraph 7.3, the aeronautical authorities may agree that the period within which any disapproval must be notified shall be fifteen (15) days.

7.5. If a tariff cannot be agreed in accordance with paragraph 7.2 of this Article, or if, during the period applicable in accordance with paragraph 7.4 of this Article, one aeronautical authority gives the other aeronautical authority notice of its disapproval of any tariff agreed in accordance with the provisions of paragraph 7.2 of this Article, the aeronautical authorities of the two Contracting Parties shall, after consultations with the aeronautical authorities of any other State whose advice they consider useful, endeavour to determine the tariff by mutual agreement.

7.6. If the aeronautical authorities cannot agree on a tariff submitted to them under paragraph 7.3 of this Article, or on the determination of a tariff under paragraph 7.5 of this Article, the dispute shall be settled in accordance with the provisions of Article 17 of this Agreement.

7.7. Tariffs established in accordance with the provisions of this Article shall remain in force until new tariffs have been established.

7.8. The designated airlines of both Contracting Parties may not charge tariffs different from those which have been approved in conformity with the provisions of this Article.

#### *Article 8. EXEMPTION FROM TAXES, CUSTOMS DUTIES AND CHARGES*

8.1. Aircraft operated on international air services by the designated airline of either Contracting Party, as well as their regular equipment, supplies of fuel and lubricants, and aircraft stores (including food, beverages and tobacco) on board such aircraft shall be exempt from all customs duties, inspection fees and other similar charges on arriving in the territory of the other Contracting Party, provided such equipment and supplies remain on board the aircraft up to such time as they are re-exported or are used on the part of the journey performed over that territory.

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

8.2.1. Aircraft stores taken on board in the territory of a Contracting Party and intended solely for use on board outbound aircraft engaged on an international air service of the designated airline of the other Contracting Party;

8.2.2. Spare parts, including engines, introduced into the territory of either Contracting Party for the maintenance or repair of aircraft used on international air services by the designated airline of the other Contracting Party; and

8.2.3. Fuels and lubricants supplied to an aircraft of the designated airline of a Contracting Party engaged on an international air service in the territory of the other

Contracting Party, even when these supplies are to be consumed on the parts of the flight which are performed over the territory of the Contracting Party in which they are taken on board; and notwithstanding that on all such flights aircraft may make intermediate landings in that territory.

8.3. Materials referred to in sub-paragraphs 8.2.1, 8.2.2 and 8.2.3 above may be required to be kept under Customs supervision or control.

#### *Article 9.* UNLOADING OF EQUIPMENT

The regular airborne equipment, spare parts, aircraft stores and supplies of fuel and lubricants normally 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 10.* PREVENTION OF DOUBLE TAXATION

10.1. Income and profits from the operation of aircraft in international traffic by a designated airline of one of the Contracting Parties shall be exempt in the territory of the other Contracting Party of taxes on income and profits of every form, irrespective of the manner in which they are levied. These provisions shall also apply to income and profits from the participation in a pool, a joint business or an international operating agency.

10.2. Aircraft operated in international traffic by a designated airline of one of the Contracting Parties and movable property pertaining to the operation of such aircraft, shall be exempt in the territory of the other Contracting Party of taxes on capital of every form, irrespective of the manner in which they are levied.

#### *Article 11.* APPLICATION OF LAWS, REGULATIONS AND PROCEDURES

11.1. The laws, regulations and procedures of either Contracting Party relating to the admission to 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 of the other Contracting Party upon its entrance into, and until and including its departure from, the said territory.

11.2. 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 of the other Contracting Party upon their entrance into, and until and including their departure from, the territory of the said Contracting Party.

11.3. Passengers, baggage and cargo in direct 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. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

11.4. Fees and charges applied in the territory of either Contracting Party to the airline operations of the other Contracting Party for the use of airports and other aviation

facilities shall not be higher than those applied to the operations of other airlines engaged in similar international air services.

11.5. Neither of the Contracting Parties shall give preference to any other airline over the designated airline 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.

#### *Article 12.* RECOGNITION OF CERTIFICATES AND LICENCES

Certificates of airworthiness, certificates of competency and licences issued, or validated, by one Contracting Party and unexpired shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services on the specified routes. Provided always that such certificates or licences were issued, or validated, in conformity with the standards established under the Convention. Each Contracting Party, however, reserves the right to refuse to recognize, for flights above its own territory, certificates of competency and licences granted to its own nationals by the other Contracting Party.

#### *Article 13.* PROVISION OF STATISTICS

The aeronautical authorities of one 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 necessary for the purpose of reviewing the capacity provided on the agreed services by the designated airline of the Contracting Party referred to first in this Article. Such statements shall include all information required to determine the amount of traffic carried by that airline on the agreed services and the origins and destinations of such traffic.

#### *Article 14.* TRANSFER OF EARNINGS

14.1. The designated airlines of the Contracting Parties shall be free to sell air transport services in the territories of both the Contracting Parties, either directly or through an agent, in any currency.

14.2. The designated airlines of the Contracting Parties shall be free 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 an agent, of air transport services, and auxiliary or supplementary services, and normal commercial interest earned on such revenues while on deposit awaiting transfer.

14.3. The designated airlines of the Contracting Parties shall receive approval for such transfers within at most 30 days of application in a freely convertible currency, at the official rate of exchange for conversion of local currency, as at the date of approval.

14.4. The designated airlines of the Contracting Parties shall be free to effect the actual transfer on receipt of approval. In the event that, for technical reasons, such transfer cannot be effected immediately, the designated airlines of the Contracting Parties shall receive priority of transfer equal to that of the generality of the Contracting Parties' imports and the rates of exchange at which the approvals were granted shall be maintained.

#### *Article 15.* COMMERCIAL OPERATIONS

The designated airlines of both Contracting Parties shall be allowed:

(a) To establish in the territory of the other Contracting Party offices for the promotion of air transportation and sale of air tickets as well as other facilities required for the provision of air transportation;

(b) To bring in and maintain in the territory of the other Contracting Party—in accordance with the laws and regulations of that other Contracting Party relating to entry, residence and employment—managerial, sales, technical, operational and other specialist staff required for the provision of air transportation, and

(c) In the territory of the other Contracting Party to engage directly and, at that airline's discretion, through its agents in the sale of air transportation in the currency of that Contracting Party.

#### *Article 16.* CONSULTATION AND AMENDMENT

16.1. In a spirit of close cooperation the aeronautical authorities of the Contracting Parties shall consult each other from time to time with a view to ensuring the implementation of, and satisfactory compliance with, the provisions of this Agreement and any Schedules hereto, and shall consult when necessary to provide for modification thereof.

16.2. Either Contracting Party may request consultations, which shall begin within sixty (60) days of the date of the receipt of the request unless both Contracting Parties agree to an extension of this period. Such consultations may be either oral or in writing.

16.3. Any amendment or modification of this Agreement agreed by the Contracting Parties, shall come into effect on a date to be determined in an exchange of diplomatic notes.

16.4. Any amendment or modification of the schedules annexed to this Agreement shall be agreed upon in writing between the aeronautical authorities and shall take immediate effect.

#### *Article 17.* SETTLEMENT OF DISPUTES

17.1. 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.

17.2. If the Contracting Parties fail to reach a settlement by negotiation, they may agree to refer the dispute for decision to some person or body; if they do not so agree, the dispute shall, at the request of either Contracting Party, be submitted for decision to a tribunal of three arbitrators, one to be nominated by each Contracting Party and the third to be appointed by the two so nominated. Each Contracting Party shall nominate an arbitrator within a period of sixty (60) days from the date of receipt by either Contracting Party from the other of a notice through diplomatic or other appropriate channels requesting arbitration of the dispute by such a tribunal and the third arbitrator shall be appointed within a further sixty (60) 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 International Civil Aviation Organisation may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. The third arbitrator shall be a national of a state other than those of the Parties to this Agreement and shall act as President of the arbitral tribunal.

17.3. The Contracting Parties shall comply with any decision given under paragraph 17.2 of this Article.

17.4. The expenses of the Tribunal shall be shared equally between the Contracting Parties.

*Article 18.* APPLICABILITY

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

*Article 19.* TERMINATION

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. Such notice shall be simultaneously communicated to the International Civil Aviation Organisation. In such case this Agreement shall terminate twelve (12) months after the date when the notice has been received by the other Contracting Party unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of acknowledgment 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 20.* REGISTRATION WITH ICAO

This Agreement and any amendment thereto shall be registered with the International Civil Aviation Organisation.

*Article 21.* ENTRY INTO FORCE

The present Agreement shall be provisionally applicable from the date of its signature and shall come into force on the day on which the Contracting Parties have informed each other in writing that the formalities constitutionally required in their respective countries have been complied with.

SIGNED at Victoria, Mahé, Seychelles, on 28th day of May 1985 in duplicate in the English language.

For the Government  
of the Kingdom of the Netherlands:

H. HEYNEN

For the Government  
of the Republic of Seychelles:

J. FERRARI

ANNEX TO THE AIR SERVICES AGREEMENT

ROUTE SCHEDULE

*Section I*

Route to be operated by the designated airline of the Netherlands:  
Points in the Netherlands—Mahé

*Section II*

Route to be operated by the designated airline of the Republic of Seychelles:  
Points in the Seychelles—Amsterdam

NOTE. (1) At the option of the designated airlines points not mentioned in the route schedule may be served without traffic rights between those points and the territory of the other Contracting Party.