

No. 26353

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**NETHERLANDS (ON BEHALF OF ARUBA)  
and  
UNITED STATES OF AMERICA**

**Agreement on preinspection. Signed at Oranjestad, Aruba,  
on 16 June 1987**

*Authentic text: English.*

*Registered by the Netherlands on 9 December 1988.*

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**PAYS-BAS (POUR ARUBA)  
et  
ÉTATS-UNIS D'AMÉRIQUE**

**Accord relatif à la préinspection des voyageurs. Signé à Oran-  
jestad (Aruba) le 16 juin 1987**

*Texte authentique : anglais.*

*Enregistré par les Pays-Bas le 9 décembre 1988.*

## AGREEMENT<sup>1</sup> ON PREINSPECTION BETWEEN THE KINGDOM OF THE NETHERLANDS IN RESPECT OF ARUBA AND THE UNITED STATES OF AMERICA

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The Government of the United States of America and the Government of the Kingdom of the Netherlands in respect of Aruba (hereinafter referred to as the Government of Aruba),

Considering that preinspection in Aruba of passengers and aircraft crew required by United States immigration and public health laws and regulations may facilitate travel between the two countries,

Agree as follows:

### *Article I*

(1) "Preinspection" is the procedure whereby the United States Immigration and Naturalization Service ("INS") conducts, in Aruba, inspection of passengers and aircraft crew required by United States immigration and public health laws and regulations for entry into the United States. It does not include inspections required by other United States laws and regulations, such as customs inspection.

(2) For the purposes of this Agreement, the competent authorities shall be:

- (a) For the Government of Aruba: the Minister of Transport and Communications of Aruba or any authority nominated by the said Minister;
- (b) For the Government of the United States of America: the Immigration and Naturalization Service.

### *Article II*

Any flight by an authorized scheduled or charter air carrier destined non-stop from Aruba to the United States shall be eligible for preinspection.

### *Article III*

In accordance with United States immigration and public health laws and regulations, the INS may refuse passage onwards to the United States to any passenger or aircraft crew member on a flight subject to preinspection who refuses to answer questions of an INS officer relevant to his immigration status or refuses to submit to search by an INS officer or is found or deemed by the INS to be inadmissible to the United States; provided always that, except in circumstances arising under Article IV (5) of this Agreement, no citizen of the United States or alien lawfully resident in the U.S. may be refused passage onwards to the United States.

### *Article IV*

The Government of Aruba shall:

(1) Permit the INS to carry out preinspection of passengers and aircraft crew on flights subject to preinspection and to determine the procedures for carrying out preinspection and the use of INS personnel;

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<sup>1</sup> Came into force provisionally on 16 June 1987, the date of signature, and definitively on 11 March 1988, the date determined in an exchange of notes indicating the completion of the necessary internal procedures, in accordance with article XI.

(2) Arrange for the provision of the preinspection facilities agreed by the competent authorities of both countries;

(3) Permit the installation and operation of such communications and inspection aids and equipment as the INS requires and as are agreed by the competent authority of Aruba as being necessary for preinspection;

(4) When a passenger or aircraft crew member on a preinspected flight is refused passage onwards because of refusal to answer questions of an INS officer relevant to his immigration status or refusal to submit to search or is found or deemed by the INS to be inadmissible to the United States, upon request of the INS, provide appropriate law enforcement assistance to prevent such person from boarding the aircraft;

(5) Upon request of the INS, provide appropriate medical assistance and, where necessary, access to medical isolation facilities for persons subject to preinspection who are suspected of having an infectious disease prescribed under U.S. public health laws and regulations.

#### *Article V*

The Government of the United States of America shall:

(1) Provide, in agreement with the competent authority of Aruba, an appropriate number of INS officers to carry out with reasonable speed and efficiency preinspection for eligible flights of carriers to which preinspection has been extended in accordance with Article VI;

(2) Conduct preinspection in accordance with this Agreement, except that preinspection may be denied in the case of any flight where there is likely to be commingling of passengers or aircraft crew who have and who have not been [pre-inspected] or where, after consultation with the competent airport authority and with the air carrier(s) concerned, the INS determines that there is an insufficient number of INS officers to carry out preinspection with reasonable speed and efficiency or that preinspection facilities would be overtaxed;

(3) Have the INS (and, as appropriate, other United States authorities) consult regularly with the competent authority of Aruba, with the competent airport authority and with the air carriers concerned on matters relating to the implementation of this Agreement.

(4) Have the right to defer INS inspection onward as it deems necessary of any individual passenger or aircraft crew member;

(5) Where a person is refused passage onward to the United States in accordance with Article III, arrange that the INS will immediately inform the Aruba immigration authorities of the refusal and supply all data relevant to that decision.

#### *Article VI*

Each air carrier having flights eligible for preinspection shall have the option to use preinspection subject to the following conditions:

(1) An air carrier may apply to the competent authorities of both countries for preinspection for any or all of its eligible flights; prior to extending preinspection, the INS may require a reasonable period to make suitable arrangements.

(2) An air carrier desiring to withdraw entirely from preinspection shall give six months' notice to the competent authorities of both countries, but if neither competent authority objects, it may withdraw sooner.

(3) An air carrier desiring to withdraw from preinspection in respect of certain flights only must give reasonable notice to the INS.

(4) The INS may decline to conduct preinspection in respect of any air carrier until that carrier:

- (a) Has taken the necessary steps to enable it to deny carriage onwards to the United States to anyone found ineligible in accordance with Article III to travel on a preinspected flight; and
- (b) Has undertaken to be responsible for the removal of any such person to his point of embarkation or the country of which he is a national and to bear any costs (including, where necessary, accommodation and maintenance costs) arising therefrom.

#### *Article VII*

The relevant provisions of the Vienna Convention on Consular Relations<sup>1</sup> shall apply to the INS facilities, equipment, official archives and documents in Aruba, as well as to the United States citizen employees of the Government of the United States of America, who are not permanent residents of Aruba and are assigned to INS duties in Aruba under this Agreement, and members of their families. Such employees shall perform their duties under the authority of the United States Consul General for Aruba and the Netherlands Antilles. Any employees who are nationals or permanent residents of Aruba shall be treated in accordance with the principles of Article 71 of the Vienna Convention.

#### *Article VIII*

The cost of preinspection shall be borne as follows:

(1) The Government of the United States of America shall, pursuant to standard U.S. regulations governing preclearance/preinspection, be responsible for the personnel and operations costs of preinspection.

(2) In accordance with the provisions of Article VI (4) (b) of this Agreement, the air carrier concerned shall be responsible for any costs, including where necessary accommodation and maintenance cost, arising from the removal to his point of embarkation or the country of which he is a national of any person refused passage onwards by the INS.

(3) The provision of the necessary preinspection facilities shall be the responsibility of the competent airport authority, but such cost may be recouped from the air carriers using preinspection.

(4) Any charges related to preinspection levied upon participating air carriers shall be assessed in a fair and reasonable manner.

#### *Article IX*

Either Government may at any time request consultations concerning the interpretation, application, or amendment of this Agreement. Such consultations shall begin within 60 days from the date the other Government receives the request.

<sup>1</sup> United Nations, *Treaty Series*, vol. 596, p. 261.

*Article X*

As far as the Kingdom of the Netherlands is concerned, this Agreement shall be applicable only to Aruba.

*Article XI*

This Agreement shall be applied provisionally upon signature, and shall enter into force on a date to be determined in an exchange of Diplomatic Notes indicating that all necessary internal procedures for entry into force of the Agreement have been completed by both parties. The Agreement shall continue in force indefinitely unless it is terminated by either party giving twelve months' notice thereof to the other party. Such notice may, however, be withdrawn before the end of the twelve-month period by agreement between the two parties.

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

DONE in duplicate, at Oranjestad, Aruba, this day of June 16th, 1987.

For the Kingdom of the Netherlands:

*[Signed]*

ANGEL R. BERMUDEZ  
Minister of Transport and Communications

For the United States of America:

*[Signed]*

MARTIN MCLEAN  
United States Consul General for Aruba  
and the Netherlands Antilles

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