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MEMORIAL

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- de l'Accord entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement de la République togolaise relatif aux services aériens, signé à Lomé, le 24 mars 1992;
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Nous JEAN, par la grâce de Dieu, Grand-Duc de Luxembourg, Duc de Nassau;

Notre Conseil d'Etat entendu;

De l'assentiment de la Chambre des Députés;

Vu la décision de la Chambre des Députés du 13 juin 1995 et celle du Conseil d'Etat du 27 juin 1995 portant qu'il n'y a pas lieu à second vote;

Avons ordonné et ordonnons:

Article unique. – Sont approuvés

- l'Accord entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement de Malte relatif aux services aériens, signé à Luxembourg, le 17 juin 1991;
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Mandons et ordonnons que la présente loi soit insérée au Mémorial pour être exécutée et observée par tous ceux que la chose concerne.

*Le Ministre des Affaires Etrangères,
du Commerce Extérieur
et de la Coopération,*
Jacques F. Poos

La Ministre des Transports,
Mady Delvaux-Stehres

Cabasson, le 24 juillet 1995.

Jean

**AGREEMENT BETWEEN
THE GOVERNEMENT OF THE GRAND-DUCHY OF LUXEMBOURG
AND THE GOVERNEMENT OF MALTA
for air services between and beyond their respective territories**

The Government of the Grand Duchy of Luxembourg and The Government of Malta;

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh 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 their respective territories,

Have agreed as follows:—

Article 1

Definitions

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 the Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have become effective for or been ratified by both Contracting Parties;
- (b) the term „aeronautical authorities“ means, in the case of the Grand Duchy of Luxembourg, the Minister of Transport and any person or body authorised to perform any function at present exercise or which may be exercised in the future by the said Minister or similar functions, and in the case of Malta, the Minister responsible for Civil Aviation and any person or body authorised to perform any function at present exercise or which may be exercised in the future by the said Minister or similar functions;
- (c) the term „designated airline“ means any airline which has been designated and authorised in accordance with Article 3 of the present Agreement;
- (d) the term „territory“ in relation to a State has the meaning assigned to it in Article 2 of the Convention; and
- (e) the terms „air service“, „international air service“, „airline“ and „stop for non-traffic purposes“ have the meaning respectively assigned to them in Article 96 of the Convention;
- (f) the term „traffic“ means any amount charged or to be charged by airlines, directly or through their agents, to any person or entity for the carriage of passengers and their baggage and cargo, excluding mail, in air transportation, including:
 - (i) the conditions governing the availability and applicability of a tariff, and
 - (ii) the charges and conditions for any services ancillary to such carriage which are offered by airlines.

Article 2

Grant of traffic rights

(1) Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing scheduled international air services on the routes specified in the appropriate Part of the Schedule annexed to the present Agreement. Such services and routes are hereafter called „the agreed services“ and „the specified routes“ respectively. Any airline designated by a Contracting Party shall enjoy, while operating the agreed services on a specified route, the following rights:

- (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 Schedule to the present Agreement for the purpose of putting down and taking up international traffic in passengers, cargo and mail.

(2) Nothing in paragraph (1) 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.

Article 3

Designation of Airlines

(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 the agreed services on the specified routes.

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

(3) 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 normally and reasonably applied to the operation of international air services by such authorities in conformity with the provisions of the Convention.

(4) The aeronautical authorities of each Contracting Party shall have the right to refuse to grant the operating authorisation referred to in paragraph (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 2 of the present Agreement, in any case where the said aeronautical authorities are not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals.

(5) When an airline has been so designated and authorised, it may begin at any time to operate the agreed services, provided that a tariff established in accordance with the provisions of Article 11 of the present Agreement is in force in respect of that service.

Article 4

Revocation or suspension of operating authorisation

(1) The aeronautical authorities of 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 they may deem necessary on the exercise of these rights:

- (a) in any case where they are 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 rights shall be exercised only after consultation with the other Contracting Party.

Article 5

Customs and other duties

(1) Aircraft operated on international services by a designated airline of either Contracting Party, as well as their regular equipment, spare parts, supplies of fuels and lubricants and aircraft stores on board such aircraft shall be exempt from all customs duties, inspection fees and other charges 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) With regard to regular equipment, spare parts, supplies of fuels and lubricants 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 on board aircraft in the operating of international services, no duties and charges including customs duties and inspection fees imposed in the territory of the first Contracting Party, shall be applied, even when these supplies are to be used on the parts of the journey performed over the territory of the Contracting Party in which they are taken on board. The materials referred to above may be required to be kept under customs supervision and control.

(3) Regular airborne equipment, spare parts, supplies of fuels and lubricants and aircraft stores 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 these 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

Application of laws and regulations

(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.

(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 the territory of the said Contracting Party.

(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 be subject to no more than a simplified control, except in respect of security measures against violence and air piracy. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

(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 in the territory of the first party, shall not be higher than those applied in the territory of that first party to the operations of other airlines engaged in similar international air services.

(5) Neither of the Contracting Parties shall give preference to any other airline over a 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 7

Recognition of Certificates and licences

(1) Certificates of airworthiness, certificates of competency and licences issued, or validated, by one Contracting Party and unexpired shall be recognised 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.

(2) Each Party may request consultations concerning the safety standards maintained by the other Party relating to aeronautical facilities, aircrew, aircraft, and operation of the designated airlines; If, following such consultations, one Party finds that the other Party does not effectively maintain and administer safety standards and requirements in these areas that at least equal the minimum standards which may be established pursuant to the Convention, the other Party shall be notified of such findings and the steps considered necessary to conform with these minimum standards; and the other Party shall take appropriate corrective action. Each Party reserves the right to withhold, revoke or limit the operating authorization or technical permission of an airline or airlines designated by the other Party in the event the other Party does not take such appropriate action within a reasonable time.

Article 8

Security

(1) Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement.

(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 Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization; they shall require that operators of aircraft of their registry or operators of aircraft 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.

(4) Each Contracting Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in paragraph (3) above required by the other Contracting Party for entry into, departure from, or while within, the territory of that other Contracting Party. Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give sympathetic consideration to any request from the other Contracting Party for reasonable special security 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 rapidly and safely such incident or threat thereof.

Article 9

Commercial Representation

The designated airlines of both Contracting Parties shall be allowed in accordance with the laws and regulation of the other Contracting Party:

- (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, 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.

Article 10

Principles governing capacity

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

(2) In operating the agreed services, any airline of each Contracting Party shall take into account the interests of any airline 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 provision, at a reasonable load factor, of capacity adequate to carry 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 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:

- (a) traffic requirements to and from the territory of the Contracting Party which has designated the airline;
- (b) 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
- (c) the requirements of through airline operation.

Article 11

Tariffs

(1) The tariffs to be charged by the 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 cost of operation, reasonable profit and the tariffs of other airlines.

(2) The tariffs referred to in paragraph (1) of this Article, together with the rates of agency commission applicable, shall, if possible, be agreed by the designated airlines concerned of both Contracting Parties, in consultation with other airlines operating over the whole part of the route, and such agreement shall, where possible, be reached through the rate-fixing machinery of the International Air Transport Association.

(3) The tariffs so agreed shall be submitted for the approval of the aeronautical authorities of the Contracting Parties at least thirty (30) days before the proposed date of their introduction; in special cases, this time limit may be reduced, subject to the agreement of the said authorities.

(4) This approval may be given expressly. If neither of the aeronautical authorities has expressed disapproval within thirty (30) days from the date of submission, in accordance with paragraph (3) of this Article, these tariffs shall be considered as approved. In the event of the period for submission being reduced, as provided for in paragraph (3) the aeronautical authorities may agree that the period within any disapproval must be notified shall be less than thirty (30) days.

(5) If the designated airlines cannot agree on any particular tariffs, or if for some other reason any particular tariff cannot be fixed in accordance with the provisions of paragraph (2) of this Article, or if during the first fifteen (15) days of the thirty (30) days' period referred to in paragraph (3) of this Article one Contracting Party gives the other Contracting Party notice of its dissatisfaction with any particular tariff 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.

(6) If the aeronautical authorities cannot agree on the approval of any particular tariff submitted to them under paragraph (3) of this Article or on the determination of any particular tariff under paragraph (5), the dispute shall be settled in accordance with the provisions of Article 16 of the present Agreement.

(7) Subject to the provisions of paragraph (3), (4) and (6) of this Article, no tariff shall come into force if the aeronautical authorities of either Contracting Party have not approved it.

(8) 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 12

Approval of timetables

Any designated airline of each Contracting Party shall communicate for approval to the aeronautical authorities of the other Contracting Party not later than thirty days prior to the inauguration of services on the routes specified in accordance with Article 2 of the present Agreement the types of aircraft to be used and the flight schedules. This shall likewise apply to later changes.

Article 13

Statistical information

The aeronautical authorities of a Contracting Party shall supply to the aeronautical authorities of the other Contracting Party at their request such periodic or other statement of statistics as may be

reasonably required 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 statement shall include all information by that airline on the agreed services and the origin and destination of such traffic.

Article 14

Transfer of net revenue

Each Contracting Party grants to any designated airline of the other Contracting Party the right of free transfer at the official rate of exchange of the excess of receipts over expenditure earned by that airline in its territory in connection with the carriage of passengers, mail and cargo.

Article 15

Consultation

(1) In a spirit of close co-operation, 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 the present Agreement and the Schedules annexed thereto and shall also consult when necessary to provide for modification thereof.

(2) Either Contracting Party may request consultation, which may be through discussion or by correspondence and shall begin within a period of sixty (60) days of the request, unless both Contracting Parties agree to an extension of this period.

Article 16

Settlement of disputes

(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.

(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 of the Contracting Parties 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 channels requesting arbitration of the dispute by such a tribunal and the third arbitrator shall be appointed within a further period of 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 at the request of either Contracting Party may 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 tribunal.

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

Article 17

Modifications

(1) If either of the Contracting Parties desires to modify any provision of this Agreement including the annexed Schedule, it should be after consultation in accordance with Article 15 of this Agreement.

(2) If the modification relates to the provisions of the Agreement other than those of the annexed Schedule, the modification shall be approved by each Contracting Party in accordance with its constitutional procedures and shall come into effect on the date of the exchange of notes through diplomatic channels.

(3) If the modification relates only to the provisions of the annexed Schedule, it shall be agreed upon between the aeronautical authorities of both Contracting Parties and would be effective from the date of the approval of the aeronautical authorities.

Article 18

Compliance with multilateral conventions

The present Agreement and its Schedule shall be deemed to be amended without further agreement as may be necessary to conform with any multilateral Convention or Agreement which may become binding on both Contracting Parties.

Article 19

Termination

Either Contracting Party may at any time give notice to the other Contracting Party of its decision to terminate the present Agreement; such notice shall be simultaneously communicated to the International Civil Aviation Organisation. In such case the 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 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 modification thereof shall be registered with the International Civil Aviation Organisation.

Article 21

Date of coming into force

The present Agreement shall come into force as soon as the Contracting Parties have notified each other by exchange of diplomatic notes of the completion of their respective constitutional requirements.

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

Done in duplicate in Luxembourg this 17th day of June 1991.

*For the Government
of the Grand Duchy of Luxembourg*

*For the Government
of Malta*

(suivent les signatures)

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SCHEDULE

PART I

**Route to be operated by the airline designated by the Government
of the Grand Duchy of Luxembourg**

Luxembourg – Intermediate Points – Malta – Points Beyond

Note: The Intermediate Points and the Points Beyond are to be specified and agreed upon the aeronautical authorities in due course.

*

PART II

Route to be operated by the airline designated by the Government of Malta

Malta – Intermediate Points – Luxembourg – Points Beyond

Note: The Intermediate Points and the Points Beyond are to be specified and agreed upon by the aeronautical authorities in due course.

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ACCORD RELATIF AUX TRANSPORTS AERIENS ENTRE LE GRAND-DUCHE DE LUXEMBOURG ET LA REPUBLIQUE TOGOLAISE

Le Gouvernement du Grand-Duché de Luxembourg

d'une part,

Le Gouvernement de la République Togolaise

d'autre part,

Dénommés ci-après les „Parties Contractantes“

Désireux de favoriser le développement des transports aériens entre leurs Territoires et de poursuivre, dans la plus large mesure possible, la coopération internationale dans ce domaine;

Désireux d'appliquer à ces transports les principes et les dispositions de la Convention relative à l'Aviation Civile Internationale ouverte à la signature à CHICAGO le 7 décembre 1944;

Considérant que le développement des Transports Aériens peut contribuer à maintenir l'amitié et la compréhension entre les Etats Contractants.

Sont convenus de ce qui suit:

TITRE I

DISPOSITIONS GENERALES

Article 1er

Définitions

Pour l'application du présent Accord et de son Annexe, sauf dispositions contraires:

- a) le terme „Convention“ signifie la Convention relative à l'Aviation Civile Internationale ouverte à la signature à CHICAGO le 7 décembre 1944 et embrasse toute annexe adoptée suivant l'article 90 de cette Convention et toute modification des Annexes ou de la Convention conformément aux articles 90 et 94, et approuvée par les Parties Contractantes.
- b) L'expression „Autorités Aeronautiques“ signifie en ce qui concerne le Grand-Duché de Luxembourg, le Ministre des Transports et toute personne ou tout organisme autorisé à remplir les fonctions présentement exercées par ledit Ministre ou des fonctions analogues, et en ce qui concerne la République togolaise, le Ministre chargé de l'Aviation Civile et toute personne ou tout organisme autorisé à remplir toutes fonctions présentement exercées par ledit Ministre ou des fonctions analogues.
- c) L'expression „Entreprise Désignée“ signifie une entreprise qui aura été désignée et agréée conformément à l'article 11 du présent Accord.
- d) Le mot „Territoire“ s'entend tel qu'il est défini à l'article 2 de la Convention.
- e) Les expressions „Service Aérien“, „Service Aérien international“, „Service de Transport Aérien“, „Escale non commerciale“ ont les significations qui leur sont respectivement attribuées à l'article 96 de la Convention.
- f) Les expressions „Equipements de Bord“, „Provisions de Bord“ et „Pièces de Rechanges“ s'entendent au sens de l'annexe 9 de la Convention.
- g) Le terme „Tarif“ signifie les prix qui doivent être payés pour le transport des passagers, des bagages et des marchandises, et les conditions dans lesquelles ils s'appliquent, y compris les commissions et autres rémunérations supplémentaires pour l'émission ou la vente de titres de transport exceptées les rémunérations et conditions relatives au transport des envois postaux.

Article 2

Exonérations

1. Les aéronefs utilisés en trafic international par l'entreprise désignée d'une Partie Contractante ainsi que leurs équipements normaux de bord, leurs réserves de carburant et lubrifiants, leurs provisions de bord (y compris les denrées alimentaires, les boissons et tabac), seront, à l'entrée sur le territoire de l'autre Partie Contractante, exonérés de tous droits de douanes, frais d'inspection et autres droits ou

taxes similaires, à condition que ces équipements et approvisionnements demeurent à bord des aéronefs jusqu'à leur réexportation.

2. Seront également exonérés de ces droits ou taxes à l'exception des redevances ou taxes représentatives des services rendus:

- a) Les provisions de bord de toute origine prises sur le territoire de l'une des Parties Contractantes dans les limites fixées par les Autorités de ladite Partie Contractante et embarquées sur les aéronefs assurant un service international de l'autre Partie Contractante;
- b) Les pièces de réchange importées sur le territoire de l'une des Parties Contractantes pour l'entretien ou la réparation des aéronefs employés à la navigation internationale de l'entreprise désignée de l'autre Partie Contractante;
- c) Les carburants et lubrifiants destinés à l'avitaillement des aéronefs exploités en trafic international par l'entreprise désignée de l'autre Partie Contractante même lorsque ces approvisionnements doivent être utilisés sur la partie du trajet effectué au-dessus du territoire de la Partie Contractante sur lequel ils ont été embarqués;
- d) Le matériel publicitaire, imprimés distribués gratuitement par les Entreprises Désignées.

3. Les équipements normaux de bord, ainsi que les matériels et approvisionnements se trouvant à bord des aéronefs d'une Partie Contractante, ne pourront être déchargés sur le territoire de l'autre Partie Contractante qu'avec le consentement des autorités douanières de ce territoire. En ce cas, ils pourront être placés sous la surveillance desdites autorités jusqu'à ce qu'ils soient réexportés ou qu'ils aient fait l'objet d'une déclaration en douane.

Article 3

Brevets et licences

Les certificats de navigabilité, les brevets d'aptitude et les licences délivrés ou validés par l'une des Parties Contractantes, et non périmés, seront reconnus valables par l'autre Partie Contractante, aux fins d'exploitation des routes aériennes spécifiées à l'Annexe du présent Accord.

Chaque Partie Contractante se réserve cependant le droit de ne pas reconnaître valables pour la circulation au-dessus de son propre territoire, les brevets d'aptitude et les licences délivrés à ses propres ressortissants par l'autre Partie Contractante.

Article 4

Lois et règlements

1) Les lois et règlements de chaque Partie Contractante relatifs à l'entrée et à la sortie de son territoire des aéronefs employés à la navigation aérienne internationale, ou relatifs à l'exploitation et à la navigation desdits aéronefs durant leur présence dans les limites de son territoire, s'appliqueront aux aéronefs de l'entreprise désignée de l'autre Partie Contractante.

2) Les passagers, les équipages et les expéditeurs de marchandises seront tenus de se conformer soit personnellement, soit par l'intermédiaire d'un tiers agissant en leur nom et pour leur compte aux lois et règlements régissant, sur le territoire de chaque Partie Contractante l'entrée, le séjour et la sortie des passagers, équipages, marchandises et envois postaux, tels que ceux qui s'appliquent à l'entrée, aux formalités de congé à l'immigration, aux douanes et aux mesures découlant des règlements sanitaires.

3) Les passagers en transit sur le territoire d'une Partie Contractante ne seront soumis qu'à un contrôle très simplifié à l'exception de mesures de sécurité contre les actes de violence et de piraterie. Les bagages et marchandises en transit direct seront exonérés des droits de douanes et autres taxes similaires.

Article 5

Egalité de traitement

1. Les droits imposés sur le territoire de l'une ou l'autre des Parties Contractantes pour l'utilisation des aéroports et des autres installations d'aviation par les aéronefs de l'Entreprise Désignée de l'autre Partie Contractante ne seront pas plus élevés que ceux qui sont imposés aux aéronefs d'une entreprise de transport aérien nationale qui assure des services internationaux analogues.

2. Aucune des Parties Contractantes ne favorisera sa propre entreprise ou toute autre entreprise de transport aérien au détriment de l'Entreprise Désignée de l'autre Partie Contractante dans l'application de ses règlements analogues ni dans l'utilisation des aéroports, voies aériennes, services de trafic aérien et installations connexes qui sont sous son contrôle.

Article 6

Consultations

1. Dans un esprit d'étroite coopération, les Autorités aéronautiques des Parties Contractantes se consulteront en tant que de besoin en vue de s'assurer de l'application et du respect satisfaisant des dispositions du présent Accord et de son Annexe. Elles se consulteront également en cas de besoin, pour y apporter des modifications.

2. Chaque Partie Contractante pourra demander des consultations, qui pourront avoir lieu soit par voie de rencontre, soit par un échange de correspondance et devront commencer dans un délai de soixante (60) jours à compter de la date de la demande, à moins que les deux Parties Contractantes ne se mettent d'accord pour prolonger ce délai.

3. Les amendements ou modifications du présent Accord approuvés par les deux Parties Contractantes entreront en vigueur lorsqu'ils auront été confirmés par un échange de notes diplomatiques entre le Gouvernement de la République Togolaise d'une part, et le Gouvernement du Grand-Duché de Luxembourg, d'autre part.

4. Les amendements ou modifications de l'Annexe au présent Accord seront convenus directement entre les Autorités aéronautiques des Parties Contractantes et entreront en vigueur à la date convenue par les Autorités aéronautiques.

Article 7

Dénonciation

Chaque Partie Contractante pourra à tout moment notifier à l'autre Partie Contractante son désir de dénoncer le présent Accord. Une telle notification sera communiquée simultanément à l'Organisation de l'Aviation Civile Internationale. La dénonciation prendra effet un an après la date de réception de la notification par l'autre Partie Contractante, à moins que cette notification ne soit retirée d'un commun accord avant la fin de cette période. Au cas où la Partie Contractante qui recevrait une telle notification n'en accuserait pas réception, ladite notification serait tenue pour reçue quinze (15) jours après sa réception au siège de l'Organisation de l'Aviation Civile Internationale.

Article 8

Règlement des différends

1. Au cas où un différend relatif à l'interprétation ou à l'application du présent Accord n'aurait pu être réglé conformément aux dispositions de l'article 6, soit entre les Autorités Aéronautiques, soit entre les Gouvernements des Parties Contractantes, il sera soumis sur la demande d'une des Parties Contractantes à un tribunal arbitral.

2. Ce tribunal sera composé de trois membres. Chacun des deux Gouvernements désignera un arbitre; ces deux arbitres se mettront d'accord sur la désignation d'un ressortissant d'un Etat tiers comme Président.

Si dans un délai de soixante jours à dater du jour où l'un des deux Gouvernements a proposé le règlement arbitral du litige, les deux arbitres n'ont pas été désignés, ou si, dans le cours du mois suivant les arbitres ne se sont pas mis d'accord sur la désignation d'un Président, chaque Partie Contractante pourra demander au Président du Conseil de l'Organisation de l'Aviation Civile Internationale de procéder aux désignations nécessaires.

3. Le tribunal arbitral décide, s'il ne parvient pas à régler le différend à l'amiable, à la majorité des voix.

Pour autant que les Parties Contractantes ne conviennent rien de contraire, le tribunal arbitral établit lui-même ses règles de procédure et détermine son siège.

4. Les Parties Contractantes s'engagent à se conformer aux mesures qui pourront être édictées au cours de l'instance ainsi qu'à la décision arbitrale, cette dernière étant, dans tous les cas, considérée comme définitive.

5. Si l'une des Parties Contractantes ne se conforme pas aux décisions des arbitres, l'autre Partie Contractante pourra, aussi longtemps que durera ce manquement, limiter, suspendre ou révoquer les droits ou privilèges qu'elle avait accordés en vertu du présent Accord à la Partie Contractante en défaut.

6. Chaque Partie Contractante supportera la rémunération de son arbitre et la moitié de la rémunération du Président désigné et la moitié des frais de procédure.

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TITRE II

CONDITIONS D'EXPLOITATION

Article 9

Services Agréés

Chaque Partie Contractante accorde à l'autre Partie Contractante les droits spécifiés au présent Accord en vue de l'établissement des services aériens sur les routes spécifiées à l'Annexe ci-jointe.

Article 10

Exploitation des droits

1. Les Parties Contractantes s'accordent réciproquement le droit de faire exploiter par l'entreprise désignée de chacune d'elles, les services aériens spécifiés au présent Accord. Lesdits services seront dorénavant désignés par l'expression „services agréés“.

2. Sous réserve des dispositions du présent Accord, l'entreprise désignée par chaque Partie Contractante jouira des privilèges suivants lorsqu'elle exploitera un service agréé sur une route spécifiée:

- a) survoler sans y atterrir, le territoire de l'autre Partie Contractante;
- b) faire des escales sur ledit territoire pour des fins non commerciales, et
- c) faire des escales sur ledit territoire en vue de débarquer et d'embarquer en trafic international, des passagers, des marchandises et du courrier.

Article 11

Désignation

1. Chaque Partie Contractante aura le droit de désigner par écrit à l'autre Partie Contractante une ou plusieurs entreprises de transport aérien pour exploiter les services agréés sur les routes spécifiées.

2. Dès réception de cette désignation, l'autre Partie Contractante devra, sous réserve des dispositions du paragraphe 3 ci-dessous et de l'article 12 du présent Accord, accorder sans délai, à l'entreprise de transports aériens désignée, les autorisations d'exploitation appropriées.

3. Les Autorités Aéronautiques de l'une des Parties Contractantes pourront exiger que l'entreprise de transports aériens désignée par l'autre Partie Contractante fasse la preuve qu'elle est à même de satisfaire aux conditions prescrites, dans le domaine de l'exploitation des services aériens internationaux par les lois et règlements normalement et raisonnablement appliqués par lesdites Autorités, conformément aux dispositions de la Convention.

Article 12

Suspension et révocation

1. Chaque Partie Contractante aura le droit de ne pas accorder les autorisations d'exploitation prévues au paragraphe 2 de l'article 11 lorsque ladite Partie Contractante n'est pas convaincue qu'une part substantielle de la propriété et le contrôle effectif de cette entreprise appartiennent à la Partie Contractante qui a désigné l'entreprise ou à des ressortissants de celle-ci.

2. Chaque Partie Contractante aura le droit de révoquer une autorisation d'exploitation ou de suspendre l'exercice, par l'entreprise de transports aériens désignée par l'autre Partie Contractante, des droits spécifiés aux articles 9 et 10 du présent Accord lorsque:

- a) elle ne sera pas convaincue qu'une part substantielle de la propriété et le contrôle effectif de cette entreprise appartiennent à la Partie Contractante qui a désigné l'entreprise ou à des ressortissants de celle-ci, ou que
- b) cette entreprise ne se sera pas conformée aux lois et règlements de la Partie Contractante qui a accordé ces droits, ou que
- c) cette entreprise n'exploitera pas dans les conditions prescrites par le présent Accord.

3. A moins que la révocation ou la suspension ne soit nécessaire pour éviter de nouvelles infractions auxdits lois et règlements, un tel droit ne pourra être exercé qu'après consultation prévue à l'article 6, avec l'autre Partie Contractante. En cas d'échec de cette consultation il sera recouru à l'arbitrage conformément à l'article 8.

Article 13

Entreprises multinationales

En application des articles 77 et 79 de la Convention visant la création par deux ou plusieurs Etats d'organisation d'exploitation en commun ou d'organismes internationaux d'exploitation:

Le Gouvernement du Grand-Duché de Luxembourg accepte que le Gouvernement de la République Togolaise, conformément aux articles 2 et 4 et aux pièces annexes du Traité relatif aux Transports Aériens en Afrique signé à YAOUNDE le 28 mars 1961, auquel le TOGO a adhéré, se réserve le droit de désigner la Société AIR AFRIQUE comme instrument choisi par la République Togolaise pour l'exploitation des services agréés.

Réciproquement, le Gouvernement de la République Togolaise accepte que le Gouvernement du Grand-Duché de Luxembourg se réserve le droit de désigner, conformément aux dispositions de l'article 11 ci-dessus, l'instrument qu'il aura choisi pour l'exploitation des services agréés.

Article 14

Répartition de la Capacité

1. L'exploitation des services agréés entre leurs territoires respectifs constitue, pour les deux Parties Contractantes, un droit fondamental et primordial.

2. Les deux Parties Contractantes sont d'accord pour faire appliquer le principe de l'égalité et de la réciprocité dans tous les domaines relatifs à l'exercice des droits résultant du présent Accord.

Les entreprises désignées par les deux Parties Contractantes seront assurées d'un traitement juste et équitable et devront bénéficier de possibilités et de droits égaux dans l'exploitation des services agréés.

3. Les Autorités Aéronautiques veilleront à ce que les capacités attribuées à chaque entreprise désignée soient respectées. Ces capacités seront révisées selon les besoins.

4. Les entreprises désignées par les deux Parties Contractantes devront prendre en considération sur les parcours communs leurs intérêts mutuels afin de ne pas affecter indûment leurs services respectifs.

Article 15

Détermination de la Capacité

1. Sur chacune des routes figurant à l'Annexe du présent Accord, les services agréés auront pour objectif primordial la mise en oeuvre, à un coefficient d'utilisation tenu pour raisonnable, d'une capacité adaptée aux besoins normaux et raisonnablement prévisibles du trafic aérien international en provenance ou à destination du territoire de la Partie Contractante qui aura désigné l'entreprise exploitant lesdits services.

2. L'entreprise désignée par l'une des Parties Contractantes pourra satisfaire dans la limite de la capacité globale prévue au 1er alinéa du présent article, aux besoins du trafic entre les territoires des Etats tiers situés sur les routes convenues et le territoire de l'autre Partie Contractante, compte tenu des services locaux et régionaux.

3. Pour répondre aux exigences d'un trafic imprévu ou momentané sur les mêmes routes, les entreprises aériennes désignées devront décider entre elles de mesures appropriées pour satisfaire à cette augmentation temporaire du trafic. Elles en rendront compte immédiatement aux Autorités Aéronautiques de leurs pays respectifs qui pourront se consulter si elles le jugent utile.

4. Au cas où l'entreprise désignée par l'une des Parties Contractantes ne désirait pas utiliser sur une ou plusieurs routes soit une fraction, soit la totalité de la capacité de transport qu'elle devrait offrir compte tenu de ses droits, l'entreprise désignée par l'autre Partie Contractante pourra utiliser pour un temps déterminé, la fraction ou la totalité de la capacité de transport en cause.

L'entreprise désignée qui aura transféré tout ou partie de ses droits pourra les reprendre au terme de ladite période.

Article 16

Approbation des programmes

1. Les entreprises désignées indiqueront aux Autorités Aéronautiques des deux Parties Contractantes, trente (30) jours au plus tard avant le début de l'exploitation des services agréés, la nature du transport, les types d'avions utilisés et les horaires envisagés. La même règle s'appliquera aux changements ultérieurs.

2. Les Autorités Aéronautiques de l'une des Parties Contractantes fourniront sur demande aux Autorités Aéronautiques de l'autre Partie Contractante toutes données statistiques pouvant être équitablement exigées pour contrôler la capacité de transport offerte par l'entreprise désignée de la première Partie Contractante. Ces statistiques contiendront toutes les données nécessaires pour déterminer le volume ainsi que l'origine et la destination du trafic.

Article 17

Représentation

Toute entreprise désignée par une Partie Contractante pourra maintenir son propre personnel technique et administratif indispensable sur les aéroports et dans les villes de l'autre Partie Contractante où elle a l'intention d'avoir sa propre représentation.

Dans la mesure où une entreprise désignée renonce à avoir une organisation propre sur les aéroports de l'autre Partie Contractante, elle chargera autant que possible, des travaux éventuels, le personnel des aéroports ou celui d'une entreprise désignée de l'autre Partie Contractante.

Article 18

Coordination des Services

Les deux Parties Contractantes conviennent de se consulter à chaque fois que le besoin se fera sentir afin de coordonner leurs services aériens respectifs.

Article 19

Tarifs

1. Les tarifs à appliquer par l'Entreprise Désignée d'une Partie Contractante pour le transport de trafic à destination ou en provenance du territoire de l'autre Partie Contractante seront établis à des taux raisonnables, compte tenu de tous les éléments d'appréciation et notamment du coût d'exploitation, d'un bénéfice raisonnable, ainsi que des tarifs pratiqués par d'autres entreprises de transport aérien sur cette même route.

2. Les tarifs visés au paragraphe 1 du présent Article seront, si possible, fixés d'un commun accord entre les entreprises de transport aérien des Parties Contractantes, après consultation s'il y a lieu des entreprises de transport aérien desservant tout ou partie des mêmes routes. Cet accord sera réalisé, autant que possible, suivant les procédures de l'Association Internationale du Transport Aérien relatives à l'établissement des tarifs.

3. Les tarifs ainsi convenus seront soumis à l'approbation des Autorités Aéronautiques des deux Parties Contractantes au moins trente (30) jours avant la date prévue pour leur application. Dans des cas spéciaux ce délai peut être réduit sous réserve de l'accord desdites Autorités.

4. Si les entreprises de transports aériens ne parvenaient pas à convenir de la fixation d'un tarif conformément aux dispositions du paragraphe (1er) ci-dessous ou si dans les 15 premiers jours du délai de trente (30) jours prévu dans le paragraphe 3 du présent Article l'une des Parties Contractantes faisait connaître son désaccord sur le tarif qui lui a été soumis conformément aux dispositions du paragraphe (2) précédent, les Autorités Aéronautiques des deux Parties Contractantes s'efforceront d'aboutir à un règlement satisfaisant.

5. Si les Autorités Aéronautiques ne parviennent pas à se mettre d'accord sur un tarif selon le paragraphe 3 de cet Article ou sur la détermination d'un tarif selon le paragraphe 4 du présent Article, le différent sera réglé selon les dispositions de l'Article 8 du présent Accord.

6. Sous réserve des dispositions du paragraphe 5 précédent, aucun tarif n'entrera en vigueur sans l'approbation des Autorités Aéronautiques.

7. Tant que la sentence arbitrale n'aura pas été rendue, les tarifs établis selon les dispositions de cet Article demeureront en vigueur jusqu'à ce que de nouveaux tarifs soient fixés conformément aux dispositions de cet Article.

Cependant, la validité des tarifs ne pourra être prolongée en vertu du présent paragraphe au-delà de douze (12) mois après la date à laquelle ils auront dû expirer.

8. Chaque Partie Contractante veillera à ce que tous les transporteurs exploitant des services aériens à destination et en provenance de son territoire, se conforment rigoureusement aux tarifs convenus et approuvés conformément aux dispositions du présent article.

Article 20

Libre transfert

1. Chacune des Parties Contractantes s'engage sous réserve de réciprocité à assurer à l'autre Partie Contractante le libre transfert, au taux officiel sans taxes ni impôts des excédents de recettes sur les dépenses réalisées sur son territoire à raison des transports de passagers, bagages, envois postaux et marchandises effectués par l'entreprise désignée de l'autre Partie Contractante.

2. Dans la mesure où le service de paiements entre les Parties Contractantes est réglé par un accord spécial, celui-ci sera applicable.

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TITRE III

SURETE DE L'AVIATION CIVILE

Article 21

Répression d'actes illicites

1. Conformément à leurs droits et obligations en vertu du droit international, les Parties Contractantes réaffirment leur obligation mutuelle de protéger l'aviation civile contre les actes d'intervention illicite, pour en assurer la sûreté. Sans limiter la généralité de leurs droits et obligations en vertu du droit international, les Parties Contractantes agissent en particulier conformément aux dispositions de la Convention relative aux infractions et à certains autres actes survenant à bord des aéronefs, signée à Tokyo le 14 septembre 1963, de la Convention pour la répression de la capture illicite d'aéronefs, signée à La Haye le 16 décembre 1970, de la Convention pour la répression d'actes illicites dirigés contre la sécurité de l'aviation civile, signée à Montréal le 23 septembre 1971.

2. Les Parties Contractantes s'accordent mutuellement, sur demande, toute l'assistance nécessaire pour prévenir les actes de capture illicite d'aéronefs civils et autres actes d'intervention illicite contre la sécurité de ces aéronefs, de leurs passagers et de leurs équipages, des aéroports et des installations et services de navigation aérienne, ainsi que toute autre menace pour la sûreté de l'aviation civile.

3. Dans leurs rapports mutuels, les Parties Contractantes se conforment aux dispositions relatives à la sûreté de l'aviation qui ont été établies par l'Organisation de l'Aviation civile internationale et qui sont désignées comme Annexes à la Convention relative à l'Aviation civile internationale, dans la mesure où ces dispositions s'appliquent auxdites Parties; elles exigent des exploitants d'aéronefs immatriculés par elles, ou des exploitants d'aéronefs qui ont le siège principal de leur exploitation ou leur résidence permanente sur leur territoire, et des exploitants d'aéronefs situés sur leur territoire, qu'ils se conforment à ces dispositions relatives à la sûreté de l'aviation.

4. Chaque Partie Contractante convient que ces exploitants d'aéronefs peuvent être tenus d'observer les dispositions relatives à la sûreté de l'aviation dont il est question au point 3 du présent article et que l'autre Partie Contractante prescrit pour l'entrée sur le territoire, la sortie du territoire ou le séjour sur le territoire de cette autre Partie Contractante. Chaque Partie Contractante veille à ce que des mesures

soient appliquées effectivement sur son territoire pour protéger les aéronefs et pour filtrer les passagers, les équipages, les bagages à main, le fret et les provisions de bord, avant et pendant l'embarquement ou le chargement. Chaque Partie Contractante examine d'un oeil favorable toute demande que lui adresse l'autre Partie Contractante en vue d'obtenir que des mesures spéciales de sûreté raisonnables soient prises pour faire face à une menace particulière.

5. En cas d'incident ou de menace d'incident de capture illicite d'aéronefs civils ou d'autres actes d'intervention illicite contre la sécurité de ces aéronefs, de leurs passagers et de leurs équipages, des aéroports ou des installations et services de navigation aérienne, les Parties Contractantes, par consultation mutuelle, s'entraident en facilitant les communications et les autres mesures appropriées destinées à mettre fin rapidement et sûrement à cet incident ou à cette menace d'incident.

6. En cas de différend relatif à l'interprétation ou à l'application des dispositions du présent article, les Autorités Aéronautiques de chaque Partie Contractante peuvent demander des consultations directes avec les Autorités Aéronautiques de l'autre Partie Contractante.

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TITRE IV

DISPOSITIONS FINALES

Article 22

Entrée en vigueur

Les dispositions du présent Accord seront appliquées à titre provisoire à partir de la date de sa signature.

Chaque Partie Contractante notifiera à l'autre l'accomplissement des formalités constitutionnelles requises en ce qui la concerne pour l'entrée en vigueur du présent Accord qui prendra effet le jour de la réception de la dernière notification.

Article 23

Convention multilatérale

Le présent Accord sera amendé pour le mettre en harmonie avec toute Convention multilatérale qui viendrait à lier les deux Parties Contractantes.

Article 24

Enregistrement

Le présent Accord, son Annexe et toute modification ultérieure seront communiqués à l'Organisation de l'Aviation Civile Internationale pour y être enregistrés.

FAIT à Lomé, le 24 mars 1992, en double exemplaire en langue française, les deux textes faisant également foi.

*Pour le Gouvernement
du Grand-Duché de Luxembourg*

*Pour le Gouvernement
de la République Togolaise*

(suivent les signatures)

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ANNEXE

TABLEAU DE ROUTE

1 - Routes luxembourgeoises

<i>Points de départ</i>	<i>Points intermédiaires</i>	<i>Points au Togo</i>	<i>Points au-delà</i>
Luxembourg	A déterminer ultérieurement	Lomé	A déterminer ultérieurement

2 – Routes togolaises

<i>Points de départ</i>	<i>Points intermédiaires</i>	<i>Points au Luxembourg</i>	<i>Points au-delà</i>
Lomé	A déterminer ultérieurement	Luxembourg	A déterminer ultérieurement

N.B.

- 1) Chacune des entreprises désignées pourra omettre l'un quelconque des points spécifiés au tableau des routes.
- 2) L'entreprise désignée d'une Partie Contractante pourra faire escale en un ou plusieurs points autres que ceux spécifiés au tableau des routes; toutefois aucun droit de trafic ne sera exercé entre ce ou ces points et le territoire de l'autre Partie Contractante.
- 3) Les entreprises désignées peuvent mettre fin à un quelconque de leurs services sur les routes spécifiées;

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AGREEMENT BETWEEN THE GOVERNMENT OF THE GRAND-DUCHY OF LUXEMBOURG AND THE GOVERNMENT OF NEW ZEALAND ON AIR SERVICES

The government of the Grand-Duchy of Luxembourg

and

the government of New Zealand

Hereinafter referred to as „the Contracting Parties“;

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

Desiring to conclude an agreement for the purpose of establishing air services between and beyond their respective territories;

Desiring to ensure the highest degree of safety and security in international air transport;

Have agreed as follows:

Article 1

Definitions

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

- (a) the term „aeronautical authorities“ means the Minister responsible for the subject of Civil Aviation or any other authority or person empowered to perform the functions now exercised by the said authorities;
- (b) the term „agreed services“ means scheduled air services on the routes specified in the Annex to this Agreement for the transport of passengers, cargo and mail, separately or in combination;
- (c) the term „Agreement“ means this Agreement, its Annex, and any amendments thereto;
- (d) 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 adopted under Article 90 of that Convention and any amendment of the Annexes or of the Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have been adopted or ratified by both Contracting Parties;
- (e) the term „designated airline“ means an airline which has been designated and authorized in accordance with Article 3 of this Agreement;
- (f) 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 and conditions for agency and other ancillary services, but excluding remuneration and conditions for the carriage of mail;

- (g) the terms „air services“, „international air service“, „airline“ and „stop for non-traffic purposes“ have the meanings respectively assigned to them in Article 96 of the Convention;
- (h) the term „territory“ has the meaning assigned to it in Article 2 of the Convention, provided that, in the case of New Zealand, the term „territory“ shall exclude the Cook Islands, Niue and Tokelau.

Article 2

Grant of Rights

1. Each Contracting Party grants to the other Contracting Party the following rights for the conduct of international air services by the airline designated by the other Contracting Party:

- (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 for the purpose of taking up and discharging, while operating the routes specified in the Annex, international traffic in passengers, cargo and mail, separately or in combination.

2. Nothing in paragraph 1 of this Article shall be deemed to confer on a designated airline of one Contracting Party the privilege of taking up, in the territory of the other Contracting Party, passengers, cargo and mail carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

Article 3

Designation and Authorization

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines to operate the agreed services on the specified routes and to withdraw or alter such designations.

2. On receipt of such designation and subject to the provisions of Article 4 of this Agreement, the aeronautical authorities of the other Contracting Party shall grant without delay to the airline or airlines so designated the appropriate authorizations to operate the agreed services for which that airline has been designated.

3. Upon receipt of such authorizations the airline may begin at any time to operate the agreed services, in whole or in part, provided that the airline complies with the applicable provisions of this Agreement, in particular, that tariffs are established in accordance with the provisions of Article 11 of this Agreement.

Article 4

Revocation and Limitation of Authorization

1. The aeronautical authorities of each Contracting Party shall have the right to withhold the authorizations referred to in Article 3 of this Agreement with respect to an airline designated by the other Contracting Party, to revoke or suspend such authorizations or impose conditions, temporarily or permanently:

- (a) in the event of failure by such airline to qualify before the aeronautical authorities of that Contracting Party under the laws and regulations normally and reasonably applied by these authorities in conformity with the Convention;
- (b) in the event of failure by such airline to comply with the laws and regulations of that Contracting Party;
- (c) in the event that they are not satisfied that substantial ownership and effective control of the airline are vested in the Contracting Party designating the airline or in its nationals; and
- (d) in case the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.

2. Unless immediate action is essential to prevent further infringement of the laws and regulations referred to above, the rights enumerated in paragraph 1 of this Article shall be exercised only after consultations with the aeronautical authorities of the other Contracting Party in conformity with Article 14 of this Agreement.

*Article 5****Application of Laws and Regulations***

1. The laws, regulations and procedures of one Contracting Party relating to the admission to, remaining in, or departure from its territory of aircraft engaged in international air navigation or to the operation and navigation of such aircraft shall be complied with by the airline or airlines of the other Contracting Party upon entrance into, departure from and while within the said territory.

2. The laws and regulations of one Contracting Party respecting entry, clearance, transit, immigration, passports, customs and quarantine shall be complied with by the airline or airlines of the other Contracting Party and by or on behalf of its crews, passengers, cargo and mail upon transit of, admission to, departure from and while within the territory of such a Contracting Party.

3. Neither of the Contracting Parties shall give preference to its own or any other airline over an airline of the other Contracting Party engaged in similar international air services in the application of its customs, immigration, quarantine and similar regulations.

4. Passengers, baggage and cargo in direct transit through the territory of either Contracting Party and not leaving the area of the airport reserved for such purpose shall 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.

*Article 6****Recognition of Certificates and Licences (Safety)***

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

2. Each Party may request consultations concerning the safety standards maintained by the other Party relating to aeronautical facilities, aircrew, aircraft, and operation of the designated airlines. If, following such consultations, one Party finds that the other Party does not effectively maintain and administer safety standards and requirements in these areas that at least equal the minimum standards which may be established pursuant to the Convention, the other Party shall be notified of such findings and the steps considered necessary to conform with these minimum standards; and the other Party shall take appropriate corrective action. Each Party reserves the right to withhold, revoke or limit the operation authorization or technical permission of an airline or airlines designated by the other Party in the event the other Party does not take such appropriate action within a reasonable time.

*Article 7****Aviation Security***

1. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation 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 and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.

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 provisions established by the International Civil Aviation Organisation and designated as Annexes to the Convention on International Civil Aviation to the extent that such security provisions are applicable

to the Contracting Parties; they shall require that operators of aircraft of their registry or operators of aircraft 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.

4. Each Contracting Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in paragraph 3 above required by the other Contracting Party for entry into, departure from, or while within, the territory of that other Contracting Party. Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give positive consideration to 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 rapidly and safely such incident or threat thereof.

6. Should one Contracting Party have problems with regard to the application of the aviation security provisions of this Article, the aeronautical authorities of either Contracting Party may request immediate consultations with the aeronautical authorities of the other Contracting Party.

Article 8

Customs duties and other charges

1. Each Contracting Party shall on a basis of reciprocity exempt the designated airline or airlines of the other Contracting Party to the fullest extent possible under its national law from import restrictions, customs duties, excise taxes, inspection fees and other national duties and charges on aircraft, fuel, lubricating oils, consumable technical supplies, spare parts including engines, regular aircraft equipment, aircraft stores (including liquor, tobacco and other products destined for sale to passengers in limited quantities during the flight) and other items intended for use or used solely in connection with the operation or servicing of aircraft of the designated airline or airlines of such other Contracting Party operating the agreed services.

2. The exemptions granted by this Article shall apply to the items referred to in paragraph 1 of this Article:

- (a) introduced into the territory of one Contracting Party by or on behalf of the designated airline or airlines of the other Contracting Party;
 - (b) retained on board aircraft of the designated airline or airlines of one Contracting Party upon arriving in or leaving the territory of the other Contracting Party;
 - (c) taken on board aircraft of the designated airline or airlines of one Contracting Party in the territory of the other Contracting Party and intended for use in operating the agreed services;
- wether or not such items are used or consumed wholly within the territory of the Contracting Party granting the exemption, provided such items are not alienated in the territory of the said Contracting Party.

3. The regular airborne equipment, as well as the materials and supplies normally retained on board the aircraft of the designated airline or airlines 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 territory. In such case, they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with Customs regulations.

Article 9

Capacity

1. The designated airline or airlines of the Contracting Parties shall have a fair and equal opportunity to operate the agreed services covered by this Agreement.

2. The capacity provided by each designated airline shall be such as will enable that airline at a reasonable load factor to provide the agreed services taking full account of the requirements of through-airline operations.

3. Neither Contracting Party may unilaterally impose any restrictions on the designated airline or airlines of the other Contracting Party with respect to capacity, frequency or type of aircraft employed in connection with services over any of the routes specified in the schedule annexed to this Agreement. In the event that one of the Contracting Parties believes that the operation proposed or conducted by the airline of the other Contracting Party unduly affects the agreed services provided by its designated airline, it may request consultation pursuant to Article 14 of this Agreement.

Article 10

Tariffs

1. Each Contracting Party shall allow prices for air transportation to be established by each designated airline based upon commercial considerations in the marketplace. Intervention by the Contracting Parties shall be limited to:

- (a) prevention of predatory or discriminatory prices or practices;
- (b) protection of consumers from prices that are unduly high or restrictive because of the abuse of a dominant position; and
- (c) protection of airlines from prices that are artificially low because of direct or indirect governmental subsidy or support.

2. Each Contracting Party may require notification to or filing with its aeronautical authorities of prices proposed to be changed to or from its territory by airlines of the other Contracting Party. Notification or filing by the airlines of both Contracting Parties may be required no more than 60 days before the proposed date of effectiveness. In individual cases, notification or filing may be permitted on shorter notice than normally required.

3. Neither Contracting Party shall take unilateral action to prevent the inauguration or continuation of a price proposed to be charged or charged by (a) an airline of either Contracting Party for international air transportation between the territories of the Contracting Parties, or (b) an airline of one Contracting Party for international air transportation between the territory of the other Contracting Party and any other country, including in both cases transportation on an interline or intra-line basis. If either Contracting Party believes that any such price is inconsistent with the considerations set forth in paragraph 1 of this Article, it shall request consultations and notify the other Contracting Party of the reasons for its dissatisfaction as soon as possible. These consultations shall be held not later than 30 days after receipt of the request, and the Contracting Parties shall co-operate in securing information necessary for reasoned resolution of the issue. If the Contracting Parties reach agreement with respect to a price for which a notice of dissatisfaction has been given, each Contracting Party shall use its best efforts to put that agreement into effect. Without mutual agreement, that price shall not go into or continue in effect.

4. Notwithstanding paragraph 3 of this Article, each Contracting Party shall allow (a) any airline of either Contracting Party or any airline of a third country to meet a lower or more competitive price proposed or charged by any other airline for international air transportation between the territories of the Contracting Parties, and (b) any airline of one Contracting Party to meet a lower or more competitive price proposed or charged by any other airline for international air transportation between the territory of the other Contracting Party and a third country. As used herein, the term „meet“ means the right to establish on a timely basis, using such expedited procedures as may be necessary, an identical or similar price on a direct, interline or intra-line basis, notwithstanding differences in conditions relating to routing, connections, type of service or aircraft type; or such price through a combination of prices.

Article 11

Airline representatives

1. The designated airline or airline of one Contracting Party shall be allowed, on the basis of reciprocity, to bring into and to maintain in the territory of the other Contracting Party their representatives and commercial, operational and technical staff as required in connection with the operation of agreed services.

2. These staff requirements may, at the option of the designated airline or airlines of one Contracting Party, be satisfied by its own personnel or by using the services of any other organisation, company or airline operating in the territory of the other Contracting Party, and authorized to perform such services in the territory of that Contracting Party.

3. The representatives and staff shall be subject to the laws and regulations in force of the other Contracting Party, and, consistent with such laws and regulations, each Contracting Party shall, on the basis of reciprocity and with the minimum of delay, grant the necessary employment authorisations, visitor visas or other similar documents to the representatives and staff referred to in paragraph 1 of this Article.

Article 12

Commercial opportunities and transfer of funds

1. Each designated airline shall have the right to engage in the sale of air transportation in the territory of the other Contracting Party directly and, at its discretion, through its agents. Each designated airline shall have the right to sell transportation in the currency of that territory or, to the extent permitted by national law, in freely convertible currencies of other countries, and to the same extent any person shall be free to purchase such transportation in currencies accepted for sale by that airline.

2. Each Contracting Party grants to any designated airline of the other Contracting Party the right of free transfer at the official rate of exchange of the excess of receipts over expenditure earned by that airline in its territory in connection with the carriage of passengers, mail and cargo.

Article 13

Statistics

The aeronautical authorities of either 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 the capacity provided on the agreed services.

Article 14

Consultation

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 of its Annex, and shall also consult when necessary to provide for modification thereof.

2. Either Contracting Party may request consultation, which may be through discussion or by correspondence and shall begin within a period of sixty (60) days of receipt of a written request, unless both Contracting Parties agree to an extension of this period.

Article 15

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 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 either Contracting Party may submit the dispute 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 arbitrators. Each of the Contracting Parties 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 channels requesting arbitration of the dispute and the third arbitrator shall be appointed within a further period of 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. In all cases the third arbitrator shall be a national of a third State and shall act as President of the arbitral tribunal.

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

Article 16

Modification of agreement

If either of the Contracting Parties considers it desirable to modify any provision of this Agreement, it may request consultations with the other Contracting Party. Such consultations, which may be between aeronautical authorities and which may be through discussion or by correspondence, shall begin within a period of sixty (60) days of receipt of a written request unless both Contracting Parties agree to an extension of this period. Any modifications so agreed shall come into force when they have been confirmed by an exchange of diplomatic notes.

Article 17

Multilateral convention

This Agreement and its Annexes shall be amended so as to conform with any multilateral convention which may become binding on both Contracting Parties.

Article 18

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 communicated simultaneously to the International Civil Aviation Organisation. The 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 the notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organisation.

Article 19

Registration

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

Article 20

Entry into force

This Agreement shall be applied provisionally from the date of signature. It shall be approved according to the constitutional requirements of each Contracting Party and shall enter into force on the date of an exchange of diplomatic notes confirming that all the constitutional procedures required for the entry into force of this Agreement by each Contracting Party have been completed.

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

DONE in duplicate at Wellington this 2nd day of November 1992 in the English language.

*For the Government
of the Grand-Duchy of Luxembourg*
(signature)

*For the Government
of New Zealand*
(signature)

*

ANNEX

ROUTE SCHEDULE

- I. Routes to be operated in both directions by airlines designated by the Grand-Duchy of Luxembourg:
From Luxembourg via intermediate points to points in New Zealand and to points beyond.
- II. Routes to be operated in both directions by airlines designated by New Zealand:
From points in New Zealand via intermediate points to Luxembourg and to points beyond.

*

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE GRAND-DUCHY OF LUXEMBOURG
AND THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA
ON SCHEDULED AIR SERVICES**

The Government of the Grand-Duchy of Luxembourg

and

the Government of the Republic of Slovenia

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

Desiring to conclude an agreement for the purpose of establishing scheduled air services between and beyond their respective territories;

Desiring to ensure the highest degree of safety and security in international air transport;

Have agreed as follows:

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Article 1

Definitions

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

- (a) the „aeronautical authorities“ means: in the case of the Grand-Duchy of Luxembourg, the Minister responsible for the subject of Civil Aviation and, in the case of the Republic of Slovenia, the Ministry of Transport and Communications, Civil Aviation Authority or, in both cases, any other authority or person empowered to perform the functions now exercised by the said authorities;
- (b) the „agreed services“ means scheduled air services on the routes specified in the Annex to this Agreement for the transport of passengers, cargo and mail, separately or in combination;
- (c) the „Agreement“ means this Agreement, its Annex, and any amendments thereto;

- (d) 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 of the Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have been adopted or ratified by both Contracting Parties;
- (e) the „designated airline“ means an airline which has been designated and authorized in accordance with Article 3 of this Agreement;
- (f) the „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 and conditions for agency and other ancillary services, but excluding remuneration and conditions for the carriage of mail;
- (g) „air services“, „international air service“, „airline“ and „stop for non-traffic purposes“ have the meaning respectively assigned to them in Article 96 of the Convention;
- (h) „territory“ has the meaning assigned to it in article 2 of the Convention.

Article 2

Grant of Rights

1. Each Contracting Party grants to the other Contracting Party the following rights for the conduct of international air services by the airline designated by the other Contracting Party:

- (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;
- (c) to make stops in the said territory for the purpose of taking up and discharging, while operating the routes specified in the Annex, international traffic in passengers, cargo and mail, separately or in combination; and
- (d) to embark and disembark in the territory of third countries at the points specified in the Annex for the present Agreement passengers, baggage, cargo, and mail destined for or coming from points in the territory of the other Contracting Party, specified in the Annex of the present Agreement.

2. Nothing in paragraph 1 of this article shall be deemed to confer on a designated airline of one Contracting Party the privilege of taking up, in the territory of the other Contracting Party, passengers, cargo and mail carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

3. If because of armed conflict, political disturbances or developments, or special and unusual circumstances, the designated airline of one Contracting Party is unable to operate a service on its normal routing, the other Contracting Party shall use its best efforts to facilitate the continued operation of such service through appropriate rearrangements of such routes, including the grant of rights for such time as may be necessary to facilitate viable operations.

Article 3

Designation and Authorization

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines to operate the agreed services on the specified routes and to withdraw or alter such designations.

2. On receipt of such designation and subject to the provisions of Article 4 of this Agreement, the aeronautical authorities of the other Contracting Party shall grant without delay to the airline or airlines so designated the appropriate authorizations to operate the agreed services for which that airline has been designated.

3. Upon receipt of such authorizations the airline may begin at any time to operate the agreed services, in whole or in part, provided that the airline complies with the applicable provisions of this Agreement, in particular, that tariffs are established in accordance with the provisions of Article 10 of this Agreement.

Article 4

Revocation and Limitation of Authorization

1. The aeronautical authorities of each Contracting Party shall have the right to withhold the authorizations referred to in Article 3 of this Agreement with respect to an airline designated by the other Contracting Party, to revoke or suspend such authorizations or impose conditions, temporarily or permanently:

- (a) in the event of failure by such airline to qualify before the aeronautical authorities of that Contracting Party under the laws and regulations normally and reasonably applied by these authorities in conformity with the Convention;
- (b) in the event of failure by such airline to comply with the laws and regulations of that Contracting Party;
- (c) in the event that they are not satisfied that substantial ownership and effective control of the airline are vested in the Contracting Party designating the airline or in its nationals; and
- (d) in case the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.

2. Unless immediate action is essential to prevent infringement of the laws and regulations referred to above, the rights enumerated in paragraph 1 of this Article shall be exercised only after consultations with the aeronautical authorities of the other Contracting Party in conformity with Article 14 of this Agreement.

Article 5

Application of Laws and Regulations

1. The laws, regulations and procedures of one Contracting Party relating to the admission to, remaining in, or departure from its territory of aircraft engaged in international air navigation or to the operation and navigation of such aircraft shall be complied with by the airline or airlines of the other Contracting Party upon entrance into, departure from and while within the said territory.

2. The laws and regulations of one Contracting Party respecting entry, clearance, transit, immigration, passports, customs and quarantine shall be complied with by the airline or airlines of the other Contracting Party and by or on behalf of its crews, passengers, cargo and mail upon transit of, admission to, departure from and while within the territory of such a Contracting Party.

3. Neither of the Contracting Parties shall give preference to its own or any other airline over an airline of the other Contracting Party engaged in similar international air services in the application of its customs, immigration, quarantine and similar regulations.

4. Passengers baggage and cargo in direct transit through the territory of either Contracting Party and not leaving the area of the airport reserved for such purpose shall 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.

Article 6

Recognition of Certificates and Licences

1. Certificates or airworthiness, certificates of competency and licences, issued or validated by one Contracting Party and still in force, shall be recognized as valid by the other Contracting Party provided that such certificates or licences were issued or validated pursuant to, and in conformity with, the standards established under the Convention. Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flights above its own territory, certificates of competency and licences granted to its own nationals by the other Contracting Party.

2. Each Contracting Party may request consultations concerning the safety standards maintained by the other Contracting Party relating to aeronautical facilities, aircrew, aircraft, and operation of the designated airlines. If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards and requirements in these areas that at least equal the minimum standards which may be established pursuant to the Convention, the other Contracting Party shall be notified of such findings and the steps considered necessary to conform

with these minimum standards; and the other Contracting Party shall take appropriate corrective action. Each Contracting Party reserves the right to withhold, revoke or limit the operating authorization or technical permission of an airline or airlines designated by the other Contracting Party in the event the other Contracting Party does not take such appropriate action within a reasonable time.

Article 7

Aviation Security

1. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation 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 provision 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 and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.

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 security of civil aviation.

3. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention on International Civil Aviation to the extent that such security provisions are applicable to the Contracting Parties; they shall require that operators of aircraft of their registry or operators of aircraft 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.

4. Each Contracting Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in paragraph 3 above required by the other Contracting Party for entry into, departure from, or while within, the territory of that other Contracting Party.

Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crew carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give positive consideration to 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 rapidly and safely such incident or threat thereof.

6. Should one Contracting Party have problems with regard to the aviation security provisions of this Article, the Aeronautical Authorities of either Contracting Party may request immediate consultations with the Aeronautical Authorities of the other Contracting Party.

Article 8

Exemption of Customs Duties and Other Charges

1. Each Contracting Party shall on a basis of reciprocity and under its national law exempt the designated airline or airlines of the Other Contracting Party from import restrictions, customs duties, excise taxes, inspection fees and Other national duties and charges on aircraft, fuel, lubricating oils, consumable technical supplies, spare parts including engines, regular aircraft equipment, aircraft stores (including liquor, tobacco and Other products destined for sale to passengers in limited quantities during the flight) and Other items intended for use or used solely in connection with the operation or servicing of aircraft of the designated airline or airlines of such Other Contracting Party operating the agreed services.

2. The exemptions granted by this Article shall apply to the items referred to in paragraph 1 of this Article:

- (a) introduced into the territory of one Contracting Party by or on behalf of the designated airline or airlines of the Other Contracting Party;
- (b) retained on board aircraft of the designated airline or airlines of one Contracting Party upon arriving in or leaving the territory of the Other Contracting Party;
- (c) taken on board aircraft of the designated airline or airlines of one Contracting Party in the territory of the Other Contracting Party and intended for use in operating the agreed services.

Whether or not such items are used or consumed wholly within the territory of the Contracting Party granting the exemption, provided such items are not alienated in the territory of the said Contracting Party.

3. The regular airborne equipment, as well as the materials and supplies normally retained on board the aircraft of the designated airline or airlines 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 territory. In such case, they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with Customs regulations.

Article 9

Capacity

1. The designated airline or airlines of the Contracting Parties shall have a fair and equal opportunity to operate the agreed services covered by this Agreement.

2. The capacity provided by each designated airline shall be such as to correspond to traffic demand and to the requirements of an economical operation and will enable that airline to provide the agreed services taking full account of the requirements of through-airline operations.

3. Neither Contracting Party may unilaterally impose any restrictions on the designated airline or airlines of the other Contracting Party with respect to capacity, frequency or type of aircraft employed in connection with services over any of the routes specified in the schedule annexed to this Agreement. In the event that one of the Contracting Parties believes that the operation proposed or conducted by the airline of the other Contracting Party unduly affects the agreed services provided by its designated airline, it may request consultation pursuant to Article 14 of this Agreement.

Article 10

Tariffs

1. Prices for air transportation to be established by each designated airline shall be based upon commercial considerations in the marketplace. Intervention by the Contracting Parties shall be limited to:

- (a) prevention of predatory or discriminatory prices or practises;
- (b) protection of consumers from prices that are unduly high or restrictive because of the abuse of a dominant position; and
- (c) protection of airlines from prices that are artificially low because of direct or indirect governmental subsidy or support.

2. Each Contracting Party may require notification to or filing with its aeronautical authorities of prices proposed to be charged to or from its territory by airlines of the other Contracting Party. Notification or filing by the airlines of both Contracting Parties may be required no more than 60 days before the proposed date of effectiveness. In individual cases, notification or filing may be permitted on shorter notice than normally required.

3. Neither Contracting Party shall take unilateral action to prevent the inauguration or continuation of a price proposed to be charged or charged by (a) an airline of either Contracting Party for international air transportation between the territories of the Contracting Parties, or (b) an airline of one Contracting Party for international air transportation between the territory of the other Contracting Party and any other country, including in both cases transportation on an interline or intra-line basis. If either Contracting Party believes that any such price is inconsistent with the considerations set forth in paragraph (1) of this Article, it shall request consultations and notify the other Contracting Party of the reasons for its dissatisfaction as soon as possible. These consultations shall be held not later than 30 days after receipt of the request, and the Contracting Parties shall cooperate in securing information necessary for reasoned resolution of the issue. If the Contracting Parties reach agreement with respect to a price for which a notice of dissatisfaction has been given, each Contracting Party shall use its best efforts to put that agreement into effect. Without mutual agreement, that price shall go into or continue in effect.

4. Notwithstanding paragraph (3) of this Article, each Contracting Party shall allow (a) any airline of either Contracting Party to meet a lower or more competitive price proposed or charged for international air transportation between the territories of the Contracting Parties, and (b) any airline of one Contracting Party to meet a lower or more competitive price proposed or charged for international air transportation between the territory of the other Contracting Party and a third country. As used herein, the term „meet“ means the right to establish on a timely basis, using such expedited procedures as may be necessary, an identical or similar price on a direct, interline or intra-line basis, notwithstanding differences in conditions relating to routing, roundtrip requirements, connections, type of service or aircraft type; or such price through a combination of prices.

Article 11

Airline Representatives

1. The designated airline or airlines of one Contracting Party shall be allowed, on the basis of reciprocity, to bring into and to maintain in the territory of the other Contracting Party their representatives and commercial, operational and technical staff as required in connection with the operation of agreed services.

2. These staff requirements may, at the option of the designated airline or airlines of one Contracting Party, be satisfied by its own personal or by using the services of any other organization, company or airline operating in the territory of the other Contracting Party, and authorized to perform such services in the territory of that Contracting Party.

3. The representatives and staff shall be subject to the laws and regulations in force of the other Contracting Party, and, consistent with such laws and regulations, each Contracting Party shall, on the basis of reciprocity and with the minimum of delay, grant the necessary employment authorizations, visitor visas or other similar documents to the representatives and staff referred to in paragraph 1 of this Article.

Article 12

Commercial Activities and Transfer of Funds

1. Each designated airline shall have the right to engage in the sale of air transportation in the territory of the other Contracting Party directly and, at its discretion through its agents. Each designated airline shall have the right to sell transportation in the currency of that territory or, to the extent permitted by national law, in freely convertible currencies of other countries, and to the same extent any person shall be free to purchase such transportation in currencies accepted for sale by that airline.

2. Each Contracting Party grants to any designated airline of the other Contracting Party the right of free transfer at the official rate of exchange of the excess of receipts over expenditure earned by that airline in its territory in connection with the carriage of passengers, mail and cargo.

Article 13

Statistics

The aeronautical authorities of either 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 the capacity provided on the agreed services.

Article 14

Consultation

1. In a spirit of close co-operation, 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 of its Annex, and shall also consult when necessary to provide for modification thereof.

2. Either Contracting Party may request consultation, which may be through discussion or by correspondence and shall begin within a period of sixty (60) days of the date of the request, unless both Contracting Parties agree to an extension of this period.

Article 15

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 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 either Contracting Party may submit the dispute 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 arbitrators. Each of the Contracting Parties 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 channels requesting arbitration of the dispute and the third arbitrator shall be appointed within a further period of 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 Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. In all cases the third arbitrator shall be a national of a third State and shall act as President of the arbitral tribunal.

3. The arbitral tribunal shall determine its own procedure. Each Contracting Party shall pay the expenses of its arbitrator. The remaining expenses of the arbitral tribunal shall be shared equally by the Contracting Parties.

4. The Contracting Parties shall comply with any decision given under paragraph 2. of this Article.

Article 16

Modification of Agreement

1. If either of the Contracting Parties considers it desirable to modify any provision of this Agreement, it may request consultations with the other Contracting Party. Such consultations, which may be between 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 unless both Contracting Parties agree to an extension of this period. Any modification so agreed shall be applied provisionally from the date of its signature and shall come into force when they have been confirmed by an exchange of diplomatic notes.

2. Any modification of the Annex shall be made by direct agreement between the aeronautical authorities of the Contracting Parties. Such modification would be effective from the date of the approval of the aeronautical authorities.

Article 17

Multilateral Convention

This Agreement and its Annexes will be amended so as to conform with any multilateral convention which may become binding on both Contracting Parties.

Article 18

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 communicated simultaneously to the International Civil Aviation Organization. The 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 the notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

Article 19

Registration

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

Article 20

Entry into Force

This Agreement shall be applied provisionally from the date of signature. It shall be approved according to the constitutional requirements of each Contracting Party and shall enter into force on the date of an exchange of diplomatic notes confirming that all the constitutional procedures required for the entry into force of this agreement by each Contracting Party have been completed.

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

DONE in Duplicate at Ljubljana on this day of 21st May 1993 in the English language.

*For the Government
of the Grand-Duchy of Luxembourg*

*For the Government
of the Republic of Slovenia*

(suivent les signatures)

*

ANNEX

ROUTE SCHEDULES**Route schedule I**

Routes on which air services may be operated by the designated airline of the Grand-Duchy of Luxembourg:

<i>Point of departure</i>	<i>Intermediate points</i>	<i>Points in Slovenia</i>	<i>Points beyond</i>
Luxembourg	*	International Airports	*

Route schedule II

Routes on which air services may be operated by the designated airline of the Republic of Slovenia:

<i>Points of departure</i>	<i>Intermediate points</i>	<i>Points in Luxembourg</i>	<i>Points beyond</i>
International Airports in Slovenia	*	Luxembourg	*

* Intermediate Points and Points beyond to be agreed upon at a later stage.

NOTES

1. Intermediate points and points beyond on any of the specified routes may, at the option of the designated airlines, be omitted on any or all flights.
2. Each designated airline may terminate any of its agreed services in the territory of the other Contracting Party.
3. Each designated airline may serve intermediate points and points beyond not specified in the Annex of the present Agreement on condition that no traffic rights are exercised between these points and the territory of the other Contracting Party.

*

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE GRAND-DUCHY OF LUXEMBOURG
AND THE GOVERNMENT OF THE REPUBLIC OF THE GAMBIA
ON AIR SERVICES**

The Government of the Grand-Duchy of Luxembourg

and

the Government of the Republic of the Gambia

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

Desiring to conclude an agreement for the purpose of establishing air services between and beyond their respective territories;

Desiring to ensure the highest degree of safety and security in international air transport;

Have agreed as follows:

Article 1

Definitions

For the purpose of this Agreement and the Annex attached hereto, unless the context otherwise requires, the term:

- (a) the „aeronautical authorities“ means: in the case of Luxembourg, the Minister responsible for Civil Aviation and, in the case of the Republic of the Gambia, the Minister responsible for Civil Aviation or, in both cases, any other authority or person empowered to perform the functions now exercised by the said authorities;
- (b) the „agreed services“ means scheduled air services on the routes specified in the Annex to this Agreement for the transport of passengers, cargo and mail, separately or in combination;
- (c) the „Agreement“ means this Agreement, its Annex, and any amendments thereto;
- (d) 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 of the Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have been adopted or ratified by both Contracting Parties;
- (e) the „designated airline“ means an airline which has been designated and authorized in accordance with Article 3 of this Agreement;
- (f) the „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 and conditions for agency and other ancillary services, but excluding remuneration and conditions for the carriage of mail;
- (g) „air services“, „international air service“, „airline“ and „stop for non-traffic purposes“ have the meaning respectively assigned to them in Article 96 of the Convention.
- (h) the term „territory“ in relation to a State means the land area and territorial waters adjacent thereto under the sovereignty or protection of that State.

Article 2

Grant of Rights and Privileges

1. Each Contracting Party shall grant to the other Contracting Party the rights specified in this Agreement for the purpose of establishing scheduled international air services on the routes specified in the appropriate section of the Annex to this Agreement.

Such services and routes are hereinafter called „the agreed services“ and „the specified routes“ respectively. The airlines designated by each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following rights:

- (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;
- (c) to make stops in the said territory for the purpose of taking up and discharging, while operating the routes specified in the Annex, international traffic in passengers, cargo and mail, separately or in combination.

2. Nothing in paragraph 1 of this article shall be deemed to confer on (a) designated airline(s) of one Contracting Party the privilege of taking up, in the territory of the other Contracting Party, passengers, cargo and mail carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

Article 3

Designation and Authorization

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines to operate the agreed services on the specified routes and to withdraw or alter such designations.

2. On receipt of such designation and subject to the provisions of Article 4 of this Agreement, the aeronautical authorities of the other Contracting Party shall, grant without delay to the airline or airlines so designated the appropriate authorizations to operate the agreed services for which that airline has been designated.

3. Upon receipt of such authorizations the airline may begin at any time to operate the agreed services, in whole or in part, provided that the airline complies with the applicable provisions of this Agreement, in particular, that tariffs are established in accordance with the provisions of Article 11 of this Agreement.

Article 4

Revocation and Limitation of Authorization

1. The aeronautical authorities of each Contracting Party shall have the right to withhold the authorizations referred to in Article 3 of this Agreement with respect to an airline designated by the other Contracting Party, to revoke or suspend such authorizations or impose conditions, temporarily or permanently:

- (a) in the event of failure by such airline to qualify before the aeronautical authorities of that Contracting Party under the laws and regulations normally and reasonably applied by these authorities in conformity with the Convention;
- (b) in the event of failure by such airline to comply with the laws and regulations of that Contracting Party;
- (c) in the event that they are not satisfied that substantial ownership and effective control of the airline are vested in the Contracting Party designating the airline; and
- (d) in case the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.

2. Unless immediate action is essential to prevent infringement of the laws and regulations referred to above, the rights enumerated in paragraph 1 of this Article shall be exercised only after consultations with the aeronautical authorities of the other Contracting Party in conformity with Article 14 of this Agreement.

Article 5

Application of Laws and Regulations

1. The laws, regulations and procedures of one Contracting Party relating to the admission to, remaining in, or departure from its territory of aircraft engaged in international air navigation or to the operation and navigation of such aircraft shall be complied with by the airline or airlines of the other Contracting Party upon entrance into, departure from and while within the said territory.

2. The laws and regulations of one Contracting Party respecting entry, clearance, transit, immigration, passports, customs and quarantine shall be complied with by the airline or airlines of the other Contracting Party and by or on behalf of its crews, passengers, cargo and mail upon transit of, admission to, departure from and while within the territory of such a Contracting Party.

3. Neither of the Contracting Parties shall give preference to its own or any other airline over an airline of the other Contracting Party engaged in similar international air services in the application of its customs, immigration, quarantine and similar regulations.

4. Passengers baggage and cargo in direct transit through the territory of either Contracting Party and not leaving the area of the airport reserved for such purpose shall 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.

Article 6

Recognition of Certificates and Licences (Safety)

1. Certificates of airworthiness, certificates of competency and licences, issued or validated by one Contracting Party and still in force, shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services on the routes specified in the Annex provided that such certificates or licences were issued or validated pursuant to, and in conformity with, the standards

established under the Convention. Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flights above its own territory, certificates of competency and licences granted to its own nationals by the other Contracting Party.

2. Each Contracting Party may request consultations concerning the safety standards maintained by the other Contracting Party relating to aeronautical facilities, aircrew, aircraft, and operation of the designated airlines. If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards and requirements in these areas that at least equal the minimum standards which may be established pursuant to the Convention, the other Contracting Party shall be notified of such findings and the steps considered necessary to conform with these minimum standards; and the other Contracting Party shall take appropriate corrective action. Each Contracting Party reserves the right to withhold, revoke or limit the operating authorization or technical permission of an airline or airlines designated by the other Contracting Party in the event the other Contracting Party does not take such appropriate action within a reasonable time.

Article 7

Aviation Security

1. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation 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 and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.

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 security of civil aviation.

3. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention on International Civil Aviation to the extent that such security provisions are applicable to the Contracting Parties; they shall require that operators of aircraft of their registry or operators of aircraft 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.

4. Each Contracting Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in paragraph 3 above required by the other Contracting Party for entry into, departure from, or while within, the territory of that other Contracting Party.

Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers crew carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give positive consideration to 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 rapidly and safely such incident or threat thereof.

6. Should one Contracting Party have problems with regard to the aviation security provisions of this Article, the Aeronautical Authorities of either Contracting Party may request immediate consultations with the aeronautical authorities of the other Contracting Party.

Article 8

Customs Duties and Other Charges

1. Each Contracting Party shall on a basis of reciprocity exempt the designated airline or airlines of the other Contracting Party to the fullest extent possible under its national law from import restrictions, customs duties, excise taxes, inspection fees and other national duties and charges on aircraft, fuel, lubricating oils, consumable technical supplies, spare parts including engines, regular aircraft equipment, aircraft stores (including liquor, tobacco and other products destined for sale to passengers in

limited quantities during the flight) and other items intended for use or used solely in connection with the operation or servicing of aircraft of the designated airline or airlines of such other Contracting Party operating the agreed services.

2. The exemptions granted by this Article shall apply to the items referred to in paragraph 1 of this Article:

- (a) introduced into the territory of one Contracting Party by or on behalf of the designated airline or airlines of the other Contracting Party;
- (b) retained on board aircraft of the designated airline or airlines of one Contracting Party upon arriving in or leaving the territory of the other Contracting Party;
- (c) taken on board aircraft of the designated airline or airlines of one Contracting Party in the territory of the other Contracting Party and intended for use in operating the agreed services;

whether or not such items are used or consumed wholly within the territory of the Contracting Party granting the exemption, provided such items are not alienated in the territory of the said Contracting Party.

3. The regular airborne equipment, as well as the materials and supplies normally retained on board the aircraft of the designated airline or airlines 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 territory. In such case, they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with Customs regulations.

Article 9

Capacity

1. The designated airline or airlines of the Contracting Parties shall have a fair and equal opportunity to operate the agreed services covered by this Agreement.

2. The capacity provided by each designated airline shall be such as will enable that airline at a reasonable load factor to provide the agreed services taking into account all factors relevant to an economic operation.

3. Neither Contracting Party may unilaterally impose any restrictions on the designated airline or airlines of the other Contracting Party with respect to capacity, frequency or type of aircraft employed in connection with services over any of the routes specified in the schedule annexed to this Agreement. In the event that one of the Contracting Parties believes that the operation proposed or conducted by the airline of the other Contracting Party unduly affects the agreed services provided by its designated airline, it may request consultation pursuant to Article 14 of this Agreement.

Article 10

Tariffs

1. Each Contracting Party shall allow prices for air transportation to be established by each designated airline based upon commercial considerations in the marketplace. Intervention by the Contracting Parties shall be limited to:

- (a) prevention of predatory or discriminatory prices or practises;
- (b) protection of consumers from prices that are unduly high or restrictive because of the abuse of a dominant position; and
- (c) protection of airlines from prices that are artificially low because of direct or indirect governmental subsidy or support.

2. Each Contracting Party may require notification to or filing with its aeronautical authorities of prices proposed to be charged to or from its territory by airlines of the other Contracting Party. Notification or filing by the airlines of both Contracting Parties may be required no more than 60 days before the proposed date of effectiveness. In individual cases, notification or filing may be permitted on shorter notice than normally required.

3. Neither Contracting Party shall take unilateral action to prevent the inauguration or continuation of a price proposed to be charged or charged by (a) an airline of either Contracting Party or by an airline of a third country for international air transportation between the territories of the Contracting Parties,

or (b) an airline of one Contracting Party or an airline of a third country for international air transportation between the territory of the other Contracting Party and any other country, including in both cases transportation on a interline or intra-line basis. If either Contracting Party believes that any such price is inconsistent with the considerations set forth in paragraph (a) of this Article, it shall request consultations and notify the other Contracting Party of the reasons for its dissatisfaction as soon as possible. These consultations shall be held not later than 30 days after receipt of the request, and the Contracting Parties shall cooperate in securing information necessary for reasoned resolution of the issue. If the Contracting Parties reach agreement with respect to a price for which a notice of dissatisfaction has been given, each Contracting Party shall use its best efforts to put that agreement into effect. Without mutual agreement, that price shall go into or continue in effect.

4. Notwithstanding paragraph (3) of this Article, each Contracting Party shall allow (a) any airline of either Contracting Party or any airline of a third country to meet a lower or more competitive price proposed or charged by any other airline for international air transportation between the territories of the Contracting Parties, and (b) any airline of one Contracting Party to meet a lower or more competitive price proposed or charged by any other airline for international air transportation between the territory of the other Contracting Party and a third country. As used herein, the term „meet“ means the right to establish on a timely basis, using such expedited procedures as may be necessary, an identical or similar price on a direct, interline or intra-line basis, notwithstanding differences in conditions relating to routing, roundtrip requirements, connections, type of service or aircraft type; or such price through a combination of prices.

Article 11

Airline Representatives

1. The designated airline or airlines of one Contracting Party shall be allowed, on the basis of reciprocity, to bring into and to maintain in the territory of the other Contracting Party their representatives and commercial, operational and technical staff as required in connection with the operation of agreed services.

2. These staff requirements may, at the option of the designated airline or airlines of one Contracting Party, be satisfied by its own personnel or by using the services of any other organization, company of airline operating in the territory of the other Contracting Party, and authorized to perform such services in the territory of that Contracting Party.

3. The representatives and staff shall be subject to the laws and regulations in force of the other Contracting Party, and, consistent with such laws and regulations, each Contracting Party shall, on the basis of reciprocity and with the minimum of delay, grant the necessary employment authorizations, visitor visas or other similar documents to the representatives and staff referred to in paragraph 1 of this Article.

Article 12

Commercial opportunities and Transfer of Funds

1. Each designated airline shall have the right to engage in the sale of air transportation in the territory of the other Contracting Party directly and, at its discretion through its agents. Each designated airline shall have the right to sell transportation in the currency of that territory or, to the extent permitted by national law, in freely convertible currencies of other countries, and to the same extent any person shall be free to purchase such transportation in currencies accepted for sale by that airline.

2. Each Contracting Party grants to any designated airline of the other Contracting Party the right of free transfer at the official rate of exchange of the excess of receipts over expenditure earned by that airline in its territory in connection with the carriage of passengers, mail and cargo.

Article 13

Statistics

The aeronautical authorities of either 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 the capacity provided on the agreed services.

*Article 14**Consultations and Modifications*

In a spirit of close co-operation, 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 of its Annex, and shall also consult when necessary to provide for modification thereof.

Either Contracting Party may request consultation, which may be through discussion or by correspondence and shall begin within a period of sixty (60) days of the date of the request, unless both Contracting Parties agree to an extension of this period.

*Article 15**Settlement of disputes*

1. If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement and its Annex, 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 either Contracting Party may submit the dispute 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 arbitrators. Each of the Contracting Parties 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 channels requesting arbitration of the dispute and the third arbitrator shall be appointed within a further period of 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 Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. In all cases the third arbitrator shall be a national of a third State and shall act as President of the arbitral tribunal.

3. Each Contracting Party shall be responsible for the cost of its designated arbitrator and subsidiary staff provided, and both Contracting Parties shall share equally all such further expenses involved in the activities of the tribunal including those of the President.

4. The Contracting Parties shall comply with any decision given under paragraph 2 of this Article.

*Article 16**Amendments*

If either of the Contracting Parties considers it desirable to modify or amend any provision of this Agreement, it may request consultations with the other Contracting Party. Such consultations, which may be between 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 unless both Contracting Parties agree to an extension of this period. Any modification or amendment so agreed shall come into force when they have been confirmed by an exchange of diplomatic notes.

Any modification or amendment of the Annex shall be made by direct agreement between the aeronautical authorities of the Contracting Parties. Such modification or amendment would be effective from the date of the approval of the aeronautical authorities.

*Article 17**Multilateral Convention*

This Agreement and its Annex shall be deemed amended so as to conform with any multilateral convention which may become binding on both Contracting Parties.

*Article 18**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 communicated simultaneously to the International Civil Aviation Organization. The 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 the notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

Article 19

Registration

This Agreement and any amendment or modification thereto shall be registered with the International Civil Aviation Organization.

Article 20

Entry into Force

This Agreement shall be applied provisionally from the date of signature. It shall be approved according to the constitutional requirements of each Contracting Party and shall enter into force on the date of an exchange of diplomatic notes confirming that all the constitutional procedures required for the entry into force of this agreement by each Contracting Party have been completed.

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

DONE in Duplicate at Luxembourg on this day of July 6th, 1993, in the English language.

*For the Government
of the Grand-Duchy of Luxembourg*
Jacques F. POOS

*For the Government
of the Republic of the Gambia*
Ruth A. SOWE

*

ANNEX

- A. The airline(s) designated by the Government of the Grand-Duchy of Luxembourg shall be entitled to operate scheduled air services in both directions on routes specified hereafter:

<i>Points of departure</i>	<i>Intermediate Points</i>	<i>Points of arrival</i>	<i>Points beyond</i>
Luxembourg	*	Banjul	*

- B. The airline(s) designated by the Government of the Republic of The Gambia shall be entitled to operate scheduled air services in both directions on routes specified hereafter:

<i>Points of departure</i>	<i>Intermediate Points</i>	<i>Points of arrival</i>	<i>Points beyond</i>
Banjul	*	Luxembourg	*

- * Any intermediate points and points beyond not specified in this annex may be served by the designated airline(s) of each Contracting Party without exercising Fifth Freedom traffic rights. These points will be notified by the designated airlines to the respective aeronautical authorities.

The eventual exercise of Fifth Freedom traffic rights may be agreed upon by the aeronautical authorities of the two Contracting Parties.

*

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG
AND THE GOVERNMENT OF THE STATE OF KUWAIT
ON AIR SERVICES**

The Government of the Grand Duchy of Luxembourg

and

the Government of the State of Kuwait

Desiring to foster the development of Air Services between the Grand Duchy of Luxembourg and the State of Kuwait and to promote in the greatest possible measure international co-operation in this field,

Desiring to apply to these services the principles and provisions of the Convention on International Civil Aviation and of the International Air Services Transit Agreements opened for signature at Chicago on the seventh day of December 1944,

have agreed as follows:

Article 1

Definitions

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

- (a) the „Aeronautical Authorities“ means: in the case of the Grand Duchy of Luxembourg, the Ministry of Transport and, in the case of the State of Kuwait, the Directorate General of Civil Aviation or, in both cases, any other authority or body empowered to perform the functions now exercised by the said authorities;
- (b) the „agreed services“ means the scheduled air services that the designated airline is entitled to operate on the routes specified in the Schedule of this Agreement for the transport of passengers, mail and cargo, separately or in combination;
- (c) the „Agreement“ means this Agreement, its Schedule, and any amendments thereto;
- (d) 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 of the Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have been adopted or ratified by both Contracting Parties;
- (e) the „designated airline“ means an airline which has been designated and authorized in accordance with Article 3 of this Agreement;
- (f) the „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 and conditions for agency and other ancillary services, but excluding remuneration and conditions for the carriage of mail;
- (g) „air services“, „international air service“, „airline“ and „stop for non-traffic purposes“ have the meaning respectively assigned to them in Article 96 of the Convention;
- (h) „territory“ has the meaning assigned to it in article 2 of the Convention.
- (i) „schedule“ means the schedule annexed to this Agreement or as amended in accordance with the provisions of paragraph (3) of Article (16) of this Agreement. The Schedule forms an integral part of this Agreement and all references to the Agreement shall include references to the Schedule except when otherwise provided.

Article 2

Grant of rights

1. Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the conduct of international air services on the specified routes by the airline designated by the other Contracting Party.

2. Subject to the provisions of this Agreement, the designated airline of each Contracting Party shall enjoy, while operating the agreed services, 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;
- (c) to make stops in the said territory for the purpose of taking up and discharging, while operating the routes specified in the Schedule, international traffic in passengers, mail and cargo, separately or in combination.

Article 3

Designation and authorization

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one airline to operate the agreed services on the specified routes and to withdraw or alter such designations.

2. On receipt of such designation and subject to the provisions of Article 4 of this Agreement, the Aeronautical Authorities of the other Contracting Party shall, grant without undue delay to the airline so designated the appropriate authorization to operate the agreed services.

3. Upon receipt of such authorization the designated airline may begin at any time the operation of the agreed services, in whole or in part, provided that the designated airline complies with the applicable provisions of this Agreement, in particular, that tariffs are established in accordance with the provisions of Article 11 of this Agreement.

Article 4

Revocation and limitation of authorization

1. The Aeronautical Authorities of each Contracting Party shall have the right to withhold the authorization referred to in Article 3 of this Agreement with respect to the designated airline of the other Contracting Party, to revoke or suspend such authorization or impose conditions, temporarily or permanently:

- (a) in the event of failure by such airline to qualify before the Aeronautical Authorities of that Contracting Party under the laws and regulations normally and reasonably applied by the Authorities in conformity with the Convention;
- (b) in the event of failure by such airline to comply with the laws and regulations of that Contracting Party;
- (c) in the event that they are not satisfied that substantial ownership and effective control of the airline are vested in the Contracting Party designating the airline or in its nationals; and
- (d) in case the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.

2. Unless immediate action is essential to prevent further infringement of the laws and regulations referred to above, or is in the interest of aviation safety, the rights enumerated in paragraph 1 of this Article shall be exercised only after consultations with the Aeronautical Authorities of the other Contracting Party in conformity with Article 16 of this Agreement.

3. In the event of action by one Contracting Party under this Article, the rights of both Contracting Parties shall not be prejudiced.

Article 5

Application of laws and regulations

1. The laws, regulations and procedures of one Contracting Party relating to the admission to, remaining in, or departure from its territory of aircraft engaged in international air navigation or to the operation and navigation of such aircraft shall be complied with by the designated airline of the other Contracting Party upon entrance into, departure from and while within the said territory.

2. The laws and regulations of one Contracting Party respecting entry, clearance, transit, immigration, passports, customs and quarantine shall be complied with by the designated airline of the other Contracting Party and by or on behalf of its crews, passengers, mail and cargo upon transit of, admission to, departure from and while within the territory of such Contracting Party.

3. Neither of the Contracting Parties shall give preference to its own or any other airline over the designated airline of the other Contracting Party engaged in similar international air services in the application of its customs, immigration, quarantine and similar regulations.

4. Passengers, baggage and cargo in direct transit through the territory of either Contracting Party and not leaving the area of the airport reserved for such purpose shall be subject to no more than a simplified control. Baggage and cargo in direct transit shall be exempt from custom duties and other similar taxes.

Article 6

Recognition of certificates and licences (Safety)

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

2. Each Contracting Party may request consultations concerning the safety standards maintained by the other Contracting Party relating to aeronautical facilities, aircrew, aircraft, and operation of the designated airline. If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards and requirements in these areas that at least equal the minimum standards which may be established pursuant to the Convention, the other Contracting Party shall be notified of such findings and the steps considered necessary to conform with these minimum standards; and the other Contracting Party shall take appropriate corrective action. Each Contracting Party reserves the right to withhold, revoke or limit the operating authorization or technical permission of the designated airline of the other Contracting Party in the event the other Contracting Party does not take such appropriate action within a reasonable time.

Article 7

Aviation security

1. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation 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 and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, and any other convention in force the Contracting Parties become members to.

2. The Contracting Parties shall provide upon request all possible 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 security of civil aviation.

3. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention on International Civil Aviation to the extent that such security provisions are applicable to the Contracting Parties; they shall require that operators of aircraft of their registry or operators of aircraft 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.

4. Each Contracting Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in paragraph 3 above required by the other Contracting Party for entry into, departure from, or while within, the territory of that other Contracting Party.

Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give positive consideration to 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 for 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 rapidly and safely such incident or threat thereof.

6. Should one Contracting Party have problems with regard to the aviation security provisions of this Article, the Aeronautical Authorities of either Contracting Party may request immediate consultations with the Aeronautical Authorities of the other Contracting Party. 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 International Civil Aviation Organization security standards, the action necessary to establish the appropriate conditions of security.

Article 8

Customs duties and other charges

1. Each Contracting Party shall on the basis of reciprocity exempt the designated airline of the other Contracting Party to the fullest extent possible under its national law from customs duties, excise taxes, inspection fees and other national duties and charges on aircraft, fuel, lubricating oils, consumable technical supplies, spare parts including engines, regular aircraft equipment, aircraft stores (including tobacco and other products destined for sale to passengers in limited quantities during the flight) and other items intended for use or used solely in connection with the operation or servicing of aircraft of the designated airline of such other Contracting Party operating the agreed services.

2. The exemptions granted by this Article shall apply to the items referred to in paragraph 1 of this Article:

- (a) introduced into the territory of one Contracting Party by or on behalf of the designated airline of the other Contracting Party;
- (b) retained on board aircraft of the designated airline of one Contracting Party upon arriving in or leaving the territory of the other Contracting Party;
- (c) taken on board aircraft of the designated airline of one Contracting Party in the territory of the other Contracting Party and intended for use in operating the agreed services;

whether or not such items are used or consumed wholly within the territory of the Contracting Party granting the exemption, provided such items are not alienated in the territory of the said Contracting Party.

3. The regular airborne equipment, as well as the materials and supplies normally retained on board the aircraft of the designated airline 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 territory. In such case, they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with Customs regulations.

4. Movable properties of the designated airline of one Contracting Party, including airline tickets, airway bills and other air transport documentations as well as publicity material and give-away items, introduced in the territory of the other Contracting Party shall be exempt from all customs duties, inspection fees and other duties or taxes.

Article 9

Fiscal provisions

1. The designated airline of each of the Contracting Parties shall be exempt from income tax or other similar taxes in the territory of the other Contracting Party in respect of the gains or profits accruing to

it from the operation of the agreed air services. The term „other similar taxes“ means in the case of the Grand Duchy of Luxembourg the communal tax on commercial profits.

2. The Grand Duchy of Luxembourg shall exempt from capital tax and from communal tax on capital, capital represented by aircraft and by movable property pertaining to the operation of such aircraft, owned by the designated airline of the State of Kuwait.

3. The employees of the designated airline of each Contracting Party shall be exempt from income tax or other similar taxes in the territory of the other Contracting Party, on emoluments, allowances or other gains, profits or benefits accruing to them from their employment in that other Contracting State by the said designated airline for the purposes of the operation of the agreed air services.

No exemption from income tax or other similar taxes shall operate in favour of any employee of the designated airline of either Contracting Party in the territory of the other Contracting Party if he or she is a national of that other Contracting Party.

4. Each Contracting Party shall take such action as may be necessary in terms of its laws to enable the provisions of this article to take effect.

Article 10

Capacity

1. The designated airline of each Contracting Party shall have fair and equal opportunity to operate the agreed services covered by this Agreement.

2. The capacity provided by each designated airline shall be such as will enable that airline at a reasonable load factor to provide the agreed services taking full account of the requirements of through-airline operations.

3. Neither Contracting Party may unilaterally impose any restrictions on the designated airline of the other Contracting Party with respect to capacity or type of aircraft employed in connection with services over any of the routes specified in the Schedule. In the event that one of the Contracting Parties believes that the operation proposed or conducted by the airline of the other Contracting Party unduly affects the agreed services provided by its designated airline, it may request consultation pursuant to Article 16 of this Agreement.

Article 11

Tariffs

1. The tariffs to be applied by the designated airlines of the Contracting Parties for the agreed services covered by this Agreement shall be established at reasonable levels, due regard being paid to all relevant factors, including interests of users, cost of operation, characteristics of service, commission rates, reasonable profit, tariffs of other airlines and other commercial considerations in the market-place.

2. The tariffs shall, wherever possible, be agreed by the designated airlines of both Contracting Parties, after discussion as required with their respective Aeronautical Authorities and, if applicable, consultation with other airlines. Such agreement shall, wherever possible, be reached by the use of the appropriate international tariff co-ordination mechanism. Any tariff so agreed upon shall be subject to the approval of each Party, and may be disapproved at any time whether or not previously approved.

3. Each Contracting Party may require filing of tariffs proposed by the designated airline of the other Contracting Party for carriage to or from its territory and, in exceptional circumstances, for carriage via its territory where a stopover is permitted in its territory. Such filing may be required not more than sixty (60) days before the proposed date of introduction. In individual cases this maximum period may be reduced.

4. Each Contracting Party shall have the right to approve or disapprove tariffs for one-way or round-trip carriage between the territories of the two Parties, and between the territory of either Contracting Party and the territory of a third country, subject to the approval of that third country, when the carriage commences in the territory of that Contracting Party.

5. For carriage between the territories of the Contracting Parties, or between the territory of one Contracting Party and that of a third country, each Party shall permit the designated airline of the other Contracting Party to match any tariff currently authorised for application by the designated airline of either Party or of a third country for comparable service between the same points.

6. Approval of tariffs consequent upon the provisions of paragraphs 3, 4 and 5 above may be given expressly by either Contracting Party to the designated airline filing the tariffs. However, pending a decision by the Contracting Party concerned the designated airline may undertake marketing, advertising and sales at the proposed tariffs for carriage to be commenced on or after the proposed date of effectiveness, provided that they are qualified as being „subject to government approval“. Under no circumstances are advertising or sales to be undertaken prior to filing the proposed tariffs with both Parties.

7. Each Contracting Party may request consultations regarding any tariff of the designated airline of either Party for services covered by this Agreement, including where the tariff concerned has been subject to a notice of disapproval. Such consultations shall be held not later than sixty (60) days after receipt of the request. The Parties shall co-operate in securing information necessary for reasoned resolution of the issues. If the Parties reach agreement, each Contracting Party shall use its best efforts to put that agreement into force. If no agreement is reached, the decision of the Party in whose territory the carriage originates shall prevail.

8. A tariff established in accordance with the provisions of this Article shall remain in force, unless withdrawn by the designated airline concerned with the approval of the Contracting Party concerned, until the due expiry date, if any or until new tariffs have been approved. The tariff concerned may be extended beyond the original expiry date with the approval of the Contracting Party concerned.

However, a tariff shall not be prolonged for more than twelve (12) months after the date on which it otherwise would have expired unless approved by the Party concerned.

9. The Contracting Parties shall endeavour to ensure that, to the extent permitted by their national laws and regulations, violations by any airline, passenger or freight agent, tour organiser or freight forwarder of tariffs established in accordance with this Article, are investigated effectively, and that action is taken against violators on a consistent and non-discriminatory basis.

Article 12

Airline representatives

1. The designated airline of one Contracting Party shall be allowed, on the basis of reciprocity, to bring into and to maintain in the territory of the other Contracting Party their representatives and commercial, operational and technical staff as required in connection with the operation of agreed services.

2. Subject to the laws and regulations applied in the territory of either Contracting Party, the staff requirements may, at the option of the designated airline of one Contracting Party, 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, and authorized to perform such services in the territory of that Contracting Party.

3. The representatives and staff shall be subject to the laws and regulations in force of the other Contracting Party, and, consistent with such laws and regulations, each Contracting Party shall, on the basis of reciprocity and with the minimum of delay, grant the necessary employment authorizations, visitor visas or other similar documents to the representatives and staff referred to in paragraph 1 of this Article.

Article 13

Commercial opportunities and transfer of funds

1. To the extent permitted by the national laws and regulations, each designated airline shall have the right to engage in the sale of air transportation in the territory of the other Contracting Party directly and, at its discretion, through its agents.

2. Each Contracting Party grants to the designated airline of the other Contracting Party the right of free transfer at the official rate of exchange of the excess of receipts over expenditure earned by that airline in its territory in connection with the carriage of passengers, mail and cargo.

Whenever the payments system between the Contracting Parties is governed by a special Agreement, that Agreement shall apply.

Article 14

Statistics

The Aeronautical Authorities of either 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 the capacity provided on the agreed services.

Article 15

Approval of flight schedules

1. The designated airlines shall communicate to the Aeronautical Authorities of the Contracting Parties not later than thirty (30) days prior to the initiation of air services on the routes specified in accordance with paragraph (1) of Article 2 of this Agreement, the type of service, the types of aircraft to be used and the flight schedules. This shall likewise apply to later changes as well as before each summer and winter schedule.

2. The Aeronautical Authorities receiving such flight schedules shall normally approve the schedules or suggest modifications thereto. In any case the designated airlines shall not commence their services before the schedules are approved by the Aeronautical Authorities concerned. This provision shall likewise apply to later changes.

Article 16

Consultations

1. Exchange of views shall take place as needed between the Aeronautical Authorities of the Contracting Parties in order to achieve close cooperation and agreement in all matters pertaining to the application of this Agreement.

2. Each Contracting Party may at any time request consultations with the other Contracting Party for the purpose of amending this Agreement or the Schedule. Such consultations shall begin within a period of sixty (60) days from the date of receipt of such request. Any amendments to this Agreement agreed to as a result of such consultation shall be approved by each Contracting Party in accordance with its constitutional procedures and shall enter into force on the date of exchange of diplomatic notes indicating such approval.

3. If the amendment relates only to the Schedule, the consultations shall be between the Aeronautical Authorities of both Contracting Parties. When these Authorities agree on a new or revised Schedule, the agreed amendments shall come into force as soon as they have been confirmed by an exchange of diplomatic notes.

Article 17

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 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 either Contracting Party may submit the dispute 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 arbitrators. Each of the Contracting Parties 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 channels requesting arbitration of the dispute and the third arbitrator shall be appointed within a further period of 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 Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. In all cases the third arbitrator shall be a national of a third State and shall act as President of the arbitral tribunal.

3. The arbitral tribunal shall reach its decisions by a majority of votes. Such decisions shall be binding on both Contracting Parties. Each Contracting Party shall bear the cost of its own member as well as

of its representation in the arbitral proceedings; the cost of the Chairman and any other cost shall be borne in equal parts by the Contracting Parties. In all other respects, the arbitral tribunal shall determine its own procedure.

Article 18

Multilateral Convention

This Agreement and its Annexes will be amended so as to conform with any multilateral convention in force which may become binding on both Contracting Parties.

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 communicated simultaneously to the International Civil Aviation Organization. The 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 acknowledgment of receipt by the other Contracting Party the notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

Article 20

Registration

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

Article 21

Entry into force

This Agreement shall be applied provisionally from the date of signature. It shall be approved according to the constitutional requirements of each Contracting Party and shall enter into force on the date of an exchange of diplomatic notes confirming that all the constitutional procedures required for the entry into force of this agreement by each Contracting Party have been completed.

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

DONE in two originals at Luxembourg on this 28th day of July, 1993 in the English language, equally authentic

*For the Government
of the Grand Duchy of Luxembourg*
Georges WOHLFART
*State Secretary for foreign affairs,
foreign trade and cooperation*

*For the Government
of the State of Kuwait*
Jaber MUBARAK A. AL SABAH
Director general of civil aviation

*

SCHEDULE

- A. The airline designated by the Government of the Grand Duchy of Luxembourg shall be entitled to operate scheduled air services in both directions on routes specified hereafter:

<i>Point of departure</i>	<i>Intermediate points</i>	<i>Point of arrival</i>	<i>Points beyond</i>
Luxembourg	*	Kuwait	*

- B. The airline designated by the Government of the State of Kuwait shall be entitled to operate scheduled air services in both directions on routes specified hereafter:

<i>Point of departure</i>	<i>Intermediate points</i>	<i>Point of arrival</i>	<i>Points beyond</i>
Kuwait	*	Luxembourg	*

Note:

- * Any intermediate points and points beyond not specified in this Schedule may be served by the designated airline of each Contracting Party without exercising Fifth Freedom traffic rights. These points will be notified by the designated airline to the respective Aeronautical Authorities.
- The eventual exercise of Fifth Freedom traffic rights may be agreed upon by the Aeronautical Authorities of the two Contracting Parties in accordance with Article 16, paragraph 3 of this Agreement.

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AGREEMENT BETWEEN THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG AND THE GOVERNMENT OF THE STATE OF BAHRAIN ON AIR SERVICES

The Government of the Grand Duchy of Luxembourg and the Government of The State of Bahrain (hereinafter referred to 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;

Desiring to conclude an agreement, for the purpose of establishing scheduled air services between and beyond their respective territories, and to ensure the highest degree of safety and security in international air transport;

Have agreed as follows:

Article 1

Definitions

1. For the purpose of this Agreement, unless the context otherwise requires:
 - (a) 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 Annexes adopted under Article 90 of that Convention and any amendment of Annexes of the Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have become effective for or been ratified by both Contracting Parties;
 - (b) the term „aeronautical authorities“ means, in the case of the Government of the State of Bahrain, the Minister of Development and Industry or his designated officer, the Assistant Undersecretary for Civil Aviation, and in the case of the Government of the Grand Duchy of Luxembourg, the Minister responsible for the subject of Civil Aviation, or in both cases, any other person or body authorized to perform any functions presently exercised by the said authorities;
 - (c) the term „designated airline“ means any airline which has been designated and authorized in accordance with Article 4 of the present Agreement;
 - (d) the term „tariff“ means the prices to be paid for the carriage of passengers, baggage, and cargo and the conditions under which those prices apply, including prices and conditions for agency and other auxiliary services but excluding remuneration and conditions for the carriage of mail;
 - (e) the term „territory“ in relation to a state has the meaning assigned to in Article 2 of the Convention;
 - (f) the term „air service“, „international air service“, „airline“ and „stop for non-traffic purpose“ have the meaning respectively assigned to them in Article 96 of the Convention;
 - (g) the „Agreement“ means this Agreement, its Annex, and any amendments thereto.

2. It is understood that the titles given to the Articles of this Agreement do in no way restrict or extend the meaning of any of the provisions of this Agreement.

Article 2

Applicability of Chicago convention

The provisions of the Agreement shall be subject to the provisions of the Convention insofar as those provisions are applicable to international air services.

Article 3

Granting of rights

1. Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the purpose of establishing and operating scheduled international air services on the routes specified in the Route Schedules annexed to this Agreement. Such services and routes are hereinafter called „the agreed services“ and „the specified routes“ respectively.

2. An airline designated by each Contracting Party shall enjoy, whilst operating an agreed service on a specified route, the following rights:

- (a) to fly, without landing, over the territory of the other Contracting Party;
- (b) to make stops in the said territory for non-traffic purposes; and
- (c) to stop in the said territory at the points specified for that route in the Route Schedule annexed to this Agreement, for the purpose of discharging and taking on international traffic in passengers, cargo and mail.

3. Nothing in paragraphs 1 and 2 of this Article shall be deemed to confer on the airline of one Contracting Party the privilege of taking on, in the territory of the other Contracting Party, passengers, cargo and mail carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

Article 4

Designation and authorization of airlines

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 the agreed services on the specified routes.

2. On receipt of such designation, the aeronautical authorities of the other Contracting Party shall, subject to the provisions of paragraph 3 of this Article and paragraph 1 of Article 5, without delay, grant to the airline designated the appropriate operating authorizations.

3. 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 normally applied to the operation of international air services by such authorities in conformity with the provisions of the Convention.

4. Each Contracting Party shall have the right to refuse to grant the operating authorization referred to in paragraph 2 of this Article, or to impose such conditions as it may deem necessary for the exercise by the designated airline of the rights specified in Article 3 of the present 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.

5. When an airline has been designated and authorised it may begin at any time to operate the agreed service, provided that the time table and tariffs established in accordance with the provisions of Articles 9 and 15 of this Agreement is in force in respect of that service.

Article 5

Refusal, revocation or suspension of operating authorization

1. Each Contracting Party shall have the right to refuse or to revoke an operating authorization or to suspend the exercise of the rights specified in paragraph 2 of Article 3 of this Agreement by the airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of the 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 case of failure by that airline to comply with the laws and/or regulations of the Contracting Party granting the rights; or
- (c) in case the airline otherwise fails to operate in accordance with the conditions prescribed under this 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 and/or regulations, such right shall be exercised only after consultation with the other Contracting Party.

3. In the event of action by one Contracting Party under this Article, the rights of the other Contracting Party under Article 17 shall not be prejudiced.

Article 6

Charges

The charges to be levied or permitted to be levied by either Contracting Party for the use of airports and other aviation facilities by the aircraft of the designated airline of the other Contracting Party shall not be higher than those paid by its national aircraft engaged in similar international services.

Article 7

Exemption from customs and other duties

1. Aircraft of the designated airline of the Contracting Party operating international services as well as supplies of fuel, lubricating oils, other consumable technical supplies, spare parts, regular equipment and stores including food, beverages and tobacco shall, upon arriving in or leaving the territory of the other Contracting Party, be exempt on the basis of reciprocity from customs duties, excise taxes, inspection fees and other similar duties or charges, provided such equipment and supplies remain on board the aircraft up to such time as they are re-exported or are used or consumed by such aircraft on flights over that territory.

2. There shall also be exempt from all import duties and taxes, on a reciprocal basis, air tickets, shipping documents, normal advertising material, airline documentation and labels for luggage, all printed with the name or the emblem of the airline, imported into the territory of either Contracting Party by the designated airline of the other Contracting Party or its agents for the exclusive use for servicing of its own aircraft and passengers.

3. Regular airborne equipment, as well as materials and supplies 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 such other Party.

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

- (a) Aircraft stores taken on board in the territory of a Contracting Party, within limits fixed by the authorities of the said Contracting Party, and for use on board outbound aircraft engaged in an international air service of the other Contracting Party;
- (b) Aircraft spare parts and regular equipment entered 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;
- (c) Fuel and lubricants supplied in the territory of a Contracting Party to an outbound aircraft of a designated airline of the other Contracting Party engaged in an international air service, even when these supplies are to be used on the part of the journey performed over the territory of the Contracting Party in which they are taken on board.

5. Materials referred to in paragraphs 3 and 4 above may be placed under the supervision or control of the customs authorities up to such time as they may be re-exported or otherwise disposed of in accordance with customs regulations.

Article 8

Principles governing operation of the agreed services

1. The designated airlines of the two Contracting Parties shall be afforded fair and equal opportunity in the operation of the agreed services on the specified routes.

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 route.

3. Neither Contracting Party may unilaterally impose any restrictions on the designated airline or airlines of the other Contracting Party with respect to capacity, frequency or type of aircraft employed in connection with services over any of the routes specified in the Annex to this Agreement. In the event that one of the Contracting Parties believes that the operation proposed or conducted by the airline of the other Contracting Party unduly affects the agreed services provided by its designated airline, it may request consultation pursuant to Article 16 of this Agreement.

4. Each Contracting Party shall permit the designated airline of the other Contracting Party to bring and maintain in the territory of the other Contracting Party, employees and other responsible personnel for the administration, technical and commercial operations of their air services activities in accordance with the entry, residence and employment rules and regulations including the agency law of the other Contracting Party.

Article 9

Approval of time-tables

The designated airline of either Contracting Party shall, not less than thirty (30) days prior to the date of operation of any agreed service(s), submit its proposed time-tables to the aeronautical authorities of the other Contracting Party for approval. Such time-tables shall include the type of service and aircraft to be used, the flight schedule and any other relevant information. This shall, likewise, apply to any subsequent changes. In special cases this time limit may be reduced subject to the approval of the said authorities.

Article 10

Supply of statistics

The aeronautical authorities of either 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 the capacity provided on the agreed services.

Article 11

Applicability of laws and regulations

1. The laws and regulations of one Contracting Party shall apply to the navigation and operation of the aircraft of the airline designated by the other Contracting Party during entry into, flying over, stay in and departure from the territory of the other Contracting Party.

2. The laws and regulations of one Contracting Party governing entry into, stay in and departure from its territory of passengers, crew, cargo and mail such as formalities regarding entry, exit, emigration, immigration, customs, health and quarantine shall apply to passengers, crew, cargo and mail carried by aircraft of the designated airline of the other Contracting Party while they are within the said territory.

3. Neither of the Contracting Parties shall give preference to its own or any other airline over an airline of the other Contracting Party engaged in similar international air services in the application of its customs, immigration, quarantine and similar regulations.

4. Passengers, baggage and cargo in direct transit across the territory of one Contracting Party and not leaving the area of the airport reserved for such purpose shall only be subject to a very simplified control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

Article 12

Transfer of earnings

Each Contracting Party grants to the designated airline of the other Contracting Party the right of free transfer in accordance with the foreign exchange regulations of the Contracting Party in the territory

of which the revenue was earned, of the excess of receipts over expenditure earned by that airline in the territory of the other Contracting Party in connection with the carriage of passengers, mail and cargo.

Article 13

Recognition of certificates and licenses

1. Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one Contracting Party, and still in force, shall be recognized as valid by the other Contracting Party for the purpose of operating the routes and services provided for in this Agreement, provided that the requirements under which such certificates or licences were issued or rendered valid are equal to or above the minimum standards which are or may be established pursuant to the Convention. Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flights above its own territory, certificates of competency and licenses granted to its own nationals or rendered valid for them by the other Contracting Party.

2. Each Contracting Party may request consultations concerning the safety standards maintained by the other Contracting Party relating to aeronautical facilities, aircrew, aircraft, and operation of the designated airlines. If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards and requirements in these areas that at least equal the minimum standards which may be established pursuant to the Convention, the other Contracting Party shall be notified of such findings and the necessity to conform with these minimum standards; and the other Contracting Party shall take appropriate corrective action. Each Contracting Party reserves the right to withhold, revoke or limit the operation authorization or technical permission of an airline or airlines designed by the other Contracting Party in the event the other Contracting Party does not take such appropriate action within a reasonable time.

Article 14

Aviation security

1. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement. Without limiting 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 and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23 September 1971.

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 provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention on International Civil Aviation to the extent that such security provisions are applicable to the Contracting Parties; they shall require that operators of aircraft of their registry or operators of aircraft 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.

4. Each Contracting Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in paragraph 3 above required by the other Contracting Party for entry into, departure from, or while within the territory of that other Contracting Party. Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crew, carry-on-items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give sympathetic consideration to 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 rapidly and safely such incident or threat thereof.

6. Should one Contracting Party have problems with regard to the aviation security provisions of this Article, the aeronautical authorities of either Contracting Party may request immediate consultations with the aeronautical authorities of the other Contracting Party.

Article 15

Tariffs

1. The tariffs to be charged by the designated airline of both Contracting Parties must be submitted to the aeronautical authorities for approval not less than thirty (30) days of the proposed date of their introduction. In special cases this time limit can be reduced, subject to the agreement of the said authorities.

2. The tariffs referred to in paragraph 1 of this Article shall be established by each designated airline based upon commercial considerations in the market place due regard being paid so as to meet the following requirements:

- (a) prevention of predatory or discriminatory prices or practises;
- (b) protection of consumers from prices that are unduly high or restrictive because of the abuse of a dominant position; and
- (c) protection of airlines from prices that are artificially low because of direct or indirect governmental subsidy or support.

3. Disapproval of a tariff application by one aeronautical authority must be communicated to the other aeronautical authority with reasons for disapproval.

4. If the aeronautical authorities cannot agree on any tariff submitted to them under paragraph 1 of this Article, the dispute shall be settled in accordance with the provisions of Article 17 of this Agreement.

5. The tariff established in accordance with the provisions of this Article shall remain in force until a new tariff has been established.

Article 16

Consultation and amendment

1. In a spirit of close co-operation the two Contracting Parties or their aeronautical authorities shall consult each other from time to time with a view to ensure the implementation of and satisfactory compliance with the provisions of the Agreement and the Annex thereto.

2. If either Contracting Party considers it desirable to amend the provisions of this Agreement and its Annex, it may request consultation with the other Contracting Party. Such consultation shall begin within a period of sixty (60) days from the date of the request.

3. Amendments relating to the provisions of the Agreement other than those of the annexed Schedules shall be approved by each Contracting Party in accordance with its constitutional procedures. Such amendments so agreed shall come into force when they have been confirmed by an exchange of diplomatic notes.

4. Amendments relating only to the provisions of the annexed Schedules may be agreed upon between the aeronautical authorities of the Contracting Parties.

Article 17

Settlement of disputes

1. If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement and its Annex, 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; 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 of the Contracting Parties 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 channels requesting arbitration of the dispute by such a tribunal, and the third arbitrator shall be appointed within a further period of 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 at the request of either Contracting Party appoint an arbitrator or arbitrators as the case requires. In all cases, the third arbitrator shall be a national of a third state and shall act as President of the arbitral tribunal.

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

Article 18

Termination

Either Contracting Party may, at any time, give notice to the other Contracting Party of its decision to terminate this Agreement. Such notice shall simultaneously be communicated to the International Civil Aviation Organization. In such case the 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 mutual 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 this notice by the International Civil Aviation Organization.

Article 19

Conformity with multilateral conventions

This Agreement and its Annex will be amended so as to conform with any multilateral convention which may become binding upon the Contracting Parties.

Article 20

Registration with ICAO

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

Article 21

Entry into force

This Agreement shall enter into force after the Contracting Parties have notified each other through diplomatic notes that the constitutional requirements have been complied with.

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

DONE, in duplicate, at Luxembourg the 14th day of January 1994 in the English language.

*For the Government
of the Grand Duchy of Luxembourg*

*For the Government
of the State of Bahrain*

(suivent les signatures)

ANNEX

ROUTES SCHEDULES

Schedule 1

Routes to be operated by the designated airline of the State of Bahrain:

<i>From</i>	<i>to</i>	<i>Intermediate Points</i>	<i>Points beyond</i>
(1)	(2)	(3)	(4)
Bahrain	Luxembourg	Any points	Any points

Schedule 2

Routes to be operated by the designated airline of the Grand Duchy of Luxembourg:

<i>From</i>	<i>to</i>	<i>Intermediate Points</i>	<i>Points beyond</i>
(1)	(2)	(3)	(4)
Luxembourg	Bahrain	Any points	Any points

*

Loi du 24 juillet 1995 portant approbation

- de l'Accord entre les Gouvernements du Grand-Duché de Luxembourg et de la République de l'Afrique du Sud relatif aux services aériens, signé à Pretoria, le 17 février 1994
- de l'Accord aérien entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement de l'Etat d'Israël, signé à Luxembourg, le 14 juin 1994
- de l'Accord entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement de l'Ukraine relatif aux services aériens, signé à Luxembourg, le 14 juin 1994
- de l'Accord entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement de la République Socialiste du Vietnam relatif aux services aériens, signé à Luxembourg, le 26 octobre 1994
- de l'Accord entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement de Macao relatif aux services aériens, signé à Macao, le 14 décembre 1994.

Nous JEAN, par la grâce de Dieu, Grand-Duc de Luxembourg, Duc de Nassau;

Notre Conseil d'Etat entendu;

De l'assentiment de la Chambre des Députés;

Vu la décision de la Chambre des Députés du 13 juin 1995 et celle du Conseil d'Etat du 27 juin 1995 portant qu'il n'y a pas lieu à second vote;

Avons ordonné et ordonnons:

Article unique. – Sont approuvés

- l'Accord entre les Gouvernements du Grand-Duché de Luxembourg et de la République de l'Afrique du Sud relatif aux services aériens, signé à Pretoria, le 17 février 1994;
- l'Accord aérien entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement de l'Etat d'Israël, signé à Luxembourg, le 14 juin 1994;
- l'Accord entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement de l'Ukraine relatif aux services aériens, signé à Luxembourg, le 14 juin 1994;
- l'Accord entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement de la République Socialiste du Vietnam relatif aux services aériens, signé à Luxembourg, le 26 octobre 1994;
- l'Accord entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement de Macao relatif aux services aériens, signé à Macao, le 14 décembre 1994;

Mandons et ordonnons que la présente loi soit insérée au Mémorial pour être exécutée et observée par tous ceux que la chose concerne.

*Le Ministre des Affaires Etrangères,
du Commerce Extérieur
et de la Coopération,
Jacques F. Poos*

*La Ministre des Transports,
Mady Delvaux-Stehres*

Cabasson, le 24 juillet 1995.
Jean

Doc. parl. n° 4030; session ordinaire 1994-1995.

**Agreement between the Governments of the Grand Duchy
of Luxembourg and of the Republic of South Africa for air services
between and beyond their respective territories**

*The Governments of the Grand Duchy of Luxembourg and of the Republic of South Africa,
(hereinafter referred to 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;*

Acknowledging the importance of air transport as a means of creating and preserving friendship, understanding and co-operation between peoples of the two countries;

Desiring to contribute to the progress of international civil aviation;

Desiring, further to conclude an Agreement for the purpose of establishing air services between and beyond their respective territories;

Have agreed as follows:

Article 1

Definitions

For the purpose of this Agreement, unless the context otherwise requires –

- (a) the term „aeronautical authorities“ means the respective Ministers responsible for Civil Aviation; or in either case any person or body authorised to perform any functions exercised by the said Minister;
- (b) the term „agreed service“ means scheduled air services on the routes specified in the Annex to this Agreement for the transport of passengers and cargo in accordance with agreed capacity entitlements and „specified route“ means a route specified in the Annex to this Agreement;
- (c) the term „Agreement“ means this Agreement, its Annex drawn up in application thereof, and any amendments to the Agreement or to the Annex;
- (d) the terms „air service“, „international air service“, „airline“ and „stop for non-traffic purposes“ have the meaning respectively assigned to them in Article 96 of the Convention;
- (e) the term „airborne equipment“ means articles, other than stores and spare parts of a removable nature, for use on board an aircraft during flight, including first aid and survival equipment;
- (f) „Cargo“ includes mail;
- (g) the term „Convention“ means the Convention on International Civil Aviation, opened for signature at Chicago on the seventh day of December 1944, and includes –
 - (i) any Annex or any amendment thereto adopted under Article 90 of the Convention, in so far as such Annex or amendment is at any given time in force for both Contracting Parties; and
 - (ii) any amendment which has entered into force under Article 94 (a) of the Convention and has been ratified by both Contracting Parties;
- (h) the term „designated airline“ means an airline or airlines designated and authorised in accordance with Article 3 (Designation and Authorisation) of this Agreement;
- (i) the term „spare parts“ means articles of a repair or replacement nature for incorporation in an aircraft, including engines;
- (j) the term „tariff“ means the prices which the designated airlines charge for the transport of passengers and cargo and the conditions under which those prices apply but excluding remuneration and conditions for carriage of mail; and
- (k) the term „territory“ in relation to a State has the meaning assigned to it in Article 2 of the Convention.

Article 2

Grant of rights

1. Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement to enable its designated airlines to establish and operate international air services on the routes specified in the Annex.

2. Subject to the provisions of this Agreement, the designated airlines of each Contracting Party shall enjoy the following rights –

- (a) the right to fly without landing across the territory of the other Contracting Party;
- (b) the right to make stops in that territory for non-traffic purposes; and
- (c) the right to land in the territory of the other Contracting Party for the purpose of taking on board and discharging international traffic in passengers and cargo while operating an agreed service.

3. Nothing in sub-article (2) shall be deemed to confer on the designated airlines of one Contracting Party the privilege of uplifting in the territory of the other Contracting Party, passengers and cargo, carried for remuneration or hire and for discharge at another point in the territory of that other Contracting Party.

Article 3

Designation and authorisation

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party an airline or airlines to operate the agreed services on the specified routes and to withdraw, in writing, any designation of an airline or airlines.

2. The agreed services may begin at any time, in whole or in part, but not before –

- (a) the Contracting Party to whom the rights have been granted shall have designated pursuant to sub-article (1) an airline or airlines for the specified route; and
- (b) the Contracting Party granting the rights shall have given, with the least possible delay, the appropriate operating permission to the airline or airlines concerned (subject to the provisions of Article 4 [Revocation and Limitation of Authorisation]).

3. For the purpose of granting the appropriate operating authorisation under sub-article (2), the aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to satisfy it that it is qualified to fulfil the conditions prescribed under the laws and the regulations normally applied to the operation of international air services by such authorities in conformity with the provisions of the Convention.

Article 4

Revocation and limitation of authorisation

1. The aeronautical authorities of each Contracting Party shall, with respect to a designated airline of the other Contracting Party, have the right to withhold the authorisation referred to in Article 3 (Designation and Authorisation) of this Agreement, to revoke or suspend such authorisation or impose conditions, temporarily or permanently at any time during the exercise of the rights by the designated airline concerned –

- (a) in the event of failure by the airline to qualify under or to comply with the laws and regulations normally applied by the aeronautical authorities of that Contracting Party in conformity with the Convention;
- (b) in the event that the aeronautical authorities of that Contracting Party are not satisfied that substantial ownership and effective control of the airline are vested in the Contracting Party designating the airline or in its nationals; or
- (c) in the event the airline fails to operate in accordance with the conditions prescribed under this Agreement.

2. Unless immediate action is essential to prevent further infringement of the laws and regulations referred to above, the rights enumerated in sub-article (1) shall be exercised only after consultations with the aeronautical authorities of the other Contracting Party, in accordance with Article 16 (Consultations).

Article 5

Application of laws, regulations and procedures

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.

2. The laws, regulations and procedures of one Contracting Party relating to the entry into, sojourn in and departure from its territory of passengers, crew, cargo and aircraft (including laws and regulations relating to entry, clearance, aviation security, immigration, passports, customs, quarantine, or in the case

of mail, postal laws and regulations) shall be applicable to the passengers, crew, cargo and the aircraft of designated airlines of the other Contracting Party while they are in the territory of the first Contracting Party. Such laws and regulations shall be applied equally by each Contracting Party to the passengers, crew, cargo and aircraft of all countries without distinction as to nationality of airline.

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.

Article 6

Recognition of certificates and licences

1. Certificates of airworthiness, certificates of competency and licences issued, or rendered valid by one Contracting Party and still in force, shall be recognised as valid by the other Contracting Party for the purpose of operating the agreed services provided that such certificates or licences were issued or rendered valid pursuant to, and in conformity with, the standards established under the Convention. Each Contracting Party reserves the right, however, to refuse to recognise, for the purpose of flights undertaken pursuant to rights granted under sub-article (2) of Article 2 (Grant of Rights), certificates of competency and licences granted to its own nationals by the other Contracting Party.

2. If the privileges or conditions of the licences or certificates issued or rendered valid by one Contracting Party permit a difference from the standards established under the Convention, and that difference has been filed with the International Civil Aviation Organisation, the aeronautical authorities of the other Contracting Party may, without prejudice to the rights of the first Contracting Party under sub-article (2) of Article 14 (Safety), request consultations in accordance with Article 16 (Consultations) of this Agreement with the aeronautical authorities of the first Contracting Party with a view to satisfying themselves that the practice in question is acceptable to them. Failure to reach a satisfactory agreement shall constitute grounds for the application of Article 4 (Revocation and Limitation of Authorisation) of this Agreement.

Article 7

Customs duties and other charges

1. Aircraft operated on agreed services by the designated airlines of one Contracting Party, as well as their normal equipment, supplies of fuel, lubricating oils (including hydraulic fluids) and lubricants, consumable technical supplies, spare parts (including engines), aircraft stores (including food, beverages, liquor, tobacco and other products for sale to or use by passengers, in limited quantities, during the flight) and other items intended for or used solely in connection with the aviation operation of servicing, which are on board such aircraft, shall, on entering into the territory of the other Contracting Party, be exempt from customs duties, excise duties and charges, provided such equipment, supplies and stores remain on board the aircraft until they are re-exported, or consumed during flight over that territory on the agreed service.

2. The following shall be exempt from customs duties, excise duties, inspection fees and other national duties and charges –

- (a) aircraft stores taken on board in the territory of one Contracting Party, and intended for use on board the aircraft operated on an international service by the designated airlines of the other Contracting Party;
- (b) spare parts (including engines) and normal airborne equipment imported into the territory of one Contracting Party for the maintenance or repair of aircraft operating agreed services;
- (c) fuels, lubricating oils (including hydraulic fluids) and lubricants destined for the designated airlines of one Contracting Party to supply aircraft operating agreed services, even when these supplies are to be used on any part of a journey performed over the territory of the other Contracting Party in which they have been taken on board.

3. The normal airborne equipment, as well as spare parts (including engines), aircraft stores, supplies of fuel, lubricating oils (including hydraulic fluids) and lubricants and other items mentioned in sub-article (1) retained on board the aircraft operated by the designated airlines of one Contracting Party may be unloaded in the territory of the other Contracting Party only with the approval of the customs

authorities of that territory. In such case, they may be placed under the supervision of those customs authorities until they are re-exported or otherwise disposed of in accordance with the customs laws and procedures of that Contracting Party.

4. The exemptions provided for by this Article shall be available in situations where the designated airlines of either Contracting Party have entered into arrangements with another airline for the loan or transfer in the territory of the other Contracting Party of the items specified in sub-articles (1) and (2) provided such other airline similarly enjoy such exemptions from the other Contracting Party.

Article 8

Principles governing the operation of agreed services

1. Each Contracting Party shall 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 of the other Contracting Party in the exercise of their rights and entitlements set out in this Agreement, including, but not limited to, restrictions upon the sale of air transportation, the payment for goods, services or transactions, or the repatriation of excess currencies by airlines, and the import, installation and use of computer equipment.

2. To the extent that the aeronautical authorities of either Contracting Party believe that their designated airline is being subjected to discrimination or unfair practices, they shall give notice to this effect to the aeronautical authorities of the other Contracting Party. Consultations, which may be through the diplomatic channel, shall be entered into as soon as possible after notice is given unless the first Contracting Party is satisfied that the matter has been resolved in the meantime.

3. In operating the agreed services the designated airline of each Contracting Party shall take into consideration the interests of the designated airline 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.

4. The capacity to be provided by the designated airline of each Contracting Party will bear a close relationship to the requirements of the public for transportation on the agreed routes and will have as its primary objective the provision, at a reasonable load factor, or capacity adequate to meet the current and reasonably anticipated requirements for the carriage of passengers and cargo between South Africa and Luxembourg.

5. Provision by designated airlines for the carriage of traffic originating in or destined for points on its specified routes in the territories of third countries shall be made in accordance with the general principles that capacity shall be related to –

- (a) the requirements of traffic originating in or destined for the territory of the Contracting Party which has designated the airlines;
- (b) the traffic requirements of the area through which the airline passes, after taking account of local and regional services; and
- (c) the requirements of through airline operations.

6. The capacity which may be provided in accordance with this Article by the designated airline of each Contracting Party on the agreed services shall be such as is decided between the aeronautical authorities of the Contracting Parties before the commencement by the designated airline concerned of the agreed services and from time to time thereafter.

Article 9

Commercial activities

1. The designated airlines of both Contracting Parties shall be allowed 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.

2. A designated airline of one 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.

3. These staff requirements may, at the option of a designated airline, 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, and authorised to perform such services in the territory of that Contracting Party.

4. Each Contracting Party grants to a designated airline of the other Contracting Party the right to engage in the sale of air transportation in its territory directly and, at the airline's discretion, through its agents. Each designated airline shall have the right to sell such transportation and any person shall be free to purchase such transportation in any currency.

5. The designated airline of one Contracting Party shall have the right at its discretion to pay for local expenses in the territory of the other Contracting Party in local currency, or provided this accords with local currency regulations, in freely convertible currencies.

6. The above activities shall be carried out in accordance with the laws and regulations of the other Contracting Party.

Article 10

Tariffs

1. The tariffs to be charged by a designated airline of one Contracting Party for carriage to or from the territory of the other Contracting Party shall be established at reasonable levels with due regard being paid to all relevant factors, including cost of operation, profit and the tariffs of other airlines.

2. Tariffs referred to in sub-article (1) shall, wherever possible, be agreed by the designated airlines through the use of the procedures of the International Air Transport Association for the establishment of tariffs.

3. The tariffs of a designated airline of one Contracting Party shall be submitted to the aeronautical authorities of both Contracting Parties, at least sixty (60) days before the proposed date of their introduction (hereinafter referred to as the „period of notice“). In special cases the period of notice may be reduced, subject to the agreement of the said authorities.

4. The tariffs shall be considered to be approved unless both aeronautical authorities have expressed disapproval of the tariffs within thirty (30) days from the date of submission in accordance with sub-article (3). In the event of the period of notice being reduced as provided for in sub-article (3), the aeronautical authorities may agree that the period within which any disapproval must be notified shall be less than thirty (30) days.

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

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

Article 11

Provision of information

The aeronautical authorities of each Contracting Party shall provide or shall cause its designated airline to provide the aeronautical authorities of the other Contracting Party, upon request, periodic or other statements of statistics as may be reasonably required for the purpose of reviewing the operation of the agreed services, including, but not limited to, statements of statistics related to the traffic carried by its designated airlines between points in the territory of the other Contracting Party and other points on the specified routes showing the initial origins and final destinations of the traffic.

Article 12

Transfer of funds

The designated airline of each Contracting Party shall have the right to sell air transportation in local or freely convertible currencies, and to convert their funds into any freely convertible currency and to transmit them from the territory of the other Contracting Party at will. Subject to the national laws, regulations and policy of the other Contracting Party, conversion and transfer of funds obtained in the ordinary course of their operations shall be effected at the rate of exchange in accordance with the

respective applicable national laws and regulations governing current payments, and shall not be subject to any charges except service charges levied for such transactions.

Article 13

Airport, services and facility charges

1. The charges imposed on a designated airline of one Contracting Party by the responsible charging bodies of the other Contracting Party for the use by that designated airline of airport, airways and other civil aviation facilities and services shall not be higher than those imposed by such Contracting Party on its own designated airline engaged in similar international operations using similar aircraft and associated facilities and services.

2. Neither of the Contracting Party shall give preference to, or permit responsible bodies to give preference to, its own or any other airline over a designated airline of the other Contracting Party engaged in similar international operations in the application of its customs, immigration, quarantine and similar regulations or in the use of airports, airways, air traffic services and other associated facilities under its control.

Article 14

Safety

1. Each Contracting Party may request consultations concerning the safety standards maintained by the other Contracting Party relating to aeronautical facilities, aircrew, aircraft, and operation of the designated airlines. If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards and requirements in these areas that are at least equal to the minimum standards which may be established pursuant to the Convention, the other Contracting Party shall be notified of such findings and the steps considered necessary to conform with these minimum standards. The other Contracting Party shall take appropriate corrective action. Failure by the other Contracting Party to take appropriate action within a reasonable time, and in any case within fifteen (15) days, shall be grounds for the application of sub-article (1) of Article 4 (Revocation and Limitation of Authorisation) of this Agreement.

2. When immediate action is essential to the safety of airline operations, a Contracting Party may take action under sub-article (1) of Article 4 (Revocation and Limitation of Authorisation) prior to consultations.

3. Any action taken by one Contracting Party in accordance with sub-articles (1) and (2) shall be discontinued upon compliance by the other Contracting Party with the safety provisions of this Article.

Article 15

Aviation security

1. Consistent with their rights and obligations under international law, the Contracting Parties affirm that their obligation to protect, in their mutual relationship, the security of civil aviation against acts of unlawful interference, forms an integral part of this Agreement.

2. 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, opened for signature at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, opened for signature at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, opened for signature at Montreal on 23 September 1971 and any other multilateral agreement governing civil aviation security binding upon both Contracting Parties.

3. 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.

4. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organisation and designated as Annexes to the Convention on International Civil Aviation to the extent that such security provisions are applicable to the Contracting Parties.

5. In addition, the Contracting Parties shall require that operators of aircraft of their registry, or operators of aircraft 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 as are applicable to the Contracting Parties. Accordingly, each Contracting Party shall advise the other Contracting Party of any difference between its national regulations and practices and the aviation security standards of the Annexes referred to in sub-article (4) above. Either Contracting Party may request immediate consultations with the other Contracting Party at any time to discuss any such differences.

6. Each Contracting Party agrees that its operators of aircraft shall be required to observe the aviation security provisions referred to in sub-article (4) above applied by the other Contracting Party to entry into, departure from, or sojourn in, the territory of that other Contracting Party. Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to apply security controls to passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall give positive consideration to any request from the other Contracting Party for reasonable special security measures in its territory to meet a particular threat to civil aviation.

7. When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful act against the safety of such aircraft, their passengers and crew, airports and air navigation facilities occurs, the Contracting Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate such incident or threat as rapidly as possible commensurate with minimum risk to life.

8. Should one Contracting Party have problems with regard to the aviation security provisions of this Article, the aeronautical authorities of either Contracting Party may request immediate consultations with the aeronautical authorities of the other Contracting Party.

Article 16

Consultations

1. Either Contracting Party may at any time request consultations on the implementation, interpretation, application or amendment of this Agreement.

2. Subject to Article 14 (Safety) and Article 15 (Aviation Security) such consultations, which may be through discussion or correspondence, shall begin within a period of sixty (60) days of the date of receipt of such a request, unless otherwise mutually decided.

Article 17

Amendment of Agreement

1. Any amendment of this Agreement shall be effected through an Exchange of Notes but shall be dependant upon compliance with the constitutional requirements for the entry into force of such amendment by each Contracting Party, the date of which shall be communicated through the diplomatic channel to the other Contracting Party.

2. The Annex to this Agreement may be amended in writing between the aeronautical authorities and such amendment shall take effect on a date to be determined by them.

3. If the provisions of a multilateral agreement or convention concerning air transport come into force in respect of both Contracting Parties, this Agreement shall be deemed to be amended so far as is necessary to conform with those provisions of that Agreement or Convention.

Article 18

Settlement of disputes

1. Any disputes except those which may arise with respect to specific tariff filings, relating to the interpretation or application of this Agreement which cannot be settled by negotiations between the Contracting Parties, either through discussion, correspondence or the use of diplomatic channels, shall, at the request of either Contracting Party, be submitted to an arbitral tribunal.

2. Within a period of sixty (60) days from the date of receipt by either Contracting Party from the other Contracting Party of a note through the diplomatic channel requesting arbitration of the dispute by a tribunal, each Contracting Party shall nominate an arbitrator. Within a period of sixty (60) days from the appointment of the arbitrator last appointed, the two arbitrators shall appoint a president who shall be a national of a third State. If within sixty (60) days after one of the Contracting Parties has nominated its arbitrator, the other Contracting Party has not nominated its own or, if within sixty (60) days following the nomination of the second arbitrator, both arbitrators have not agreed on the appointment of the president, either Contracting Party may request the President of the Council of the International Civil Aviation Organisation 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.

3. The Tribunal shall determine its own procedure.

4. Subject to the final decision of the Tribunal, the Contracting Parties shall bear in equal proportion the interim costs of arbitration.

5. The Contracting Parties shall undertake to comply with any provisional ruling and the final decision of the Tribunal.

Article 19

Termination of Agreement

1. Either Contracting Party may at any time from the entry into force of this Agreement give notice in writing through the diplomatic channel to the other Contracting Party of its decision to terminate this Agreement. Such notice shall be communicated simultaneously to the International Civil Aviation Organisation (ICAO). The Agreement shall terminate one (1) year after the date of receipt of the notice by the other Contracting Party.

2. In default of acknowledgement of receipt of a notice of termination by the other Contracting Party, the notice shall be deemed to have been received fourteen (14) days after the date on which ICAO acknowledged receipt thereof.

Article 20

Registration of Agreement and amendments

This Agreement and any subsequent amendments thereto shall be submitted by the Contracting Parties to the International Civil Aviation Organisation for registration.

Article 21

Entry into force

This Agreement shall be applied provisionally from the date of signature. It shall be approved according to the constitutional requirements of each Contracting Party and shall enter into force on the date on which both Parties shall have notified each other of such compliance with their respective constitutional requirements for entry into force of this Agreement.

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

DONE in duplicate at Pretoria on this seventeenth day of February 1994 in the English language.

*For the Government
of the Grand Duchy of Luxembourg*
Mr. J. F. POOS

*For the Government
of the Republic of South Africa*
Dr P. J. WELGEMOED

**Annex to the Agreement between the Government
of the Grand Duchy of Luxembourg and the Government of the Republic
of South Africa for air services between their respective territories**

Section 1

Designated airlines

- 1.1 The designated airline of the Government of the Grand Duchy of Luxembourg shall be:
LUXAIR, Société Luxembourgeoise de Navigation Aérienne S.A.
- 1.2 The designated airline of the Government of the Republic of South Africa shall be:
TREK AIRWAYS (PROPRIETARY) LIMITED

Section 2

Route schedule

2.1 For the Grand Duchy of Luxembourg

<i>Points of origin</i>	<i>Intermediate points</i>	<i>Point of destination</i>	<i>Points beyond</i>
Points in Luxembourg	Vienna, Athens, Lisbon, Malta, Larnaca, Benghazi, Cairo, Wadi, Halfa, Jeddah, Khartoum, Palma, Kano, Abidjan, Libreville, Entebbe, Seychelles, Nairobi, Brazzaville, Kinshasa, Luanda and Harare	Johannesburg	Points to be agreed upon at a later stage

2.2 For the Republic of South Africa

<i>Points of origin</i>	<i>Intermediate points</i>	<i>Point of destination</i>	<i>Points beyond</i>
Points in South Africa	Harare, Luanda, Kinshasa, Brazzaville, Nairobi, Seychelles, Entebbe, Libreville, Abidjan, Kano, Palma, Khartoum, Jeddah, Wadi, Halfa, Cairo, Benghazi, Larnaca, Malta, Lisbon, Athens, Vienna, Turkey and Munich	Luxembourg	Points in Britain, Germany and Scandinavia to be agreed upon

Any or all of the intermediate points may be omitted on any or all of the flights at the option of the designated airline concerned provided that the service begins or terminates in the territory of the Contracting Party designated the airline.

Section 3

Traffic rights

- 3.1 The points on the route specified in sub-paragraph 2.1 of Section 2 of this Annex at which, subject to the concurrence of any third country that may be involved, traffic from or for the territory of the Grand Duchy of Luxembourg –
- (a) may be set down or picked up, i. e. are agreed traffic stops
 - (b) may not be set down or picked up i. e. are stops for non-traffic purposes
- by the designated airline(s) are the following:

<i>Traffic stops</i>	<i>Stops for non-traffic purposes</i>
JOHANNESBURG SEYCHELLES NAIROBI JEDDAH CAIRO LARNACA MALTA TURKEY LUXEMBOURG	HARARE LUANDA KINSHASA BRAZZAVILLE ENTEBBE LIBREVILLE ABIDJAN KANO PALMA KHARTOUM WADI HALFA BENGHAZI LISBON ATHENS VIENNA

3.2 The points on the route specified in sub-paragraph 2.2 of section 2 of this Annex at which, subject to the concurrence of any third country that may be involved, traffic from or for the territory of the Republic of South Africa –

- (a) may be set down or picked up, i. e. are agreed traffic stops
 - (b) may not be set down or picked up i. e. are stops for non-traffic purposes
- by the designated airline(s) are the following:

<i>Traffic stops</i>	<i>Stops for non-traffic purposes</i>
LUXEMBOURG MALTA LARNACA CAIRO JEDDAH NAIROBI SEYCHELLES JOHANNESBURG	VIENNA ATHENS LISBON BENGHAZI WADI HALFA KHARTOUM PALMA KANO ABIDJAN LIBREVILLE ENTEBBE BRAZZAVILLE KINSHASA LUANDA HARARE MUNICH

Section 4

Frequency

Each designated airline shall be entitled to operate a maximum of 3 return flights per week.

Section 5

Type of aircraft

The air services undertaken by the designated airlines of the Parties shall be operated by suitable aircraft to cater for the traffic demand as agreed upon between the designated airline from time to time within the scope of a current commercial agreement.

In the absence of such an agreement the aeronautical authorities or persons designated by such authorities for this purpose shall decide what aircraft types are suitable.

Section 6

Suspension

The Contracting Parties agree to suspend sections 4 and 5 of this Annex for the route(s) concerned during the currency of a commercial agreement between the designated airlines for such route(s).

AIR TRANSPORT AGREEMENT between the Government of the Grand Duchy of Luxembourg and the Government of the State of Israel

*The Government of the Grand Duchy of Luxembourg,
and
The Government of the State of Israel,
(hereinafter referred to 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;

Acknowledging the importance of air transport as means of creating and preserving friendship, understanding and cooperation between peoples of the two countries;

Desiring to promote the development of air transport between Luxembourg and Israel, to continue to the fullest extent the international cooperation in this field; and

Desiring to conclude an Agreement for the operation of air services between their territories and for the regulation of civil aviation activities,

Have agreed as follows:

Article I

Definitions

For the purpose of the interpretation and application of the Agreement, except as otherwise provided herein:

- (a) 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 adopted under Article 90 of that Convention, any amendment of the Annexes or Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have become effective for or have been ratified by both Contracting Parties;
- (b) the term „aeronautical authorities“ means in the case of the State of Israel, The Minister of Transport, and in the case of the Grand Duchy of Luxembourg, the Minister of Transport, or in both cases any person or body duly authorised to perform any functions exercised by the said authorities;
- (c) the term „designated airline“ means the airline that each Contracting Party has designated to operate the agreed services as specified in the Annex of this Agreement and in accordance with Article III of this Agreement;
- (d) the term „territory“, „air services“, „international air services“, „airline“; and „stop for non-traffic purposes“ have the meaning specified in Articles 2 and 96 of the Convention;
- (e) the term „Agreement“ means this Agreement, its Annexes and any amendments thereto;
- (f) the term „Annex“ means the Annex to this Agreement or as amended in accordance with the provisions of paragraph 2 of Article XVII of this Agreement;
- (g) the term „specified routes“ means the routes established or to be established in the Annex to the Agreement;
- (h) the term „agreed services“ means the international air services performed by aircraft for public transport of passengers, cargo and mail which can be operated, according to the provisions of the Agreement, on the specified routes;
- (i) the term „tariff“ means the prices to be paid for the carriage of passengers, baggage and cargo 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;
- (j) the term „capacity“ in relation to „agreed services“ means the capacity of the aircraft used on such services, multiplied by the frequencies operated by such aircraft over a given period of time and route or section of a route.

Article II

Grant of rights

1. Each Contracting Party grants to the other Contracting Party the rights specified in the Agreement, for the purpose of establishing and operating scheduled international air services on the routes specified in the Annex hereto.

2. Unless otherwise specified in this Agreement or in its Annex, the airline designated by each Contracting Party shall enjoy the following rights:

- (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;
- (c) while operating agreed services on specified routes, to embark and disembark in the territory of the other Contracting Party traffic of passengers, cargo or mail, separately or in combination, coming from or destined to the territory of the Contracting Party designating the airline. The right to carry traffic between the territory of the other Contracting Party and territories in third countries, or vice versa, shall be in accordance with the stipulations of the Annex to this Agreement.

3. Nothing in 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, cargo or mail, carried for hire or reward and destined for another point in the territory of the other Contracting Party.

4. The airlines of each Contracting Party, other than those designated under Article III of the Agreement, shall also enjoy the rights specified in paragraph 1. a) and b) of this Article, provided proper notification has been given in advance to the aeronautical authorities of the other Contracting Party.

Article III

Designation of airlines and operating authorization

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one airline for the purpose of operating, between the territories of the two countries, the agreed services on the specified routes.

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

3. The aeronautical authorities of one Contracting Party may require the airline designated by the other Contracting Party to satisfy them that it fulfils 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. Each Contracting Party shall have the right to refuse to grant the operating authorization referred to in paragraph 2 of this Article or to impose such conditions, as it may deem necessary, on the exercise by the designated airline of the rights specified in Article II of this Agreement in any case when 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 its nationals.

5. When an airline has been so designated and authorised, it may begin at any time to operate the agreed services, provided that a tariff established in accordance with the provisions of Article VI of this Agreement is in force in respect of those services and the time-tables have been approved in accordance with Article XII of this Agreement.

Article IV

Revocation or suspension of rights

1. Each Contracting Party shall have the right to revoke an operating authorization or to suspend the exercise of the rights specified in Article II of this Agreement given to the airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary for the exercise of these rights:

- (a) in case where it is not satisfied that substantial ownership and effective control of the airline are vested in the Contracting Party designating the airline or in nationals of such Contracting Party;
- (b) in case of failure by that airline to comply with the laws and regulations of the Contracting Party granting these rights; or
- (c) in any case in which the airline otherwise fails to operate the agreed services in accordance with the conditions prescribed under the Agreement.

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

Article V

Exemptions from duties and taxes

1. Each Contracting Party shall on a basis of reciprocity, exempt the designated airline of the other Contracting Party to the fullest possible extent under its national law from import restrictions, customs duties, excise taxes, inspection fees and other national duties and charges on supplies, spare parts including engines, regular aircraft equipment, aircraft stores and food (including tobacco, liquor, beverages and other products destined for sale to passengers in limited quantities during the flight) and other items intended for use solely in connection with the operation or servicing of aircraft of the designated airline of such Contracting Party operating the agreed services, as well as printed tickets-stock, airway bills, any printed material which bears the insignia of the company printed thereon and usual publicity material distributed without charge by that designated airline.

2. The exemption granted by this Article shall apply to the items referred to in paragraph 1 of this Article:

- (a) introduced in the territory of one Contracting Party by or on behalf of the designated airline of the other Contracting Party;
- (b) retained on board aircraft of the designated airline of one Contracting Party upon arriving to or departing from the territory of the other Contracting Party;
- (c) taken on board aircraft of the designated airline of one Contracting Party in the territory of the other Contracting Party and intended for use in operating the agreed services;

whether or not such items are used or consumed wholly or partly within the territory of the Contracting Party granting the exemption, provided such items are not alienated in the territory of the said Contracting Party.

The material referred to in a), b) and c) above shall be kept under customs supervision or control.

3. The regular airborne equipment, as well as the materials and supplies normally retained on board the aircraft of the designated airline 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 territory. In such case, they may be placed under the supervision of the said authorities up to such time as they are taken out or otherwise disposed of in accordance with Customs regulations.

4. The exemptions provided by paragraph 1 of this Article shall also be available where the airline of one Contracting Party has contracted with another airline, which similarly enjoys such exemptions from the other Contracting Party, for loan or transfer in the territory of the other Contracting Party of the items specified in paragraph 1 of this Article.

Article VI

Tariffs

1. The 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 cost of operation, reasonable profit and tariffs of other airlines. The Contracting Parties shall consider unacceptable tariffs that are predatory or discriminatory, unduly high or restrictive because of the abuse of a dominant position, or artificially low because of direct or indirect government subsidy or support.

2. The tariffs referred to in paragraph 1 of this Article, shall be agreed between the designated airlines of both Contracting Parties, after consultation with other airlines operating over the whole or part of the route, and such agreement shall, whenever possible, be reached by the use of the procedures of the International Air Transport Association or any other appropriate international rate fixing mechanism for the working out of tariffs.

3. The tariffs so agreed shall be submitted for the approval of the aeronautical authorities of both Contracting Parties at least (45) days before the proposed date of their introduction. In special cases, this period may be reduced, subject to the agreement of the said authorities.

4. This approval may be given expressly. If neither of the aeronautical authorities has expressed disapproval within (30) days from the date of submission, in accordance with paragraph 3 of this Article, these tariffs shall be considered approved. In the event of the period for submission being reduced, as provided for in paragraph 3, the aeronautical authorities may agree that the period within which any disapproval must be notified shall be less than (30) days.

5. If a tariff cannot be agreed in accordance with the provisions of paragraph 2 of this Article, or if during the period applicable in accordance with paragraph 4 of this Article, one aeronautical authority

gives the other aeronautical authority notice of its disapproval of any tariff agreed upon in accordance with the provisions of paragraph 2, the aeronautical authorities of the two Contracting Parties shall, after consultation with the aeronautical authorities of any state whose advice they may consider useful, endeavor to determine the tariff by mutual agreement.

6. If the aeronautical authorities cannot agree on any tariff submitted to them in accordance with paragraph 3 of this Article, or on the determination of any tariff as specified in paragraph 5 of this Article, the dispute shall be settled in accordance with the provisions of Article XVIII of this Agreement.

7. A tariff established in accordance with the provisions of this Article shall remain in force until a new tariff has been established. Nevertheless, a tariff shall not be prolonged by virtue of this paragraph for more than (12) months after the date on which it otherwise would have expired.

Article VII

Representation

1. The designated airline of one Contracting Party shall be allowed, on the basis of reciprocity, to maintain in the territory of the other Contracting Party their representatives and commercial, operational and technical staff as required in connection with the operation of the agreed services.

2. These staff requirements may, at the opinion of the designated airline, be satisfied by its own personnel or by using the services of any other organisation, company or airline operating in the territory of the other Contracting Party, and authorized to perform such services in the territory of that Contracting Party.

3. The representatives and staff shall be subject to the laws and regulations in force in the territory of the other Contracting Party, and, consistent with such laws and regulations, each Contracting Party shall, on the basis of reciprocity and with the minimum of delay, grant the necessary work permits, employment visas or other similar documents to the representatives and staff referred to in paragraph 1 of this Article.

Article VIII

Application of laws and regulations

1. The laws and regulations of each Contracting Party governing the admission to or departure from its own territory of aircraft engaged in international navigation, or related to the operation of such aircraft while within its territory, will be applied to the aircraft of the designated airline of the other Contracting Party upon entrance into, departure from and while within the said territory.

2. The laws and regulations of each Contracting Party related to the admission to, stay in, transit through and departure from its territory of passengers, crew, baggage, cargo and mail on aircraft, including regulations relating to entry and departure, immigration and emigration, passports, customs, currency and sanitary measures, shall be complied with by the airline of each Contracting Party upon entrance into or departure from and while within the territory of the other Contracting Party.

Article IX

Recognition of certificates and licences

1. Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one Contracting Party and still in force shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services provided that the requirements under which such certificates and licenses were issued or rendered valid are equal to or above the minimum standards which may be established pursuant to the Convention.

2. Each Contracting Party reserves the right, however, of refusing to recognize the validity of the certificates of competency and the licences granted to its own nationals by the other Contracting Party for the purpose of overflying its own territory.

Article X

Security

1. The Contracting Parties reaffirm their obligation to each other to protect the security of civil aviation against acts of unlawful interference. The Contracting Parties shall in particular act in conformity with the provisions of the Convention of Offences and Certain Other Acts Committed on Board Aircraft, signed in 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 and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988.

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 provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention to the extent that such security provisions are applicable to the Parties; they shall require that operators of aircraft of their registry or operators of aircraft 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.

4. Each Contracting Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in paragraph 3 above required by the other Contracting Party for entry into, departure from, or while within, the territory of that other Contracting Party. Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give sympathetic consideration to 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 rapidly and safely such incident or threat thereof.

6. When a Contracting Party has reasonable ground to believe that the other Contracting Party has departed from the aviation security provisions of this Article, the aeronautical authorities of that Contracting Party may request immediate consultations with the aeronautical authorities of the other Contracting Party.

Article XI

Transfer of excess receipts

Based on the principal of reciprocity:

1. The designated airline of one Contracting Party shall be free to sell air transport services in the territory of the other Contracting Party, in local currency or in any freely convertible currency, either directly or through agents, subject to appropriate authorizations obtained from the appropriate authorities of the other Contracting Party.
2. The designated airlines of the Contracting Parties shall be free to convert to freely convertible currency the excess of receipts over expenditure and transfer from the territory of sale to their home territory this excess of receipts. Included in such net transfers shall be revenues from sales made directly or through an agent of air transport services, and ancillary supplementary services, and the payments shall be settled in conformity with the provisions of the payment agreement in force between the two countries, if such an agreement has been reached, and with the applicable currency regulations.
3. The procedures for such transfers shall be in accordance with the foreign exchange regulations of the country in which the revenue accrues. If specific approval for such transfers is required, such approval shall be given by the respective Contracting Party within at most (30) days of application.
4. Each Contracting Party shall grant to the designated airline of the other Contracting Party the exemption of all taxes and duties on the profit or incomes derived from the operation of the air

services. This provision shall remain in force unless such exemptions are covered by future agreements between the respective authorities of both Contracting Parties.

Article XII

Capacity

1. There shall be fair and equal opportunity for both designated airlines to operate the agreed services as specified in the Annex to this Agreement.
2. While operating the agreed services, the designated airline of each Contracting Party shall take into account the interest of the designated 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 route, or on other routes of its network.
3. The capacity to be provided on the agreed services by the designated airlines shall bear a close relationship to the estimated air transport traffic requirements between the two countries. This capacity shall be in principle equally shared between the designated airlines of the Contracting Parties, unless otherwise agreed.
4. The frequencies and the schedules for the operation of the agreed services shall be established by mutual agreement between the two designated airlines and submitted to the aeronautical authorities for approval prior to the operation of the said agreed services and at least (30) days prior to their entry into force. In case such agreement cannot be reached between the designated airlines, the matter shall be referred to the aeronautical authorities of the Contracting Parties.
5. Additional capacity, when required, shall be coordinated between the designated airline of both Contracting Parties before it is submitted for approval to the respective aeronautical authorities.

Article XIII

Facilitation

1. Each Contracting Party may impose or permit to be imposed just and reasonable charges for the use of airports and other aviation facilities, provided that these charges shall not be higher than those paid by its own airlines operating between the territories of the Contracting Parties or higher than those paid by other airlines engaged in similar international air services.
2. Neither of the Contracting Parties shall give preference to its own or any other airline over an airline engaged in similar international air services of the other Contracting Party in the application of its customs, immigration, quarantine and similar regulations or in the use of airports, airways, air traffic services and associated facilities under its control.

Article XIV

Exchange of information and statistics

The aeronautical authorities of either Contracting Party shall supply to the aeronautical authorities of the other Contracting Party, at their request, such statistical information as may be reasonably required for the purpose of determining the capacity to be provided by the designated airlines.

Article XV

Direct transit

Passengers in direct transit across the territory of a Contracting Party, not leaving the area of the airport reserved for such purpose, shall be subject to a simplified control. Baggage and freight in direct transit shall be exempt from customs duties and other charges.

Article XVI

Consultations

1. In the 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.

2. Such consultations shall begin within a period of (60) days of the date of receipt of such a request, unless otherwise agreed by the Contracting Parties.

Article XVII

Modifications

1. If either Contracting Party considers it desirable to modify any provisions of the Agreement, it may request consultations with the other Contracting Party. Such consultations between aeronautical authorities may be through discussions or by correspondence and shall begin within a period of (60) days from the date of request. Any modifications so agreed shall be effected by an exchange of Diplomatic Notes.

2. Modifications of the Annex to this Agreement may be made by direct agreement between the competent aeronautical authorities of the Contracting Parties and confirmed by exchange of notes.

3. The Agreement will be amended so as to conform with any multilateral convention which may become binding on both Contracting Parties.

Article XVIII

Settlement of disputes

1. Any dispute relating to the interpretation of this Agreement or of the Route Schedule shall be settled by direct negotiations between the aeronautical authorities of the Contracting Parties. If the aeronautical authorities fail to reach an agreement, the dispute shall be settled through diplomatic channels.

2. If the Contracting Parties fail to reach a settlement by negotiations, they may agree to refer the dispute to a Tribunal of three arbitrators, one to be nominated by each Contracting Party and the third to be appointed by the two arbitrators. Each of the Contracting Parties shall nominate an arbitrator within a period of (60) days from the date of receipt by either Contracting Party of a notice through diplomatic channels requesting arbitration of the dispute and the third arbitrator shall be appointed within a further period of (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 Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. In all cases the third arbitrator shall be a national of a third State, shall act as Chairman of the Tribunal and shall determine the place where arbitration will be held. The arbitral Tribunal shall settle its own procedure.

3. Any decision given by the arbitral Tribunal shall be binding on both Contracting Parties, unless they decide otherwise at the time of referring the dispute to an arbitral Tribunal.

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

5. If and so long as either Contracting Party fails to comply with any decision given under paragraph 3 of this Article, the other Contracting Party may limit, withhold or revoke any rights or privileges which it has granted by virtue of this Agreement to the Contracting Party in default or to the designated airline in default.

Article XIX

Registration

This agreement and all modifications thereto, as well as any exchange of Diplomatic Notes, shall be registered with the International Civil Aviation Organization.

Article XX

Termination

1. This Agreement shall be valid for indefinite period of time.
2. Either Contracting Party may at any time give notice in writing to the other Contracting Party of its decision to terminate the Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organization. In such case the Agreement shall terminate (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice of termination is withdrawn by mutual agreement before the expiry of this period. In the absence of acknowledgement of receipt by the other Contracting Party, the notice shall be deemed to have been received (14) days after the receipt of the notice by the International Civil Aviation Organization.

Article XXI

Entry into force

This Agreement shall enter into force at the date on which both Contracting Parties give written notifications to each other by exchange of Diplomatic Notes that their respective international requirements for entry into force have been fulfilled.

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

DONE in Luxembourg, this 14th day of June 1994 which corresponds to the in two originals in each of the English and Hebrew languages, all two texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

*For the Government
of the Grand Duchy of Luxembourg*

Jacques F. POOS

*Minister of Foreign Affairs,
Foreign Trade and Cooperation*

*For the Government
of the State of Israel*

Shimon PERES

Minister of Foreign Affairs

*

Annex

to the Air Transport Agreement between the Government of the Grand Duchy of Luxembourg and the Government of Israel on scheduled air transport between their territories.

1. Routes on which air services may be operated by the designated airline of the State of Israel:
 - Point of origin: Tel-Aviv
 - Intermediate points: Any point
 - Point of destination: Luxembourg
 - Points beyond: Any point
2. Routes on which air services may be operated by the designated airline of the Grand Duchy of Luxembourg:
 - Point of origin: Luxembourg
 - Intermediate points: Any point
 - Point of destination: Tel-Aviv
 - Points beyond: Any point
3. Any or all of the intermediate or beyond points may, at the opinion of the designated airline, be omitted on any or all flights provided that the services either begin or terminate in the territory of the party designating the airline.

4. While operating the agreed services, the designated airline of each Contracting Party is granted rights to uplift cargo and mail only, between the territory of the other Contracting Party and „points beyond“ in third countries and vice versa (5th freedom).
5. Unless otherwise agreed, the designated airlines of the Contracting Parties shall not enjoy 5th freedom traffic rights to or from intermediate points.

*

AGREEMENT Between the Government of the Grand Duchy of Luxembourg and the Government of Ukraine on air services

*The Government of the Grand Duchy of Luxembourg
and
the Government of Ukraine*

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

Desiring to conclude an agreement for the purpose of establishing air services between and beyond their respective territories;

Desiring to ensure the highest degree of safety and security in international air transport;

Have agreed as follows:

Article 1

Definitions

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

- (a) the „aeronautical authorities“ means: in the case of Luxembourg, the Minister responsible for the subject of Civil Aviation and, in the case of Ukraine, the Minister of Transport of Ukraine or, in both cases, any other authority or person empowered to perform the functions now exercised by the said authorities;
- (b) the „agreed services“ means scheduled air services on the routes specified in the Annex to this Agreement for the transport of passengers, cargo and mail, separately or in combination;
- (c) the „Agreement“ means this Agreement, its Annex, and any amendments thereto;
- (d) 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 of the Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have been adopted or ratified by both Contracting Parties;
- (e) the „designated airline“ means an airline which has been designated and authorized in accordance with Article 3 of this Agreement;
- (f) the „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 and conditions for agency and other ancillary services, but excluding remuneration and conditions for the carriage of mail;
- (g) „air services“, „international air service“, „airline“ and „stop for non-traffic purposes“ have the meaning respectively assigned to them in Article 96 of the Convention;
- (h) „territory“ has the meaning assigned to it in article 2 of the Convention.

Article 2

Grant of rights

1. Each Contracting Party grants to the other Contracting Party the following rights for the conduct of international air services by the airline designated by the other Contracting Party:

- (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;

(c) to make stops in the said territory for the purpose of taking up and discharging, while operating the routes specified in the Annex, international traffic in passengers, cargo and mail, separately or in combination.

2. Nothing in paragraph 1 of this article shall be deemed to confer on a designated airline of one Contracting Party the privilege of taking up, in the territory of the other Contracting Party, passengers, cargo and mail carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

Article 3

Designation and authorization

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines to operate the agreed services on the specified routes and to withdraw or alter such designations.

2. On receipt of such designation and subject to the provisions of Article 4 of this Agreement, the aeronautical authorities of the other Contracting Party shall, grant without delay to the airline or airlines, so designated the appropriate authorizations to operate the agreed services for which that airline has been designated.

3. Upon receipt of such authorizations the airline may begin at any time to operate the agreed services, in whole or in part, provided that the airline complies with the applicable provisions of this Agreement, in particular, that tariffs are established in accordance with the provisions of Article 10 of this Agreement.

Article 4

Revocation and limitation of authorization

1. The aeronautical authorities of each Contracting Party shall have the right to withhold the authorizations referred to in Article 3 of this Agreement with respect to an airline designated by the other Contracting Party, to revoke or suspend such authorizations or impose conditions, temporarily or permanently:

- (a) in the event of failure by such airline to qualify before the aeronautical authorities of that Contracting Party under the laws and regulations normally and reasonably applied by these authorities in conformity with the Convention;
- (b) in the event of failure by such airline to comply with the laws and regulations of that Contracting Party;
- (c) in the event that they are not satisfied that substantial ownership and effective control of the airline are vested in the Contracting Party designating the airline or in its nationals; and
- (d) in case the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.

2. Unless immediate action is essential to prevent infringement of the laws and regulations referred to above, the rights enumerated in paragraph 1 of this Article shall be exercised only after consultations with the aeronautical authorities of the other Contracting Party in conformity with Article 14 of this Agreement.

Article 5

Application of laws and regulations

1. The laws, regulations and procedures of one Contracting Party relating to the admission to, remaining in, or departure from its territory of aircraft engaged in international air navigation or to the operation and navigation of such aircraft shall be complied with by the airline or airlines of the other Contracting Party upon entrance into, departure from and while within the said territory.

2. The laws and regulations of one Contracting Party respecting entry, clearance, transit, immigration, passports, customs and quarantine shall be complied with by the airline or airlines of the other Contracting Party and by or on behalf of its crews, passengers, cargo and mail upon transit of, admission to, departure from and while within the territory of such a Contracting Party.

3. Neither of the Contracting Parties shall give preference to its own or any other airline over an airline of the other Contracting Party engaged in similar international air services in the application of its customs, immigration, quarantine and similar regulations.

4. Passengers baggage and cargo in direct transit through the territory of either Contracting Party and not leaving the area of the airport reserved for such purpose shall 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.

Article 6

Recognition of certificates and licences (safety)

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

2. Each Contracting Party may request consultations concerning the safety standards maintained by the other Contracting Party relating to aeronautical facilities, aircrew, aircraft, and operation of the designated airlines. If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards and requirements in these areas that at least equal the minimum standards which may be established pursuant to the Convention, the other Contracting Party shall be notified of such findings and the steps considered necessary to conform with these minimum standards; and the other Contracting Party shall take appropriate corrective action. Each Contracting Party reserves the right to withhold, revoke or limit the operating authorization or technical permission of an airline or airlines designated by the other Contracting Party in the event the other Contracting Party does not take such appropriate action within a reasonable time.

Article 7

Aviation security

1. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms and 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 and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.

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 security of civil aviation.

3. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention of International Civil Aviation to the extent that such security provisions are applicable to the Contracting Parties; they shall require that operators of aircraft of their registry or operators of aircraft 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.

4. Each Contracting Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in paragraph 3 above required by the other Contracting Party for entry into, departure from, or while within, the territory of that other Contracting Party.

Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers crew carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give positive consideration to 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 rapidly and safely such incident or threat thereof.

6. Should one Contracting Party have problems with regard to the aviation security provisions of this Article, the Aeronautical Authorities of either Contracting Party may request immediate consultations with the aeronautical authorities of the other Contracting Party.

Article 8

Customs duties and other charges

1. Each Contracting Party shall on a basis of reciprocity exempt the designated airline or airlines of the other Contracting Party to the fullest extent possible under its national law from import restrictions, customs duties, excise taxes, inspection fees and other national duties and charges on aircraft, fuel, lubricating oils, consumable technical supplies, spare parts including engines, regular aircraft equipment, aircraft stores (including liquor, tobacco and other products destined for sale to passengers in limited quantities during the flight) and other items intended for use or used solely in connection with the operation or servicing of aircraft of the designated airline or airlines of such other Contracting Party operating the agreed services.

2. The exemptions granted by this Article shall apply to the items referred to in paragraph 1 of this Article:

- (a) introduced into the territory of one Contracting Party by or on behalf of the designated airline or airlines of the other Contracting Party;
- (b) retained on board aircraft of the designated airline or airlines of one Contracting Party upon arriving in or leaving the territory of the other Contracting Party;
- (c) taken on board aircraft of the designated airline or airlines of one Contracting Party in the territory of the other Contracting Party and intended for use in operating the agreed services;

whether or not such items are used or consumed wholly within the territory of the Contracting Party granting the exemption, provided such items are not alienated in the territory of the said Contracting Party.

3. The regular airborne equipment, as well as the materials and supplies normally retained on board the aircraft of the designated airline or airlines 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 territory. In such case, they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with Customs regulations.

Article 9

Capacity

1. The designated airline or airlines of the Contracting Parties shall have a fair and equal opportunity to operate the agreed services covered by this Agreement.

2. The capacity provided by each designated airline shall be such as will enable that airline at a reasonable load factor to provide the agreed services taking full account of the requirements of through-airline operations.

3. Neither Contracting Party may unilaterally impose any restrictions on the designated airline or airlines of the other Contracting Party with respect to capacity, frequency or type of aircraft employed in connection with services over any of the routes specified in the schedule annexed to this Agreement. In the event that one of the Contracting Parties believes that the operation proposed or conducted by the airline of the other Contracting Party unduly affects the agreed services provided by its designated airline, it may request consultation pursuant to Article 14 of this Agreement.

Article 10

Tariffs

1. Each Contracting Party shall allow prices for air transportation to be established by each designated airline based upon commercial considerations in the marketplace. Intervention by the Contracting Parties shall be limited to:

- (a) prevention of predatory or discriminatory prices or practises;

- (b) protection of consumers from prices that are unduly high or restrictive because of the abuse of a dominant position; and
- (c) protection of airlines from prices that are artificially low because of direct or indirect governmental subsidy or support.

2. Each Contracting Party may require notification to or filing with its aeronautical authorities of prices proposed to be charged to or from its territory by airlines of the other Contracting Party. Notification or filing by the airlines of both Contracting Parties may be required no more than 60 days before the proposed date of effectiveness. In individual cases, notification or filing may be permitted on shorter notice than normally required.

3. Neither Contracting Party shall take unilateral action to prevent the inauguration or continuation of a price proposed to be charged or charged by (a) an airline of either Contracting Party for international air transportation between the territories of the Contracting Parties, or (b) an airline of one Contracting Party for international air transportation between the territory of the other Contracting Party and any other country, including in both cases transportation on an interline or intra-line basis. If either Contracting Party believes that any such price is inconsistent with the considerations set forth in paragraph (a) of this Article, it shall request consultations and notify the other Contracting Party of the reasons for its dissatisfaction as soon as possible. These consultations shall be held not later than 30 days after receipt of the request, and the Contracting Parties shall cooperate in securing information necessary for reasoned resolution of the issue. If the Contracting Parties reach agreement with respect to a price for which a notice of dissatisfaction has been given, each Contracting Party shall use its best efforts to put that agreement into effect. Without mutual agreement, that price shall go into or continue in effect.

4. Notwithstanding paragraph (3) of this Article, each Contracting Party shall allow (a) any airline of either Contracting Party or any airline of a third country to meet a lower or more competitive price proposed or charged by any other airline for international air transportation between the territories of the Contracting Parties, and (b) any airline of one Contracting Party to meet a lower or more competitive price proposed or charged by any other airline for international air transportation between the territory of the other Contracting Party and a third country. As used herein, the term „meet“ means the right to establish on a timely basis, using such expedited procedures as may be necessary, an identical or similar price on a direct, interline or intra-line basis, notwithstanding differences in conditions relating to routing, roundtrip requirements, connections, type of service or aircraft type; or such price through a combination of prices.

Article 11

Airline representatives

1. The designated airline or airlines of one Contracting Party shall be allowed, on the basis of reciprocity, to bring into and to maintain in the territory of the other Contracting Party their representatives and commercial, operational and technical staff as required in connection with the operation of agreed services.

2. These staff requirements may, at the option of the designated airline or airlines of one Contracting Party, 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, and authorized to perform such services in the territory of that Contracting Party.

3. The representatives and staff shall be subject to the laws and regulations in force of the other Contracting Party, and, consistent with such laws and regulations, each Contracting Party shall, on the basis of reciprocity and with the minimum of delay, grant the necessary employment authorizations, visitor visas or other similar documents to the representatives and staff referred to in paragraph 1 of this Article.

Article 12

Commercial opportunities and transfer of funds

1. Each designated airline shall have the right to engage in the sale of air transportation in the territory of the other Contracting Party directly and, at its discretion, through its agents. Each designated airline shall have the right to sell transportation in the currency of that territory or, to the extent permitted by national law, in freely convertible currencies of other countries, and to the same extent any person shall be free to purchase such transportation in currencies accepted for sale by that airline.

2. Each Contracting Party grants to any designated airline of the other Contracting Party the right of free transfer at the official rate of exchange of the excess of receipts over expenditure earned by that airline in its territory in connection with the carriage of passengers, mail and cargo.

Article 13

Statistics

The aeronautical authorities of either 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 the capacity provided on the agreed services.

Article 14

Consultation

In a spirit of close co-operation, 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 of its Annex, and shall also consult when necessary to provide for modification thereof.

Either Contracting Party may request consultation, which may be through discussion or by correspondence and shall begin within a period of sixty (60) days of the date of the request, unless both Contracting Parties agree to an extension of this period.

Article 15

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 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 either Contracting Party may submit the dispute 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 arbitrators. Each of the Contracting Parties 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 channels requesting arbitration of the dispute and the third arbitrator shall be appointed within a further period of 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 Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. In all cases the third arbitrator shall be a national of a third State and shall act as President of the arbitral tribunal.

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

Article 16

Modification of Agreement

If either of the Contracting Parties considers it desirable to modify any provision of this Agreement, it may request consultations with the other Contracting Party. Such consultations, which may be between 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 unless both Contracting Parties agree to an extension of this period. Any modification so agreed shall come into force when they have been confirmed by an exchange of diplomatic notes.

Modifications of the Annex shall be made by direct agreement between the aeronautical authorities of the Contracting Parties. Such modification would be effective from the date of the approval of the aeronautical authorities.

Article 17

Multilateral convention

This Agreement and its Annexes will be amended so as to conform with any multilateral convention which may become binding on both Contracting Parties.

Article 18

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 communicated

simultaneously to the International Civil Aviation Organization. The 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 the notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

Article 19

Registration

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

Article 20

Entry into force

This Agreement shall be applied provisionally from the date of signature. It shall be approved according to the constitutional requirements of each Contracting Party and shall enter into force on the date of an exchange of diplomatic notes confirming that all the constitutional procedures required for the entry into force of this Agreement by each Contracting Party have been completed.

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

DONE in duplicate at Luxembourg on this 14th day of June 1994 in the English language.

*For the Government
of the Grand Duchy of Luxembourg*

*For the Government
of Ukraine*

(suivent les signatures)

*

Annex

A. The airline(s) designated by the Government of the Grand Duchy of Luxembourg shall be entitled to operate scheduled air services in both directions on routes specified hereafter:

<i>Points of departure:</i>	<i>Intermediate points:</i>	<i>Points of arrival:</i>	<i>Points beyond:</i>
Luxembourg	*	Points in Ukraine	*

B. The airline(s) designated by the Government of Ukraine shall be entitled to operate scheduled air services in both directions on routes specified hereafter:

<i>Points of departure:</i>	<i>Intermediate points:</i>	<i>Points of arrival:</i>	<i>Points beyond:</i>
Points in Ukraine	*	Luxembourg	*

* Any intermediate points and points beyond not specified in this annex may be served by the designated airline(s) of each Contracting Party without exercising Fifth Freedom traffic rights. These points will be notified by the designated airlines to the respective aeronautical authorities.

The eventual exercise of Fifth Freedom traffic rights may be agreed upon by the aeronautical authorities of the two Contracting Parties.

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AGREEMENT
between the Government of the Grand Duchy of Luxembourg and
the Government of the Socialist Republic of Vietnam
on air services

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The Government of the Grand Duchy of Luxembourg
and
the Government of the Socialist Republic of Vietnam

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

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

Desiring to ensure the highest degree of safety and security in international air transport;

Have agreed as follows:

Article 1

Definitions

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

- (a) the „aeronautical authorities“ means in the case of the Grand Duchy of Luxembourg, the Minister responsible for the subject of Civil Aviation and, in the case of the Socialist Republic of Vietnam, the Civil Aviation Administration of Vietnam, Ministry of Transport, or, in both cases, any other authority or person empowered to perform the functions now exercised by the said authorities;
- (b) the „agreed services“ means scheduled air services on the routes specified in the Annex to this Agreement for the transport of passengers, cargo and mail, separately or in combination;

- (c) the „Agreement“ means this Agreement, its Annex, and any amendments thereto;
- (d) 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 of the Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have been adopted or ratified by both Contracting Parties;
- (e) the „designated airline“ means an airline which has been designated and authorized in accordance with Article 3 of this Agreement;
- (f) the „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 and conditions for agency and other ancillary services, but excluding remuneration and conditions for the carriage of mail;
- (g) „air service“, „international air service“, „airline“ and „stop for non-traffic purposes“ have the meaning respectively assigned to them in Article 96 of the Convention;
- (h) „territory“ has the meaning assigned to it in Article 2 of the Convention.

Article 2

Grant of rights

1) Each Contracting Party grants to the designated airline(s) of the other Contracting Party the following rights in respect of its international air services:

- (a) the right to fly across its territory without landing;
- (b) the right to make stops in its territory for non-traffic purposes.

2) Each Contracting Party grants to the designated airline(s) of the other Contracting Party the rights hereinafter specified in this Agreement for the purpose of operating international air services on the routes specified in the appropriate Section of the Schedule annexed to this Agreement. Such services and routes are hereinafter called „the agreed services“ and „the specified routes“ respectively. 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 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, cargo and mail, separately or in combination.

3) Nothing in paragraph 2 of this Article shall be deemed to confer on the designated airline(s) of one Contracting Party the right to take on board, in the territory of the other Contracting Party, passengers, cargo and mail, carried for hire or reward and destined for another point in the territory of the other Contracting Party.

4) If because of armed conflict, political disturbances or developments, or special and unusual circumstances, a designated airline of one Contracting Party is unable to operate a service on its normal route, the other Contracting Party shall use its best efforts to facilitate the continued operation of such service through appropriate temporary rearrangements of routes.

Article 3

Designation and authorisation

1) The aeronautical authorities of 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 the agreed services on the specified routes and to withdraw or alter such designations.

2. On receipt of such a designation the aeronautical authorities of the other Contracting Party shall, subject to the provisions of paragraph 3 and 4 of this Article, without delay grant to the airline designated the appropriate operating authorisations.

3) 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 fulfill 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 Chicago Convention.

4) The aeronautical authorities of each Contracting Party shall have the right to refuse to grant the operating authorisations referred to in paragraph 2 of this Article, or to impose such conditions as they

may deem necessary on the exercise by a designated airline of the rights specified in Article 2 paragraph 2 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 its nationals.

5) When an airline has been so designated and authorised it may begin to operate the agreed services, provided that the airline complies with the applicable provisions of this Agreement.

Article 4

Revocation and limitation of authorisation

1. The aeronautical authorities of each Contracting Party shall have the right to revoke or suspend the authorisations referred to in Article 3 of this Agreement with respect to an airline designated by the other Contracting Party or impose conditions, temporarily or permanently:

- (a) in the event of failure by such airline to qualify before the aeronautical authorities of that Contracting Party under the laws and regulations normally and reasonably applied by these authorities in conformity with the Convention;
- (b) in the event of failure by such airline to comply with the laws and regulations of that Contracting Party;
- (c) in the event that they are not satisfied that substantial ownership and effective control of the airline are vested in the Contracting Party designating the airline or in its nationals; and
- (d) in case the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.

2. Unless immediate action is essential to prevent further infringement of the laws and regulations referred to above, the rights enumerated in paragraph 1 of this Article shall be exercised only after consultations with the aeronautical authorities of the other Contracting Party in conformity with Article 15 of this Agreement.

Article 5

Application of laws and regulations

1. The laws, regulations and procedures of one Contracting Party relating to the admission to, remaining in, 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 airline or airlines of the other Contracting Party upon entrance into, departure from and while within the said territory.

2. The laws and regulations of one Contracting Party respecting entry, clearance, transit, immigration, passports, customs and quarantine shall be complied with by the airline or airlines of the other Contracting Party and by or on behalf of its crews, passengers, cargo and mail upon transit of, admission to, departure from and while within the territory of such a Contracting Party.

3. Neither of the Contracting Parties shall give preference to its own or any other airline over an airline of the other Contracting Party engaged in similar international air services in the application of its customs, immigration, quarantine and similar regulations.

4. Passengers, baggage and cargo in direct transit through the territory of either Contracting Party and not leaving the area of the airport reserved for such purpose shall 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.

Article 6

Recognition of certificates and licences (safety)

Certificates of airworthiness, certificates of competency and licences, issued or validated by one Contracting Party and still in force, shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services on the routes specified in the Annex provided that such

certificates or licences were issued or validated pursuant to, and in conformity with, the standards established under the Convention. Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flights above its own territory, certificates of competency and licences granted to its own nationals by the other Contracting Party.

Article 7

Operation of leased aircraft

1. When a designated airline proposes to use an aircraft other than those owned by it on the services provided hereunder, this will only be done on the following conditions:

- (a) that such arrangements will not be equivalent to allowing a lessor airline of third party access to traffic rights not otherwise available to that airline;
- (b) that the financial benefit to be obtained by the lessor airline will not be dependent on the profit or loss of the operation of the designated airline concerned; and
- (c) responsibility for the continued airworthiness and the adequacy of operating and maintenance standards of any leased aircraft operated by an airline designated by the aeronautical authorities of both Contracting Parties will be established to the satisfaction of both aeronautical authorities.

2. A designated airline is not otherwise prohibited from providing services using leased aircraft provided that any lease arrangement entered into satisfies the conditions listed above.

Article 8

Aviation security

1. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation 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 provision 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 and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.

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 security of civil aviation.

3. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention on International Civil Aviation to the extent that such security provisions are applicable to the Contracting Parties; they shall require that operators of aircraft of their registry or operators of aircraft 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.

4. Each Contracting Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in paragraph 3 above required by the other Contracting Party for entry into, departure from, or while within, the territory of that other Contracting Party.

Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give positive consideration to 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 rapidly and safely such incident or threat thereof.

Article 9

Customs duties and other charges

1. Each Contracting Party shall on a basis of reciprocity exempt the designated airline or airlines of the other Contracting Party to the fullest extent possible under its national law from import restrictions,

customs duties, excise taxes, inspection fees and other national duties and charges on aircraft, fuel, lubricating oils, consumable technical supplies, spare parts including engines, regular aircraft equipment, aircraft stores (including liquor, tobacco and other products destined for sale to passengers in limited quantities during the flight) and other items intended for use or used solely in connection with the operation or servicing of aircraft of the designated airline or airlines of such other Contracting Party operating the agreed services.

2. The exemptions granted by this Article shall apply to the items referred to in paragraph 1 of this Article:

- (a) introduced into the territory of one Contracting Party by or on behalf of the designated airline or airlines of the other Contracting Party;
- (b) retained on board aircraft of the designated airline or airlines of one Contracting Party upon arriving in or leaving the territory of the other Contracting Party;
- (c) taken on board aircraft of the designated airline or airlines of one Contracting Party in the territory of the other Contracting Party and intended for use in operating the agreed services;

whether or not such items are used or consumed wholly within the territory of the Contracting Party granting the exemption, provided such items are not alienated in the territory of the said Contracting Party.

3. The regular airborne equipment, as well as the materials and supplies normally retained on board the aircraft of the designated airline or airlines 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 territory. In such case, they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with Customs regulations.

Article 10

Capacity

1. There shall be fair and equal opportunity, and equal capacity entitlement, 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 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 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 adequate to carry the current and reasonably anticipated requirements for the carriage of passengers and cargo, including mail, between the territories of the Contracting Parties.

4. The total capacity to be provided on the agreed services by the designated airlines of the Contracting Parties shall be jointly determined in accordance with the above-mentioned principles by the aeronautical authorities of the Contracting Parties before commencement of the operations.

Article 11

Tariffs

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 airline (such as standards of speed and service) and the tariffs of the 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 and the rates of agency commission used in conjunction with them shall, if possible, be agreed in respect of each of the specified routes between the designated airlines concerned in consultation with the other airlines operating the whole or part of that route. The tariffs so agreed shall be subject to the approval of the aeronautical authorities of the 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 upon in accordance with the provisions of paragraph 2 of this Article the aeronautical

authorities of the Contracting Parties shall endeavor 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 16 of the present Agreement.

5. No tariff shall come into force if the aeronautical authorities of either Contracting Party have not approved it.

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

Article 12

Airline representatives

1. The designated airline of either Contracting Party shall have the right to establish representative offices in the territory of the other Contracting Party. Those representative offices may include commercial, operational and technical staff.

2. The designated airline or airlines of one Contracting Party shall be entitled, in accordance with the laws and regulations relating to entry, residence and employment of the other Contracting Party, to bring in and maintain in the territory of the other Contracting Party those of their own managerial, technical, operational and other specialist staff who are required for the provision of air services.

3. These staff requirements may, at the option of the designated airline or airlines of one Contracting Party, be satisfied by its own personnel or by using the local services of any other organization, company or airline operating in the territory of the other Contracting Party, and authorized to perform such services in the territory of that Contracting Party.

4. The representatives and staff shall be subject to the laws and regulations in force of the other Contracting Party, and, consistent with such laws and regulations, each Contracting Party shall, on the basis of reciprocity and with the minimum of delay, grant the necessary employment authorisations, visitor visas or other similar documents to the representatives and staff referred to in paragraph 2 of this Article.

Article 13

Commercial opportunities and transfer of funds

1. Each designated airline shall have the right to engage in the sale of air transportation in the territory of the other Contracting Party directly and, at its discretion, through its agents. Each designated airline shall have the right to sell transportation in the currency of that territory or, to the extent permitted by national law, in freely convertible currencies of other countries, and to the same extent any person shall be free to purchase such transportation in currencies accepted for sale by that airline.

2. Each designated airline shall have the right to convert and remit to its country on demand local revenues in excess of sums locally disbursed. 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 for carrying out such conversion and remittance. Such transfer shall be made in accordance with the foreign exchange regulations of the Contracting Party concerned.

Article 14

Statistics

The aeronautical authorities of either 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 the capacity provided on the agreed services.

Article 15

Consultation

In a spirit of close co-operation, 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 of its Annex, and shall also consult when necessary to provide for modification thereof.

Either Contracting Party may request consultation, which may be through discussion or by correspondence and shall begin within a period of sixty (60) days of the date of the request, unless both Contracting Parties agree to an extension of this period.

Article 16

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 endeavor 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 either Contracting Party may submit the dispute 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 arbitrators. Each of the Contracting Parties 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 channels requesting arbitration of the dispute and the third arbitrator shall be appointed within a further period of 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 Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. In all cases the third arbitrator shall be a national of a third State and shall act as President of the arbitral tribunal.

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

4. The expenses of the national arbitrators shall be borne by the respective Contracting Parties. All other expenses of the arbitral tribunal, including the fees and expenses of the third arbitrator shall be shared equally.

Article 17

Modification of Agreement

If either of the Contracting Parties considers it desirable to modify any provision of this Agreement, it may request consultations with the other Contracting Party. Such consultations, which may be between 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 unless both Contracting Parties agree to an extension of this period. Any modifications so agreed shall come into force when they have been confirmed by an exchange of diplomatic notes.

Modifications of the Annex shall be made by direct agreement between the aeronautical authorities of the Contracting Parties. Such modification would be effective from the date of the approval of the aeronautical authorities.

Article 18

Multilateral convention

This Agreement and its Annexes will be amended so as to conform with any multilateral convention which may become binding on both Contracting Parties.

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 communicated simultaneously to the International Civil Aviation Organization. The 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 the notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

Article 20

Registration

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

Article 21

Entry into force

This Agreement shall enter into force on the day on which the Contracting Parties have informed each other in writing that the formalities constitutionally required therefore in their respective countries have been complied with.

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

DONE in duplicate at Luxembourg on this 26th day of October 1994 in the English language.

*For the Government
of the Grand Duchy of Luxembourg*
Jacques F. POOS
Ministre des Affaires Etrangères

*For the Government
of the Socialist Republic of Vietnam*
Nguyen MANH CAM
Ministre des Affaires Etrangères

*

ANNEX*Route Schedule**1. Section 1*

Routes to be operated by the designated airlines of the SOCIALIST REPUBLIC OF VIETNAM

<i>Points of origin</i>	<i>Intermediate points</i>	<i>Points of destination</i>	<i>Points beyond</i>
One point in Vietnam	Two points	Luxembourg	One point

2. Section 2

Routes to be operated by the designated airlines of the GRAND DUCHY OF LUXEMBOURG

<i>Points of origin</i>	<i>Intermediate points</i>	<i>Points of destination</i>	<i>Points beyond</i>
Luxembourg	Two points	One point in Vietnam	One point

Notes:

1. The designated airline of either Contracting Party may, on any or all flights omit calling at any of the above points, provided that the services on this route start and terminate in the territory of that Contracting Party.
2. The right of the designated airline of either Contracting Party to transport passengers, cargo and mail between the points in the territory of the other Contracting Party and the points in the territory of the Third Parties shall be discussed and agreed upon by the aeronautical authorities of the two Contracting Parties.

*

AGREEMENT

**between the Government of the Grand Duchy of Luxembourg and
the Government of Macau on air services**

*The Government of the Grand Duchy of Luxembourg and
the Government of Macau*

The latter being duly authorized by the competent sovereign institution of the Portuguese Republic and with the consent of the Government of the People's Republic of China;

Desiring to conclude an Agreement for the purpose of establishing air services between and beyond Luxembourg and Macau;

Desiring to ensure the highest degree of safety and security in international air transport;

Have agreed as follows:

*

CONTENTS

- Article 1 – Definitions
- Article 2 – Provisions of the Chicago Convention applicable to international air services
- Article 3 – Grant of rights
- Article 4 – Designation and authorization
- Article 5 – Revocation and limitation of authorizations
- Article 6 – Application of laws and regulations
- Article 7 – Recognition of certificates and licences (safety)
- Article 8 – Aviation security
- Article 9 – Customs duties and other charges
- Article 10 – Capacity
- Article 11 – Tariffs
- Article 12 – Airline representatives
- Article 13 – Commercial opportunities and transfer of funds
- Article 14 – Statistics
- Article 15 – Consultation
- Article 16 – Settlement of disputes
- Article 17 – Modification of Agreement
- Article 18 – Termination
- Article 19 – Registration
- Article 20 – Entry in force

Article 1

Definitions

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

- (a) the „Aeronautical Authorities“ means: in the case of the Grand Duchy of Luxembourg, the Minister of Transport and, in the case of Macau, the Civil Aviation Authority or, in both cases, any other authority or person empowered to perform the functions now exercised by the said authorities;
- (b) the „agreed services“ means scheduled air services on the routes specified in the Annex to this Agreement for the transport of passengers, cargo and mail, separately or in combination;
- (c) the „Agreement“ means this Agreement, its Annex, and any amendments thereto;
- (d) the „designated airline“ means an airline which has been designated and authorized in accordance with Article 4 of this Agreement;
- (e) the „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 and conditions for agency and other ancillary services, but excluding remuneration and conditions for the carriage of mail;
- (f) „air services“, „international air services“, „airline“ and „stop for non-traffic purposes“ have the meaning respectively assigned to them in Article 96, of the Chicago Convention referred to in Article 2 of this Agreement;
- (g) „area“, in relation to Macau includes the Macau Peninsula and the Taipa and Coloane Islands and in relation to the Grand Duchy of Luxembourg has the meaning assigned to „Territory“ in Article 2 of the said Convention.

Article 2

Provisions of the Chicago Convention applicable to international air services

In implementing this Agreement, the Contracting Parties shall act in conformity with the provisions of the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944,

including the Annexes and any amendments to the Convention or to its Annexes, in so far as these provisions are applicable to international air services.

Article 3

Grant of rights

1. Each Contracting Party grants to the other Contracting Party the following rights for the conduct of international air services by the airline designated by the other Contracting Party:

- (a) to fly without landing across the area of the other Contracting Party;
- (b) to make stops in the said area for non-traffic purposes; and
- (c) to make stops in the said area for the purpose of taking up and discharging, while operating the routes specified in the Annex, international traffic in passengers, cargo and mail, separately or in combination.

2. Nothing in paragraph 1 of this Article shall be deemed to confer to the airlines designated by Luxembourg the right to provide air transportation between Macau and Hong Kong, points in Taiwan and the mainland of China.

Article 4

Designation and authorization

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 the agreed services on the specified routes and to withdraw or alter such designations.

2. On receipt of such 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 authorizations.

3. 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 normally and reasonably applied to the operation of international air services by such Authorities.

4. Each Contracting Party shall have the right to refuse to grant the operating authorizations referred to in paragraph 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 it is not satisfied that that airline is incorporated and has its principal place of business in the other Party's area.

5. When an airline has been so designated and authorised it may begin to operate the agreed services, provided that the airline complies with the applicable provisions of this Agreement, in particular, that tariffs are established in accordance with the provisions of Article 11 of this Agreement.

Article 5

Revocation and limitation of authorizations

1. The Aeronautical Authorities of each Contracting Party shall have the right to revoke or to suspend an operating authorization or to suspend the exercise of the rights specified in Article 3 of 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 those rights:

- a) In any case where it is not satisfied that that airline is incorporated and has its principal place of business in the other Party's area; or
- b) In the event of failure by such airline to comply with the laws and regulations of the Contracting Party granting those rights; or
- c) If that airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.

2. Unless immediate action is essential to prevent further infringements of laws and regulations, the rights enumerated in paragraph 1 of this Article shall be exercised only after consultations with the other Contracting Party in conformity with Article 15 of this Agreement.

Article 6

Application of laws and regulations

1. The laws, regulations and procedures of one Contracting Party relating to the admission to, remaining in, or departure from its area of aircraft engaged in international air navigation or to the operation and navigation of such aircraft shall be complied with by the airline or airlines of the other Contracting Party upon entrance into, departure from and while within the said area.

2. The laws and regulations of one Contracting Party respecting entry, clearance, transit, immigration, passports, customs and quarantine shall be complied with by the airline or airlines of the other Contracting Party and by or on behalf of its crews, passengers, cargo and mail upon transit of, admission to, departure from and while within the area of such a Contracting Party.

3. Neither of the Contracting Parties shall give preference to its own or any other airline over an airline of the other Contracting Party engaged in similar international air services in the application of its customs, immigration, quarantine and similar regulations.

4. Passengers, baggage and cargo in direct transit through the area of either Contracting Party and not leaving the area of the airport reserved for such purpose shall 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.

Article 7

Recognition of certificates and licences (safety)

1. Certificates of airworthiness, certificates of competency and licences, issued or validated by one Contracting Party and still in force, shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services on the routes specified in the Annex provided that such certificates or licences were issued or validated pursuant to, and in conformity with, the standards established under the Convention referred to in Article 2 of this Agreement. Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flights above its own area, certificates of competency and licences granted to its own nationals in the case of the Grand Duchy of Luxembourg and to its own residents in the case of Macau by the other Contracting Party.

2. Each Contracting Party may request consultations concerning the safety standards maintained by the other Contracting Party relating to aeronautical facilities, aircrew, aircraft, and operation of the designated airlines. If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards and requirements in these areas that at least equal the minimum standards which may be established pursuant to the Chicago Convention, the other Contracting Party shall be notified of such findings and the steps considered necessary to conform with these minimum standards; and the other Contracting Party shall take appropriate corrective action. Each Contracting Party reserves the right to withhold, revoke or limit the operating authorization or technical permission of an airline or airlines designated by the other Contracting Party in the event the other Contracting Party does not take such appropriate action within a reasonable time.

Article 8

Aviation security

1. The Contracting Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement. The Contracting Parties shall in particular act in conformity with the provision 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 and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.

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 security of civil aviation.

3. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention on International Civil Aviation to the extent that such security provisions are applicable to the Contracting Parties; they shall require that operators of aircraft of their registry or operators of aircraft who have their principal place of business or permanent residence in their area and the operators of airports in their area act in conformity with such aviation security provisions.

4. Each Contracting Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in paragraph 3 above required by the other Contracting Party for entry into, departure from, or while within, the area of that other Contracting Party.

Each Contracting Party shall ensure that adequate measures are effectively applied within its area to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give positive consideration to 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 occur, the Contracting Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

6. Should one Contracting Party have problems with regard to the aviation security provisions of this Article, the Aeronautical Authorities of either Contracting Party may request immediate consultations with the Aeronautical Authorities of the other Contracting Party.

Article 9

Customs duties and other charges

1. Each Contracting Party shall on a basis of reciprocity exempt the designated airline or airlines of the other Contracting Party to the fullest extent possible under its laws and regulations from import restrictions, customs duties, excise taxes, inspection fees and other duties and charges on aircraft, fuel, lubricating oils, consumable technical supplies, spare parts including engines, regular aircraft equipment, aircraft stores (including liquor, tobacco and other products destined for sale to passengers in limited quantities during the flight) and other items intended for use or used solely in connection with the operation or servicing of aircraft of the designated airline or airlines of such other Contracting Party operating the agreed services, as well as printed ticket stock, airway bills, any printed material which bears the insignia of the company printed thereon and usual publicity material distributed without charge by that designated airline.

2. The exemptions granted by this Article shall apply to the items referred to in paragraph 1 of this Article:

- a) introduced into the area of one Contracting Party by or on behalf of the designated airline or airlines of the other Contracting Party;
- b) retained on board aircraft of the designated airline or airlines of one Contracting Party upon arriving in or leaving the area of the other Contracting Party;
- c) taken on board aircraft of the designated airline or airlines of one Contracting Party in the area of the other Contracting Party and intended for use in operating the agreed services;

whether or not such items are used or consumed wholly within the area of the Contracting Party granting the exemption, provided such items are not alienated in the area of the said Contracting Party.

3. The regular airborne equipment, as well as the materials and supplies normally retained on board the aircraft of the designated airline or airlines of either Contracting Party may be unloaded in the area of the other Contracting Party only with the approval of the Customs Authorities of that area. In such case, they may be placed under the supervision of the said Authorities up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.

Article 10 *Capacity*

1. The designated airline or airlines of the Contracting Parties shall have a fair and equal opportunity to operate the agreed services covered by this Agreement.

2. The capacity provided by each designated airline shall be such as will enable that airline at a reasonable load factor to provide the agreed services taking full account of the requirements of through-airline operations.

3. Neither Contracting Party may unilaterally impose any restrictions on the designated airline or airlines of the other Contracting Party with respect to capacity, frequency or type of aircraft employed in connection with services over any of the routes specified in the schedule annexed to this Agreement. In the event that one of the Contracting Parties believes that the operation proposed or conducted by the airline of the other Contracting Party unduly affects the agreed services provided by its designated airline, it may request consultation pursuant to Article 15 of this Agreement.

Article 11

Tariffs

1. Each Contracting Party shall allow prices for air transportation to be established by each designated airline based upon commercial considerations in the marketplace. Intervention by the Contracting Parties shall be limited to:

- a) prevention of predatory or discriminatory prices or practices;
- b) protection of consumers from prices that are unduly high or restrictive because of the abuse of a dominant position; and
- c) protection of airlines from prices that are artificially low because of direct or indirect governmental subsidy or support.

2. Each Contracting Party may require notification to or filing with its Aeronautical Authorities of prices proposed to be charged to or from its area by airlines of the other Contracting Party. Notification or filing by the airlines of both Contracting Parties may be required no more than thirty (30) days before the proposed date of effectiveness. In individual cases, notification or filing may be permitted on shorter notice than normally required.

3. Neither Contracting Party shall take unilateral action to prevent the inauguration or continuation of a price proposed to be charged or charged by (a) an airline of either Contracting Party or by an airline of a third Party for international air transportation between the area of the Contracting Parties, or (b) an airline of one Contracting Party or an airline of a third Party for international air transportation between the area of the other Contracting Party and any other Party, including in both cases transportation on an interline or intra-line basis. If either Contracting Party believes that any such price is inconsistent with the considerations set forth in paragraph 1. (a) of this Article, it shall request consultations and notify the other Contracting Party of the reasons for its dissatisfaction as soon as possible. These consultations shall be held not later than thirty (30) days after receipt of the request, and the Contracting Parties shall cooperate in securing information necessary for reasoned resolution of the issue. If the Contracting Parties reach agreement with respect to a price for which a notice of dissatisfaction has been given, each Contracting Party shall use its best efforts to put that agreement into effect. Without mutual agreement, that price shall go into or continue in effect.

4. Notwithstanding paragraph (3) of this Article, each Contracting Party shall allow (a) any airline of either Contracting Party or any airline of a third Party to meet a lower or more competitive price proposed or charged by any other airline for international air transportation between the areas of the Contracting Parties, and (b) any airline of one Contracting Party to meet a lower or more competitive price proposed or charged by any other airline for international air transportation between the area of the other Contracting Party and a third Party. As used herein, the term „meet“ means the right to establish on a timely basis, using such expedited procedures as may be necessary, an identical or similar price on a direct, interline or intra-line basis, notwithstanding differences in conditions relating to routing, connections, type of service or aircraft type, or such price through a combination of prices.

Article 12

Airline representatives

1. The designated airline or airlines of one Contracting Party shall be allowed, on the basis of reciprocity, to bring into and to maintain in the area of the other Contracting Party their representatives and commercial, operational and technical staff as required in connection with the operation of agreed services.

2. These staff requirements may, at the opinion of the designated airline or airlines of one Contracting Party, be satisfied by its own personnel or, by using the services of any other organization, company or airline operating in the area of the other Contracting Party, only if they are authorized to perform such services, (including handling of other airlines) in the area of that Contracting Party.

3. The representatives and staff shall be subject to the laws and regulations in force in the other Contracting Party, and, consistent with such laws and regulations, each Contracting Party shall, on the basis of reciprocity and with the minimum of delay, grant the necessary employment authorizations, visitor visas or other similar documents to the representatives and staff referred to in paragraph 1 of this Article.

Article 13

Commercial opportunities and transfer of funds

1. Each designated airline shall have the right to engage in the sale of air transportation in the area of the other Contracting Party directly and, at its discretion, through its agents. Each designated airline

shall have the right to sell transportation in the currency of that area or, to the extent permitted by laws and regulations, in freely convertible currencies of other areas, and to the same extent any person shall be free to purchase such transportation in currencies accepted for sale by that airline.

2. Each Contracting Party grants to any designated airline of the other Contracting Party the right of free transfer at the official rate of exchange of the excess of receipts over expenditure earned by that airline in its area in connection with the carriage of passengers, mail and cargo.

Article 14

Statistics

The Aeronautical Authorities of either 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 the capacity provided on the agreed services.

Article 15

Consultation

In a spirit of close co-operation, 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 of its Annex, and shall also consult when necessary to provide for modification thereof.

Either Contracting Party may request consultation, which may be through discussion or by correspondence and shall begin within a period of sixty (60) days of the date of the request, unless both Contracting Parties agree to an extension of this period.

Article 16

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 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 either Contracting Party may submit the dispute 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 arbitrators. Each of the Contracting Parties 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 the appropriate channels requesting arbitration of the dispute and the third arbitrator shall be appointed within a further period of 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 Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. In all cases the third arbitrator shall not be a national of the Grand Duchy of Luxembourg nor be a resident of Macau. He shall act as President of the arbitral tribunal.

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

Article 17

Modification of Agreement

If either of the Contracting Parties considers it desirable to modify any provision of this Agreement, it may request consultations with the other Contracting Party. Such consultations, which may be between 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 receipt of the request unless both Contracting Parties agree to an extension of this period. Any modifications so agreed shall come into force when they have been confirmed by an exchange of notes between both governments.

Modifications of the Annex shall be made by direct agreement between the Aeronautical Authorities of the Contracting Parties. Such modification would be effective from the date of the approval of the Aeronautical Authorities.

Article 18

Termination

Either Contracting Party may at any time give notice in writing through appropriate channels to the other Contracting Party of its decision to terminate this Agreement; such notice shall be communicated simultaneously to the International Civil Aviation Organization. The 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 the notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

Article 19

Registration

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

Article 20

Entry into force

This Agreement shall enter into force as soon as the Contracting Parties have given notice in writing to each other that any necessary procedures have been completed.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed the present Agreement.

DONE in duplicate at Macau on this 14th day of December 1994 in the English language.

*For the Government of the
Grand Duchy of Luxembourg*

For the Government of Macau

*

ANNEX

Section 1

Airlines of one Party that are designated pursuant to this Agreement shall, in accordance with the terms of their designation, be entitled to perform international air transportation (1) between points on the following routes, and (2) between points on such routes and points in third Parties through points in the area of the Party that has designated the airlines.

- A. Routes for the airline or airlines designated by the Government of the Grand Duchy of Luxembourg:
From Luxembourg via intermediate points to Macau and points beyond
- B. Routes for the airline or airlines designated by the Government of Macau:
From Macau via intermediate points to Luxembourg and points beyond

Section 2

Each designated airline may, on any or all flights and at its option:

- 1. operate flights in either or both directions;
- 2. serve points on the routes in any combination and in any order (which may include serving intermediate points as beyond points and beyond points as intermediate points);
- 3. omit stops at any point or points;
- 4. exercise unrestricted traffic rights via intermediate points and similar points beyond,
without directional or geographic limitation and without loss of any right to carry traffic otherwise permissible under this Agreement, provided that the service begins or terminates in the area of the Party designating the airline.