



Treaty Series No. 58 (1989)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of Saint Lucia

for Air Services between and beyond their
respective Territories

Castries, 31 August 1989

[The Agreement entered into force on 31 August 1989]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
December 1989*

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**AGREEMENT
BETWEEN THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
AND THE GOVERNMENT OF SAINT LUCIA
FOR AIR SERVICES BETWEEN AND BEYOND THEIR
RESPECTIVE TERRITORIES**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Saint Lucia (hereinafter referred to as "the Contracting Parties");

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944¹;

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 I

Definitions

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

- (a) the term "the Convention" means the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944, and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or Convention under Article 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 Saint Lucia, the Minister responsible for Civil Aviation and any person or body authorised to perform any functions at present exercisable by the said Minister or similar functions, and, in the case of the United Kingdom, the Secretary of State for Transport and any person or body authorised to perform any function at present exercisable by him or similar functions;
- (c) the term "designated airline" means an airline which has been designated and authorised in accordance with Article 4 of this Agreement;
- (d) the term "territory" in relation to a State has the meaning assigned to it in Article 2 of the Convention;
- (e) the terms "air service", "international air service", "airline" and "stop for non-traffic purposes" have the meanings respectively assigned to them in Article 96 of the Convention;
- (f) the term "tariff" means:
 - (i) the price charged by a designated airline for the carriage of passengers and their baggage on scheduled air services, and any conditions on which such price depends;
 - (ii) the price charged by a designated airline for the carriage of cargo (excluding mails) on scheduled air services, and any conditions on which such price rate depends;
 - (iii) the price charged by a designated airline to a tour operator or wholesaler for the carriage of passengers and their baggage or cargo (excluding mails) on scheduled air services in space sold to that tour operator or wholesaler for resale by him to passengers or consignors of cargo, and any conditions on which such price depends; and
 - (iv) the rate of commission paid by a designated airline to an agent in respect of tickets sold or airway bills completed by that agent for carriage on scheduled air services, and any conditions on which such rate of commission depends.

¹ Treaty Series No. 8 (1953), Cmd. 8742.

ARTICLE 2

Application of Chicago Convention

The provisions of this Agreement shall be subject to the provisions of the Convention in so far as those 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 in respect of its scheduled 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 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 Schedule annexed to this Agreement.

Such services and routes are hereafter called "the agreed services" and "the specified routes" respectively. While operating an agreed service on a specified route the airlines 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 and cargo including mail.

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

ARTICLE 4

Designation and Authorisation 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 and to withdraw or alter such designations.

(2) On receipt of such designations 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 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) 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 it may deem necessary on the exercise by a designated airline of the rights specified in Article 3(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 at any time to operate the agreed services, provided that the airline complies with the applicable provisions of this Agreement.

ARTICLE 5

Revocation or Suspension of Operating Authorisations

- (1) Each Contracting Party shall have the right to revoke an operating authorisation or to suspend the exercise of the rights specified in Article 3(2) 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 these rights:
- (a) in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of such Contracting Party; or
 - (b) in the case of failure by that airline to comply with the laws or regulations of the Contracting Party granting these rights; or
 - (c) in case the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.
- (2) Each Contracting Party may exercise the right to revoke, suspend or impose the conditions mentioned in paragraph (1) of this Article immediately if such revocation, suspension or imposition of conditions is essential to prevent further infringements of laws or regulations relating to safety or national security. In the case of infringements of other laws or regulations, the Contracting Party desiring to exercise the rights mentioned in paragraph (1) shall give notice thereof to the other Contracting Party and simultaneously to the designated airline concerned. Such notice shall state the basis for the proposed action and shall afford opportunity to the other Contracting Party to consult in regard thereto. Any revocation, suspension or imposition of conditions shall become effective on the date specified in such notice (which shall be not less than 60 days after the date on which the notice would, in the ordinary course of transmission, be received by the Contracting Party to whom it is addressed) unless the notice is withdrawn before such date.

ARTICLE 6

Exemption from Charges on Equipment, Fuel, Stores, etc

- (1) Aircraft operated on international air services by the designated airlines of either Contracting Party, as well as their regular equipment, supplies of fuel and lubricants, and aircraft stores (including food, beverages and tobacco) on board such aircraft shall be exempt from all Customs duties, inspection fees and other similar charges on arriving in the territory of the other Contracting Party, provided such equipment and supplies remain on board the aircraft up to such time as they are re-exported or are used on the part of the journey performed over that territory.
- (2) There shall also be exempt from the same duties, fees and charges, with the exception of charges corresponding to the services 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) spare parts introduced into the territory of either Contracting Party for the maintenance or repair of aircraft used on international air services by the designated airlines 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.

Materials referred to in sub-paragraphs (a), (b) and (c) above may be required to be kept under Customs supervision or control.

ARTICLE 7

Unloading of Equipment, etc

The regular airborne equipment, as well as the materials and supplies 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 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 8

Aviation Security

(1) The Contracting Parties reaffirm their concern about acts or threats against the security of aircraft, which jeopardize the safety of persons or property, adversely affect the operation of air services and undermine public confidence in the safety of civil aviation. The Contracting Parties agree to provide maximum aid to each other with a view to preventing hijackings and sabotage to aircraft, airports and air navigation facilities and threats to aviation security.

(2) The Contracting Parties reaffirm their commitments under the provisions of the Convention on Offences and certain other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963¹, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970², and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971³. The Contracting Parties shall also have regard to applicable aviation security provisions established by the International Civil Aviation Organisation. When incidents or threats of hijacking or sabotage against aircraft, airports or air navigation facilities occur, the Contracting Parties shall assist each other by facilitating communications intended to terminate such incidents rapidly and safely. Each Contracting Party shall give sympathetic consideration to any requests from the other for special security measures for its aircraft or passengers to meet a particular threat.

ARTICLE 9

Principles Governing Operation of Agreed Services

(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) The designated airline or airlines of one Contracting Party shall take into account the interests of the designated airline or airlines of the other Contracting Party so as not to affect unduly that airline's or those airlines' services on all 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 and cargo including mail originating from or destined for the territory of the Contracting Party which has designated the airline. Provision for the carriage of passengers and cargo including mail both taken on board and discharged at points on the specified routes in the territories of States other than that designating the airlines 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 agreed service 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.

(4) Neither Contracting Party may unilaterally impose any restrictions on the designated airline 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 attached to this Agreement, except according to the terms of this Agreement.

¹ Treaty Series No. 126 (1969), Cmnd. 4230.

² Treaty Series No. 39 (1972), Cmnd. 4956.

³ Treaty Series No. 10 (1974), Cmnd. 5524.

ARTICLE 10

Change of Gauge

In operating any agreed service on any specified route a designated airline of one Contracting Party may substitute one aircraft for another at a point in the territory of the other Contracting Party on the following conditions only:

- (a) that it is justified by reason of economy of operation;
- (b) that the aircraft used on the section of the route more distant from the terminal in the territory of the first Contracting Party is not larger in capacity than that used on the nearer section;
- (c) that the aircraft used on the more distant section shall operate only in connection with and as an extension of the service provided by the aircraft used on the nearer section and shall be scheduled so to do; the former shall arrive at the point of change for the purpose of carrying traffic transferred from, or to be transferred into, the aircraft used on the nearer section; and its capacity shall be determined with primary reference to this purpose;
- (d) that there is adequate volume of through traffic;
- (e) that the airline shall not hold itself out to the public by advertisement or otherwise as providing a service which originates at a point where the change of aircraft is made;
- (f) that the provisions of Article 9 of this Agreement shall govern all arrangements made with regard to change of aircraft;
- (g) that in connection with any one aircraft flight into the territory in which the change of aircraft is made, only one flight may be made out of that territory.

ARTICLE 11

Tariffs

(1) The tariffs to be charged by the designated airlines of the Contracting Parties for carriage between their territories shall be those approved by the aeronautical authorities of both Contracting Parties and shall be established at reasonable levels, due regard being paid to all relevant factors, including cost of operations, the interests of users, reasonable profit and the tariffs of other airlines.

(2) The tariffs referred to in paragraph (1) of this Article shall, if possible, be agreed by consultation between the airline seeking approval of the tariff and the other designated airlines of both Contracting Parties. However, a designated airline shall not be precluded from filing any proposed tariff nor the aeronautical authorities from approving it if that airline has failed to obtain the agreement of the other designated airlines.

(3) No tariff shall be approved for carriage between the territories of the contracting Parties unless it has been filed by the designated airline seeking that approval with the aeronautical authorities of both Contracting Parties, in such form as the aeronautical authorities of each Contracting Parties may require to disclose the particulars referred to in sub-paragraph (f) of Article 1 of this Agreement, not less than 90 days (or such shorter period as the aeronautical authorities of both Contracting Parties may agree) prior to the proposed effective date. A tariff shall be treated as having been filed with the Contracting Party on the date on which it is received by the aeronautical authorities of that Contracting Party.

(4) Any tariff filed in accordance with paragraph (3) of this Article may be approved by the aeronautical authorities of either Contracting Party at any time and shall be treated as having been approved by the aeronautical authorities of a Contracting Party unless, not more than 45 days (or such shorter period as the aeronautical authorities of both Contracting Parties may agree) after the date of the filing, the aeronautical authorities of that Contracting Party have served on the aeronautical authorities of the other Contracting Party written notice of dissatisfaction with the proposed tariff. The Contracting Party expressing dissatisfaction shall also notify the airline filing the proposed tariff of the action which has been taken.

(5) If, during the period applicable in accordance with paragraph (4) of this Article the aeronautical authority of one Contracting Party gives the aeronautical authority of the other Contracting Party notice of its dissatisfaction with any tariff submitted for approval in accordance with the provisions of paragraph (3), the aeronautical authorities of the two Contracting Parties shall endeavour to determine the tariff by mutual agreement. Either Contracting Party may within 30 days of the service of a notice of dissatisfaction request consultations and, if so requested, consultations shall be held within 30 days of that request.

(6) If the aeronautical authorities cannot agree on any tariff submitted to them under paragraph (3) of this Article or on the determination of any tariff under paragraph (5) of this Article, the dispute shall be settled in accordance with the provisions of Article 16 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. Where, however, a dispute exists under paragraph (6) of this Article the aeronautical authorities of both Contracting Parties may agree on an interim tariff. In the absence of such agreement a tribunal established in accordance with Article 16 of this Agreement shall have power to settle an interim tariff pending the determination of the dispute by such tribunal. The application for an interim tariff may be made to the tribunal by either Contracting Party.

(8) The aeronautical authorities of one Contracting Party may, if the aeronautical authorities of the other Contracting Party so agree, serve on a designated airline notice of withdrawal of approval of a tariff and that tariff shall cease to be applied by that airline 120 days after service of that notice or, if a tariff to replace that tariff has been approved by the aeronautical authorities of both Contracting Parties, on the date, if earlier, which those authorities agree as the effective date of the new tariff.

(9)(a) The tariffs applied by the designated airline of One Contracting Party for carriage between the territory of the other Contracting Party and the territory of a third State shall be those approved by the aeronautical authorities of the other Contracting Party and of the third State. The Contracting Party which has approved a tariff may withdraw its approval of that tariff for such carriage on giving 90 days notice to the designated airline of the other Contracting Party applying the tariff and that tariff shall cease to be applied by that designated airline at the end of that period.

(b) No tariff shall be approved for such carriage unless it has been filed by a designated airline with the aeronautical authorities of the other Contracting Party in such form as those aeronautical authorities may require to disclose the particulars referred to in sub-paragraph (f) of Article 1 of this Agreement, not less than 90 days (or such shorter period as those aeronautical authorities may in a particular case agree) prior to the proposed effective date.

(10) Subject to the provisions of paragraphs (6) and (7) of this Article no tariff shall come into force unless it is approved by the aeronautical authorities of both Contracting Parties.

ARTICLE 12

Provision of Statistics

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 statements of statistics as may be reasonably required for the purpose of reviewing the capacity provided on the agreed services by the designated airlines of the Contracting Party referred to first in this Article. Such statements shall include the amount of traffic carried by those airlines on the agreed services and the origins and destinations of such traffic.

ARTICLE 13

Transfer of Earnings

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 official rate of exchange applicable to current transactions.

ARTICLE 14

Airline Representation

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 and other specialist staff who are required for the provision of air services.

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 this Agreement and the annexed Schedule and shall consult when necessary to provide for modifications thereof.

(2) Either Contracting Party may request consultation, which may be either oral or in writing and shall begin within a period of sixty (60) days of the date of receipt 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; if they do not 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, who shall be President of the tribunal 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 International Court of Justice may at the request of either Contracting Party appoint an arbitrator or arbitrators as the case requires. In such cases, the third arbitrator shall be a national of a third State and shall act as President of the arbitral tribunal.

(3) Except as otherwise agreed by the Contracting Parties, the arbitral tribunal shall determine the limits of its jurisdiction in accordance with this Agreement, and shall establish its own procedure. At the direction of the tribunal or at the request of either of the Contracting Parties, a conference to determine the precise issues to be arbitrated and the specific procedures to be followed shall be held not later than 15 days after the tribunal is fully constituted.

(4) Except as otherwise agreed by the Contracting Parties or prescribed by the tribunal, each Contracting Party shall submit a memorandum within 45 days of the time the tribunal is fully constituted. Replies shall be due 60 days later. The tribunal shall hold a hearing at the request of either Contracting Party or at its discretion within 15 days after replies are due.

(5) The tribunal shall attempt to render a written decision within 30 days after the completion of the hearing or, if no hearing is held, after the date both replies are submitted, whichever is sooner. The decision of the majority of the tribunal shall prevail. The decision of the tribunal shall be binding on both Contracting Parties.

(6) The Contracting Parties may submit requests for clarification of the decision within 15 days after it is rendered and any clarification given shall be issued within 15 days of such request.

(7) Each Contracting Party shall bear the costs of the arbitrator appointed by it. The other costs of the tribunal shall be shared equally by the Contracting Parties including any expenses incurred by the President of the International Court of Justice in implementing the procedures in paragraph (2) of this Article.

ARTICLE 17

Amendment

If either of the Contracting Parties considers it desirable to modify any provisions of this Agreement including the annexed Schedule, such modification, if agreed between the Contracting Parties and if necessary after consultation in accordance with Article 15 of this Agreement, shall enter into force when confirmed by an Exchange of Notes through the diplomatic channel.

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 be simultaneously communicated to the International Civil Aviation Organisation. In such cases 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, 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 with ICAO

This Agreement and all amendments thereto shall be registered by both Contracting Parties with the International Civil Aviation Organisation.

ARTICLE 20

Entry into Force

This Agreement shall enter into force on the date of signature.

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

Done in duplicate at Castries this 31st day of August 1989.

For the Government of the United
Kingdom of Great Britain and
Northern Ireland:

K. BURNS

For the Government of St. Lucia:

DESMOND FOSTIN

ANNEX

A. Route to be operated by the designated airline(s) of the United Kingdom.

London—intermediate points—St Lucia—points beyond

Notes:

- (a) The designated airline(s) of the United Kingdom may on any or all flights omit calling at any point on this route provided that the agreed services begin at a point in United Kingdom territory;
- (b) No traffic may be taken up at any intermediate or beyond point which is destined for St Lucia, nor may any traffic be taken up at St Lucia, which is destined for an intermediate or beyond point except such traffic as may be agreed upon from time to time between the aeronautical authorities of both Contracting Parties.

B. Route to be operated by the designated airline(s) of St Lucia.

St Lucia—intermediate points—London—points beyond

Notes:

- (a) The designated airline(s) of St Lucia may on any or all flights omit calling at any point on this route provided that the agreed services begin at a point in the territory of St Lucia;
- (b) No traffic may be taken up at an intermediate point or beyond point nor may traffic be taken up at London which is destined for an intermediate or beyond point except such traffic as may be agreed from time to time between the aeronautical authorities of both Contracting Parties.



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