



Treaty Series No. 12 (2010)

Exchange of Notes

regarding the Agreement between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of the Netherlands concerning Air Services between and beyond the United Kingdom Overseas Territories of Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Montserrat and the Turks and Caicos Islands on the one hand, and the Netherlands Antilles on the other, signed on 10 January 2000

London, 12 January and 24 May 2007

[The Exchange of Notes entered into force on 7 December 2007]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
July 2010*

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**EXCHANGE OF NOTES REGARDING THE AGREEMENT BETWEEN
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND AND THE KINGDOM OF THE NETHERLANDS
CONCERNING AIR SERVICES BETWEEN AND BEYOND THE UNITED
KINGDOM OVERSEAS TERRITORIES, OF ANGUILLA, BERMUDA,
THE BRITISH VIRGIN ISLANDS, THE CAYMAN ISLANDS,
MONTSERRAT AND THE TURKS AND CAICOS ISLANDS ON THE ONE
HAND, AND THE NETHERLANDS ANTILLIES ON THE OTHER,
SIGNED ON 10 JANUARY 2000**

No 1

The Embassy of the Kingdom of the Netherlands in London to the Foreign and Commonwealth Office

London
12 January 2007

The Embassy of the Kingdom of the Netherlands presents its compliments to the Foreign and Commonwealth Office and has the honour to refer to the consultations held in Curacao on 7 and 8 June 2006 between delegations of the Netherlands Antilles and the United Kingdom of Great Britain and Northern Ireland, pursuant to Article 14 of the Agreement between the Kingdom of the Netherlands and the United Kingdom of Great Britain and Northern Ireland concerning air services between and beyond the United Kingdom overseas territories of Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Montserrat and the Turks and Caicos Islands on the one hand, and the Netherlands Antilles on the other, of 10 January 2000 (further to be referred to as "the Agreement").

The Embassy of the Kingdom of the Netherlands has the honour to propose that a new Article 9b be added to the Agreement, concerning aviation safety, which reads as follows:

"Article 9b

Aviation Safety

1. Each Contracting Party may request consultations at any time concerning safety standards in any area relating to aircrews, aircraft or their operation adopted by the other Contracting Party. Such consultations shall take place within 30 days of that request.

2. If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards in any such area that are at least equal to the minimum standards established at that time pursuant to the Chicago Convention, the first Contracting Party shall notify

the other Contracting Party of those findings and the steps considered necessary to conform with those minimum standards, and the other Contracting Party shall take appropriate corrective action. Failure by the other Contracting Party to take appropriate action within 15 days or such longer period as may be agreed, shall be grounds for the application of Article 5, paragraph 1, of this Agreement (revocation or suspension of operating authorisations).

3. Notwithstanding the obligations mentioned in Article 33 of the Chicago Convention it is agreed that any aircraft operated by or, under a lease arrangement, on behalf of the airline or airlines of one Contracting Party on services to or from the territory of the other Contracting Party may, while within the territory of the other Contracting Party, be made the subject of an examination by the authorised representatives of the other Contracting Party, on board and around the aircraft to check both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment (in this Article called "ramp inspection"), provided this does not lead to unreasonable delay.

4. If any such ramp inspection or series of ramp inspections gives rise to:

a) serious concerns that an aircraft or the operation of an aircraft does not comply with the minimum standards established at that time pursuant to the Chicago Convention;

or

b) serious concerns that there is a lack of effective maintenance and administration of safety standards established at that time pursuant to the Chicago Convention;

the Contracting Party carrying out the inspection shall, for the purposes of Article 33 of the Chicago Convention, be free to conclude that the requirements under which the certificate or licences in respect of that aircraft or in respect of the crew of that aircraft had been issued or rendered valid or that the requirements under which that aircraft is operated are not equal to or above the minimum standards established pursuant to the Chicago Convention.

5. In the event that access for the purpose of undertaking a ramp inspection of an aircraft operated by the airline or airlines of one Contracting Party in accordance with paragraph 3 of this Article is denied by a representative of that airline or airlines, the other Contracting Party shall be free to infer that serious concerns of the type referred to in paragraph 4 of this Article arise and draw the conclusions referred in that paragraph.

6. Each Contracting Party reserves the right to suspend or vary the operating authorisation of an airline or airlines of the other Contracting Party immediately in the event the first Contracting Party concludes, whether as a result of a ramp inspection, a series of ramp inspections, a denial of access for ramp inspection, consultation or otherwise, that immediate action is essential to the safety of an airline operation.

7. Any action by one Contracting Party in accordance with paragraphs 2 or 6 of this Article shall be discontinued once the basis for the taking of that action ceases to exist.”

Furthermore the Embassy has the honour to propose that the Route Schedule in the Annex to the Agreement be replaced by the following Route Schedule.

"Section 1

Routes to be operated by the designated airline or airlines of the United Kingdom:

Points in Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Montserrat and the Turks and Caicos Islands — intermediate points — points in the Netherlands Antilles — points beyond

NOTE:

1. Intermediate points or points beyond may be omitted on any flight provided that the service begins or ends in one of Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Montserrat and the Turks and Caicos Islands.

Section 2

Routes to be operated by the designated airline or airlines of the Netherlands Antilles:

Points in the Netherlands Antilles — intermediate points - points in Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Montserrat and the Turks and Caicos Islands - points beyond

NOTE:

1. Intermediate points or points beyond may be omitted on any flight provided that the service begins or ends in the Netherlands Antilles."

If the foregoing proposals are acceptable to the Government of the United Kingdom of Great Britain and Northern Island, it is suggested, in accordance with Article 16 of the Agreement, that this Note and the Foreign and Commonwealth Office's reply to that effect shall be regarded as constituting an Agreement between the Kingdom of the Netherlands and the United Kingdom of Great Britain and Northern Island on this matter, which shall be provisionally applied from the date

of your reply, and which shall enter into force on the date on which both Governments have informed each other in writing that the formalities constitutionally required therefore in their respective countries have been complied with.

The Embassy of the Kingdom of the Netherlands avails itself of this opportunity to renew to the Foreign and Commonwealth Office the assurances of its highest consideration.

No. 2

The Foreign and Commonwealth Office to the Embassy of the Kingdom of the Netherlands in London

London
24 May 2007

The Foreign and Commonwealth Office presents its compliments to the Embassy of the Kingdom of the Netherlands and has the honour to refer to the Note dated 12 January 2007 which reads as follows:

[As in No.1]

In reply, the Foreign and Commonwealth Office has the honour to inform the Embassy that the Government of the United Kingdom of Great Britain and Northern Ireland is in agreement with the foregoing proposal and that this Note together with the Embassy's Note constitute an agreement between our two Governments which shall enter into force on the date of this reply.

The Foreign and Commonwealth Office avails itself of this opportunity to renew to the Embassy the assurances of its highest consideration.



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