

No. 7567

**NETHERLANDS
and
MALAYSIA**

**Agreement for air services between and beyond their
respective territories (with schedule). Signed at Kuala
Lumpur, on 7 April 1964**

Official text: English.

Registered by the International Civil Aviation Organization on 3 February 1965.

**PAYS-BAS
et
MALAISIE**

**Accord relatif aux services aériens entre les territoires des
deux pays et au-delà (avec tableau). Signé à Kuala-
Lumpur, le 7 avril 1964**

Texte officiel anglais.

Enregistré par l'Organisation de l'aviation civile internationale le 3 février 1965.

No. 7567. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AND THE GOVERNMENT OF MALAYSIA FOR AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES. SIGNED AT KUALA LUMPUR, ON 7 APRIL 1964

The Government of the Kingdom of the Netherlands and the Government of Malaysia being parties to the Convention on International Civil Aviation, and

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

Have agreed as follows :

Article 1

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, 1944,² and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or Convention under Articles 90 and 94 thereof;
- (b) the term “aeronautical authorities” means, in the case of Malaysia, the Minister of Transport and any person or body authorised to perform any functions at present exercised by the said Minister or similar functions; and, in the case of the Kingdom of the Netherlands means the Director General of Civil Aviation and any person or body authorised to perform any functions at present exercised by the said Director General;
- (c) the term “designated airline” means an airline which one Contracting Party shall have designated, by written notification to the other Contracting Party, in accordance with Article 3 of the present Agreement, for the operation of air services on the routes specified in such notification;

¹ Applied provisionally as from 7 April 1964, the date of signature, in accordance with the provisions of article 15.

² See footnote 2, p. 5 of this volume.

- (d) the term “change of gauge” means the operation of an air service by a designated airline in such a way that one section of the route is flown by aircraft different in capacity from those used on another section;
- (e) the term “territory” in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or trusteeship of that State; and
- (f) 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.

Article 2

(1) Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing air services on the routes specified in the appropriate Section of the Schedule¹ thereto (hereinafter called “the agreed services” and “the specified routes”).

(2) Subject to the provisions of the present Agreement, the airlines designated by each Contracting Party shall enjoy, while operating an agreed service on a specified route, 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; 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 on international traffic in passengers, cargo and 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 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

(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 the 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 authorisation.

¹ See p. 98 of this volume.

(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 by them in conformity with the provisions of the Convention to the operation of international commercial air services.

(4) Each Contracting Party shall have the right to refuse to accept the designation of an airline and to withhold or revoke the grant to an airline of the privileges specified in paragraph (2) of Article 2 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those privileges 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 the Contracting Party designating the airline.

(5) At any time after the provisions of paragraphs (1) and (2) of this Article have been complied with, an airline so designated and authorised may begin to operate the agreed services provided that a service shall not be operated unless a tariff established in accordance with the provisions of Article 7 of the present Agreement is in force in respect of that service.

(6) Each Contracting Party shall have the right to suspend the exercise by an airline of the privileges specified in paragraph (2) of Article 2 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those privileges in any case where the airline fails to comply with the laws or regulations of the Contracting Party granting those privileges or otherwise fails to operate in accordance with the conditions prescribed in the present Agreement; provided that, unless immediate suspension or imposition of conditions is essential to prevent further infringements of laws or regulations, this right shall be exercised only after consultation with the other Contracting Party.

Article 4

(1) Aircraft operated on international services by the designated airlines of either Contracting Party, as well as their regular equipment, spare parts, supplies of fuels 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 duties 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) Supplies of fuels, lubricants, spare parts, regular equipment 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 in the operation

of international services shall be exempt from all national duties and charges, including customs duties and inspection fees imposed in the territory of the first Contracting Party, 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 or control.

(3) The regular airborne equipment, spare parts, aircraft stores and supplies of fuels and lubricants 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.

(4) Fuel, lubricating oils, spare parts, regular aircraft equipment and aircraft stores taken on board aircraft of one Contracting Party in the territory of the other Contracting Party and used solely on flights between two points in the territory of the latter Contracting Party shall be accorded with respect to customs duties, inspection fees and other similar national or local duties and charges treatment not less favourable than that granted to national airlines or to the most favoured airline operating such flights.

Article 5

(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, the airlines of each Contracting Party shall take into account the interests of the 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 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 :