

Príloha k č. 3/1995 Z. z.

AGREEMENT
between the Government of the Slovak Republic
and the Government of the Kingdom of the Netherlands for Air Services

The Government of the Slovak Republic and the Government of the Kingdom of the Netherlands,

being parties to the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944,

desiring to contribute to the progress of international civil aviation,

desiring 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 and its Annex, 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 the Convention under Articles 90 and 94 thereof, in so far as those Annexes and amendments have become effective for, or been ratified by both Contracting Parties,
- b) the term "aeronautical authorities" means: for the Slovak Republic the Ministry of Transport, Communications and Public Works, for the Kingdom of the Netherlands the Minister of Transport, Public Works and Water Management, or in either case any person or body authorized to perform any functions at present exercised by the said Ministry or Minister as appropriate,
- c) the term "designated airline" means an airline which has been designated and authorized in accordance with Article 3 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 meaning respectively assigned to them in Article 96 of the Convention,
- f) the terms "agreed service" and "specified route" mean international air service pursuant to Article 2 of this Agreement and the route specified in the appropriate Section of the Annex to this Agreement respectively,
- g) the term "stores" means articles of a readily con-

- sumable nature for use or sale on board an aircraft, including commissary supplies during flight,
- h) the term "Agreement" means this Agreement, its Annex drawn up in application thereof, and any amendments to the Agreement or to the Annex according to Article 16 of this Agreement,
 - i) the term "tariff" 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,
 - j) the term "Computer Reservation System" (CRS) means a computerized system containing information about airline schedules, seat availability, fares and related services, through which reservations can be made and/or tickets can be issued and sold and which makes some or all of these facilities available to travel agents.

Article 2
Grant of Rights

1. Each Contracting Party grants to the other Contracting Party except as otherwise specified in the Annex the following rights for the conduct of international air transportation by the designated airline of the other Contracting Party:
 - a) the right to fly across its territory without landing,
 - b) the right to make stops in its territory for non-traffic purposes, and
 - c) while operating an agreed service on a specified route, the right to make stops in its territory for the purpose of taking up and discharging international traffic in passengers, cargo and mail, separately or in combination.
2. Nothing in paragraph 1 of this Article shall be deemed to grant the right for one Contracting Party's airline to participate in air transportation between points in the territory of the other Contracting Party.

Article 3
Designation and Authorization

1. Each Contracting Party shall have the right by written notification through diplomatic channels to

the other Contracting Party to designate an airline to operate air services on the routes specified in the Annex and to substitute another airline for an airline previously designated.

2. On receipt of such notification, each Contracting Party shall, without delay, grant to the airline so designated by the other Contracting Party the appropriate operating authorizations subject to the provisions of this Article.

3. Upon receipt of the operating authorization of paragraph 2 of this Article the designated airline may at any time begin to operate the agreed services, in part or in whole, provided that it complies with the provisions of this Agreement and that tariffs for such services have been established in accordance with the provisions of Article 5 of this Agreement.

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 grant this authorization under conditions that may be deemed necessary on the exercise by the designated airline of the rights specified in Article 2 of this Agreement, if it is not satisfied that substantial ownership and effective control of this airline are vested in the Contracting Party designating it or in its nationals or in both.

Article 4

Revocation and Suspension of Authorization

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

- 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. Unless otherwise agreed by the Contracting Parties, such consultations shall begin within a period of sixty (60) days from the date of receipt of the request.

Article 5

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 operation, reasonable profit and the tariffs of other airlines for any part of the specified route.

2. Tariffs referred to in paragraph 1 of this Article shall, whenever possible, be agreed by the designated airlines through the use of the procedures of the International Air Transport Association for the fixation of tariffs. When this is not possible the tariffs shall be agreed between the designated airlines. In any case the tariffs shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

3. All tariffs so agreed shall be submitted for approval of the aeronautical authorities of both Contracting Parties at least sixty (60) days before the proposed date of their introduction, except where the said authorities agree to reduce this period in special cases.

4. Approval of tariffs may be given expressly, or, if neither of the aeronautical authorities has expressed disapproval within thirty (30) days of the date of submission, in accordance with paragraph 3 of this Article, the tariffs shall be considered as approved. In the event of the period for submission being reduced, as provided for in paragraph 3 of this Article, the aeronautical authorities may agree that the period within which any disapproval must be notified shall be reduced accordingly.

5. If a tariff cannot be agreed in accordance with 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 in accordance with the provisions of paragraph 2 of this Article, the aeronautical authorities of the two Contracting Parties shall endeavour to determine the tariff by mutual agreement.

6. If the aeronautical authorities cannot agree on a tariff submitted to them under paragraph 3 of this Article, or on the determination of a tariff under paragraph 5 of this Article, the dispute shall be settled in accordance with the provisions of Article 17 of this Agreement.

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

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

Article 6

Commercial Activities

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

- a) to establish in the territory of the other Contracting Party offices for the promotion of air transportation and sale of transportation documents as well as other facilities required for the provision of air transportation,
- b) in the territory of the other Contracting Party, on the basis of reciprocity, to be engaged directly and, at that airline's discretion, through its agents in the sale of air transportation.

2. The 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 the 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 authorized to perform such services in the territory of that Contracting Party.

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

Article 7

Fair Competition

1. There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to participate in the international air transportation covered by this Agreement.

2. Each Contracting Party shall take all appropriate actions within its jurisdiction to eliminate all forms of discrimination or unfair competitive practices adversely affecting the competitive position of the airline of the other Contracting Party.

3. The designated airline of one Contracting Party shall, when operating on a specified route, take into due consideration the interests of the designated airline of the other Contracting Party, when operating on the same route. In particular, the prime objective should be to cater for the current and expected traffic requirements regarding the carriage of passengers, cargo and/or mail on the specified routes.

Article 8

Timetable

1. The airline designated by each Contracting Party shall notify for approval to the aeronautical authorities of the other Contracting Party, at least forty-five (45) days in advance, the timetable of its intended services, specifying the frequency, type of aircraft, configuration and number of seats to be made available to the public.

2. Requests for permission to operate additional

flights can be submitted by the designated airline for approval directly to the aeronautical authorities of the other Contracting Party.

Article 9

Taxes, Customs and Charges

1. Aircraft operating on international air services by the designated airline of either Contracting Party, as well as their regular equipment, spare parts, supplies of fuels and lubricants, aircraft stores (including food, beverages and tobacco) on board as well as advertising and promotion material kept on board such aircraft shall be exempt from all customs duties, inspection fees and similar national or local duties and charges, on arrival in the territory of the 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 the 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 while operating 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 articles referred to above may be required to be kept under customs supervision and control. The provisions of this paragraph cannot be interpreted in such a way that a Contracting Party can be made subject to the obligation to refund customs duties to the designated airline which already have been levied on the items referred to above.

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 Contracting 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 10

Double Taxation

The Contracting Parties shall act in conformity with the provisions of the Convention between the Czechoslovak Socialist Republic and the Kingdom of the Netherlands for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital, which was signed at Prague on 4 March 1974.

Article 11

Transfer of Funds

1. The designated airline of one Contracting Party shall be free to sell air transport services in the territories of the other Contracting Party, either directly or through agents.

2. The designated airline of the Contracting Parties shall be free to transfer from the territory of sale, according to the foreign exchange regulations in force in that territory, to their home territory the excess, in the territory of sale, of receipts over expenditure. Included in such net transfer shall be revenues from sales, made directly or through agents, of air transport services, and ancillary or supplementary services, and normal commercial interest earned on such revenues while on deposit awaiting transfer.

3. The designated airline of the Contracting Parties shall receive approval for such transfer within at most thirty (30) days of application, into a freely convertible currency, at the official rate of exchange for conversion of local currency, as at the date of filing the application for approval. On receipt of approval the actual transfer shall be executed without delay.

Article 12

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 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, and until and including their departure from 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, 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.

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 Contracting Party, shall not be higher than those applied to the operations of any other airline engaged in similar operations.

5. Neither of the Contracting Parties shall give pref-

erence to any other airline over the 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 13

Recognition of Certificates and Licences

Certificates of airworthiness, certificates of competency and licences issued, or validated, by one Contracting Party and unexpired shall be recognized 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.

Article 14

Security

1. The Contracting Parties shall act in conformity with the provisions of the Convention of 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 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, in so far as the Contracting Parties are both party to these Conventions.

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 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 or aircraft may be required to observe the aviation security provisions referred to in paragraph 3 of this Article required by the other Contracting Party for entry into, departure from, or while within the territory of that other Contracting Party.

5. Each Contracting Party shall ensure that adequate measures are effectively applied within its terri-

tory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading.

6. 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.

7. When an accident 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.

8. When a Contracting Party has reasonable grounds 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. Unless otherwise agreed by the Contracting Parties, such consultations shall begin within a period of sixty (60) days from the date of receipt of such a request.

Article 15

Computer Reservation System

1. The Contracting Parties agree that:
 - a) the interest of consumers of air transport products will be protected from any misuse of such information including misleading presentation thereof,
 - b) the designated airline of a Contracting Party and the airline's agents will have unrestricted and non-discriminatory access to and use of CRS's in the territory of the other Contracting Party,
 - c) in this respect the CRS Code of Conduct adopted in the territory of the respective Contracting Parties will be applicable.
2. A Contracting Party guarantees to the CRS chosen as its primary system by the designated airline of the other Contracting Party free and unimpaired access in its territory. Neither Contracting Party shall, in its territory, impose or permit to be imposed on the CRS chosen by the designated airline of the other Contracting Party more stringent requirements than those imposed on the CRS of its own designated airline.

Article 16

Consultation and Amendment

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 ensure the implementation of, and satisfactory compliance with, the provisions of this Agreement.

2. Either Contracting Party may request consultations with a view to modify the present Agreement or its Annex. These consultations shall begin within sixty (60) days from the date of the receipt of the

request by the other Contracting Party, unless otherwise agreed. Such consultations may be conducted through discussion or by correspondence.

3. Any modification to the present Agreement agreed upon by the Contracting Parties shall come into force by an exchange of diplomatic notes.

4. Any modification of the Annex to the present Agreement shall be agreed upon in writing between the aeronautical authorities and shall take effect on a date to be determined by the said authorities.

Article 17

Settlement of Disputes

1. Any dispute relating to the interpretation or application of this Agreement or of its Annex 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, the dispute may at the request of either Contracting Party be submitted for decision to a tribunal of three arbitrators, one to be named by each Contracting Party and the third to be agreed upon by the two arbitrators so chosen, provided that such third arbitrator shall not be a national of either Contracting Party. Each of the Contracting Parties shall designate an arbitrator within a period of sixty (60) days from the date of receipt by either Contracting Party from the other Contracting Party of a diplomatic note requesting arbitration of the dispute and the third arbitrator shall be agreed upon within a further period of sixty (60) days. If either of the Contracting Parties fails to designate its own arbitrator within the period of sixty (60) days or if the third arbitrator is not agreed upon within the period indicated, the President of the Council of the International Civil Aviation Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators. The costs of arbitration shall be equally shared between the Contracting Parties. 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. The Contracting Parties undertake to comply with any decision given under paragraph 2 of this Article.

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 simultaneously communicated to the International Civil Aviation Organization. In such case this Agreement shall terminate twelve (12) months after the date when the notice has been received 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 Organization.

Article 19

Registration with ICAO

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

Article 20

Applicability of Multilateral Agreements

1. The provisions of the Convention shall be applied to this Agreement.

2. If a multilateral agreement concerning any matter covered by this Agreement, accepted by both Contracting Parties, enters into force, the relevant provisions of that agreement shall supersede the relevant provisions of the present Agreement.

For the Government of the
Slovak Republic

Mikuláš Dzurinda

Article 21

Applicability

As regards the Kingdom of the Netherlands, this Agreement shall apply to the Kingdom in Europe only.

Article 22

Entry into Force

1. This Agreement shall come into force on the first day of the second month following the date 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.

2. Upon entry into force this Agreement shall replace the Agreement between the Czechoslovak Republic and the Kingdom of the Netherlands on air services, signed in Prague on 1 September 1947.

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

Done in duplicate at Bratislava on 16 May 1994, in the English language.

For the Government of the
Kingdom of the Netherlands

Hans Heinemann

Annex

Section A

Route Schedule to the Air Services Agreement between the Slovak Republic and the Kingdom of the Netherlands:

1. The designated airline of the Slovak Republic shall be entitled to operate air services on the routes specified hereunder:
points in the Slovak Republic - intermediate points - points in the Netherlands - points beyond and vice versa.

2. The designated airline of the Kingdom of the Netherlands shall be entitled to operate air services on the routes specified hereunder:
points in the Netherlands - intermediate points - points in the Slovak Republic - points beyond and vice versa.

Section B

1. Any or all points on the specified routes, may, at the option of each designated airline, be omitted on any or all of the flights.

2. The designated airlines of the Slovak Republic and of the Kingdom of the Netherlands shall be allowed to operate flights on the routes mentioned above, without

restrictions as to frequency and aircraft type, in any configuration.

3. The capacity on the agreed services to be operated by the designated airlines shall be agreed between the aeronautical authorities of both Contracting Parties on the basis of the principle of fair and equal opportunity.

4. Each designated airline shall have the right to exercise full fifth freedom traffic rights on all intermediate and beyond points in its respective route schedule.

5. However, the designated airline of one Contracting Party shall not have the right to exercise fifth freedom traffic rights on beyond sectors on which the designated airline of the other Contracting Party exercises third and fourth freedom traffic rights, unless

- a) the aeronautical authorities of both Contracting Parties agree otherwise, or
- b) the airlines concerned of both Contracting Parties conclude a commercial agreement.

In case the designated airline of one Contracting Party exercises fifth freedom traffic rights on a sector on which the designated airline of the other Contracting Party starts to exercise third and fourth freedom traffic rights in the course of an IATA season, the first designated airline shall be allowed to continue its exercise of fifth freedom traffic rights till the end of that IATA season.