

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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JAARGANG 2013 Nr. 86

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A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden en de Verenigde Staten van Amerika inzake samenwerking op het gebied van civiele luchtvaartveiligheid;  
Washington, 23 mei 2013*

B. TEKST

**Agreement between the Kingdom of the Netherlands and the United States of America concerning cooperation in civil aviation safety**

The Kingdom of the Netherlands and the United States of America (hereinafter referred to collectively as the “Parties” and individually as a “Party”);

Considering their common purpose of promoting civil aeronautics and safety of air commerce between the Kingdom of the Netherlands and the United States of America;

Declaring their mutual commitment to the safety of international aviation;

Recognizing that the Kingdom of the Netherlands and the United States of America, as parties to the Convention on International Civil Aviation (Chicago, 7 December 1944), have a mutual interest in ensuring the continued improvement of civil aviation safety;

Desiring to cooperate in the provision of services with respect to aviation safety that may be needed by the aviation authorities of the Kingdom of the Netherlands;

Seeking to promote continued cooperation in the orderly, efficient, and safe control and use of airspace of the Kingdom of the Netherlands;

Have agreed as follows:

## Article I

1. The Agencies responsible for implementing this Agreement on behalf of the Parties (hereinafter the “Implementing Authorities”) shall be:

For the United States of America: the Federal Aviation Administration (“FAA”);

For the Kingdom of the Netherlands: the individual aviation authorities (including air navigation service providers) of the Kingdom of the Netherlands, namely:

In respect of Aruba: the Department of Civil Aviation of Aruba or any successor agency;

In respect of Curaçao: the Curaçao Civil Aviation Authority or any successor agency;

In respect of the Netherlands: Civil Aviation Authority – The Netherlands or any successor agency and, as may be relevant for the implementation of this Agreement, Luchtverkeersleiding Nederland (“LVNL”) as the Air Navigation Service Provider or any successor agency;

In respect of Sint Maarten: the Department of Civil Aviation of Sint Maarten or any successor agency and the Princess Juliana International Airport as the Air Navigation Service Provider or any successor agency; and

In respect of Curaçao and the Netherlands island of Bonaire: the Dutch Caribbean Air Navigation Service Provider, Inc. (“DC-ANSP”) or any successor agency.

2. As regards the Kingdom of the Netherlands, this Agreement shall only apply to Aruba, Curaçao, Sint Maarten and the Caribbean part of the Netherlands (Bonaire, Sint Eustatius and Saba). The application of this Agreement may be extended to the European part of the Netherlands through written notification by the Government of the Kingdom of the Netherlands and written acceptance by the United States.

3. Each of the Implementing Authorities of the Kingdom of the Netherlands may, pursuant to this Agreement, develop and conclude legally binding contractual agreements or non-legally binding arrangements with the FAA that shall contain the technical and operational details necessary to implement this Agreement. Such contractual agreements or arrangements shall set forth the terms of civil aviation safety related technical cooperation between the Implementing Authorities and may address, but are not limited to, the following:

A. The provision of air traffic services, including the coordination of traffic flows between U.S.-controlled airspace and the airspace controlled by Sint Maarten and the Caribbean part of the Netherlands;

B. The installation and maintenance of FAA facilities and equipment necessary for the provision of air traffic services within U.S.-controlled

airspace and the airspace controlled by Aruba, Curaçao, Sint Maarten and the Caribbean part of the Netherlands;

C. The provision of aviation technical assistance, including in the form of equipment loans and purchases, flight inspections of navigation aids, training, and related technical services; and

D. The exchange of information on the regulation and oversight of aviation safety.

## Article II

Each of the Implementing Authorities of the Kingdom of the Netherlands, on the one hand, and the FAA, on the other, shall take the necessary measures to assure continual cooperation with respect to safety of civil aviation in, but not limited to, managerial, operational, and technical areas.

## Article III

Any activities undertaken pursuant to this Agreement shall be subject to the availability of funds and resources of the Implementing Authorities of the Parties. Any contractual agreements or other arrangements referred to in Article I.3, shall specify that all activities implementing this Agreement shall be subject to the availability of funds and resources of the Implementing Authorities.

## Article IV

Any equipment imported into the Kingdom of the Netherlands by the FAA pursuant to the contractual agreements or arrangements referred to in Article I.3, shall be exempt from custom tax or tariffs.

## Article V

1. Subject to paragraph 2 of this Article, the Government of Aruba, the Government of Curaçao, the Government of Sint Maarten, and the Government of the Netherlands, as the case may be, acting on behalf of the Kingdom of the Netherlands, shall hold the Government of the United States of America, any agency, contractor or employee thereof harmless from any and all claims and legal proceedings arising out of work performed on behalf of, or equipment provided to, Aruba, Curaçao, Sint Maarten and the Caribbean part of the Netherlands pursuant to this Agreement and any contractual agreement or arrangement referred to in Article I.3.C.

2. Acts by the Government of the United States or any agency, contractor or employee thereof arising out of or relating to this Agreement that are determined by agreement of the Parties (i) to constitute inten-

tional misconduct or gross negligence, and (ii) to have resulted in personal injury, death, or property damage, shall not be considered within the scope of the obligation in paragraph 1 of this Article. For the purposes of this Agreement, gross negligence means the willful, wanton, and reckless disregard for the safety of life and property, not ordinary negligence.

3. Contractual claims shall be settled by the arrangements set forth in the respective contracts.

#### Article VI

Each Party and its Implementing Authorities may at any time request consultations relating to this Agreement with the other Party or its Implementing Authorities. Such consultations shall begin at the earliest possible date, but not later than 60 days from the date the other Implementing Authority or Party receives the request unless otherwise agreed. Requests for consultations shall be forwarded through diplomatic channels.

#### Article VII

1. Any amendments to this Agreement shall be mutually agreed upon by the Parties and shall come into force on the date on which the Parties have informed each other in writing, through the exchange of diplomatic notes, of the completion of their respective internal procedures for entry into force of the amendment.

2. The Implementing Authorities may agree in writing to amend any contractual agreement or non-binding arrangement referred to in Article I.3.

#### Article VIII

1. Any disagreement concerning the interpretation or application of this Agreement shall be resolved by consultation between the Parties and shall not be referred to any international tribunal, arbitration, or third party for settlement.

2. The Parties shall ensure that any disagreement concerning the interpretation or application of the contractual agreements or arrangements referred to in Article I.3 shall be resolved by consultation between the appropriate authorities of the Parties and shall not be referred to any international tribunal, arbitration, or third party for settlement.

## Article IX

1. Pending its entry into force, this Agreement shall be applied provisionally from the date of its signature.

2. This Agreement shall enter into force on the first day of the second month following the date of the last written notification, through diplomatic channels, by which the Parties shall have notified each other of the completion of all necessary internal procedures for entry into force of this Agreement.

3. This Agreement shall continue in force indefinitely unless it is terminated by either Party by giving six months' notice thereof through diplomatic channels to the other Party. Such notice may, however, be withdrawn before the end of the six-month period by written consent of both Parties.

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

DONE at Washington, this 23<sup>rd</sup> day of May, 2013, in duplicate, in the English language.

*For the Kingdom of the Netherlands,*

R. BEKINK

O.E. ODUBER

E.W. BALBORDA

R.F. PANTOPHLET

*For the United States of America,*

JULIE OETTINGER

Assistant Administrator for Policy,  
International Affairs, and Environment

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D. PARLEMENT

Het Verdrag behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan het Verdrag kan worden gebonden.

F. VOORLOPIGE TOEPASSING

Het Verdrag wordt ingevolge artikel IX, eerste lid, vanaf 23 mei 2013 voorlopig toegepast.

Wat betreft het Koninkrijk der Nederlanden, geldt de voorlopige toepassing ingevolge artikel I, tweede lid, voor Nederland (het Caribische deel), Aruba, Curaçao en Sint Maarten.

G. INWERKINGTREDING

De bepalingen van het Verdrag zullen ingevolge artikel IX, tweede lid, in werking treden op de eerste dag van de tweede maand die volgt op de datum van de laatste schriftelijke notificatie waarbij de partijen elkaar langs diplomatieke weg in kennis hebben gesteld van de voltooiing van alle noodzakelijke interne procedures voor de inwerkingtreding van het Verdrag.

J. VERWIJZINGEN

Titel	: Verdrag inzake de internationale burgerluchtvaart; Chicago, 7 december 1944
Tekst	: <i>Stb.</i> 1947, 165 (Engels) <i>Trb.</i> 1973, 109 (vertaling, geconsolideerd)
Laatste <i>Trb.</i>	: <i>Trb.</i> 2012, 126

Uitgegeven de *zevenentwintigste* mei 2013.

*De Minister van Buitenlandse Zaken,*

F.C.G.M. TIMMERMANS