

AIR SERVICES AGREEMENT
BETWEEN
THE KINGDOM OF BELGIUM
AND
THE REPUBLIC OF KENYA

PREAMBLE

The Kingdom of Belgium
Represented by
The Federal Government
The Flemish Government
The Walloon Government
The Government of the Brussels Capital Region

And

The Republic of Kenya

Hereinafter referred to as the "Contracting Parties";

Being Contracting 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 guarantee the highest level of safety and security in international air transport;

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:

CHAPTER I INTRODUCTION

ARTICLE 1: Definitions

1. For the purpose of this Agreement unless the context otherwise required:
 - a. the term "Aeronautical Authorities" means: for Kingdom of Belgium, The Federal Public Service Mobility and Transport; for the Republic of Kenya, the Cabinet Secretary in charge of Civil Aviation; or, in either case, any person or body authorized to perform any functions at present exercised by the said Authorities;
 - b. the terms "Agreed Service" and "Specified Route" mean International Air Service pursuant to this Agreement and the route specified in the Annex to this Agreement respectively, for the transport of passengers, cargo and mail, separately or in combination;
 - c. the term "Agreement" means this Agreement, its Annex as well as any amendment to the Agreement or to its Annex;
 - d. 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;
 - e. 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 the Convention and any amendment of the Annexes or the Convention under Articles 90 and 94 thereof, insofar as those Annexes and amendments have become effective for, or been ratified by both Contracting Parties;
 - f. the term "Designated Airline" means any Airline which has been designated and authorized in accordance with Article 3 (Designation and Authorization) of this Agreement;
 - g. 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;
 - h. the term "Territory" has the meaning assigned to it in Article 2 of the Convention.

- i. the term "User Charge" means a charge imposed on Airlines for the provision of airport, air navigation, or aviation security facilities or services including related services and facilities;
- j. an Airport Slot (or "Slot") is the permission given by a coordinator to use the full range of airport infrastructure necessary to operate a planned Air Service at a coordinated airport on a specific date and time for the purpose of landing or take-off;
- k. the term "European Union Member state" means a state that is now or in the future a Party to the Treaty on the European Union and the Treaty on the functioning of the European Union;
- l. References in this Agreement to nationals of Kingdom of Belgium shall be understood as referring to nationals of European Union Member States or the European Free Trade Association (EFTA);
- m. References in this Agreement to Airlines of Kingdom of Belgium shall be understood as referring to Airlines designated by Kingdom of Belgium;
- n. References in this Agreement to the "EU Treaties" shall be understood as referring to the Treaty on European Union and the Treaty on the Functioning of the European Union.
- o. the terms "aircraft equipment", "ground equipment", "aircraft stores", "spare parts" have the meanings respectively assigned to them in Annex 9 of the Convention;
- p. the term "EFTA Countries" means Member States of the European Free Trade Association: the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway (being Parties to the Agreement on the European Economic Area), the Swiss Confederation (under the Agreement between the European Community and the Swiss Confederation on Air Transport

ARTICLE 2 : Applicability of the Chicago Convention

In implementing this Agreement, the Contracting Parties shall act in conformity with the provisions of the Convention insofar as those provisions are applicable to international air services.

CHAPTER II OBJECTIVES

ARTICLE 3: 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 Services by the Designated Airline(s) 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-commercial traffic purposes; and
 - c. while operating an Agreed Service on a Specified Route, the right to make stops in its Territory for the purposes of taking up and discharging international traffic in passengers, baggage, 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(s) to participate in air transportation between points in the Territory of the other Contracting Party (cabotage).
3. The airlines of each Contracting Party, other than those designated under Article 4 (Designation and Authorization) of this Agreement shall also enjoy the rights specified in paragraphs 1 a) and b) of this Article.

ARTICLE 4: Designation and Authorization

1. Either Contracting Party shall have the right to designate in writing through diplomatic channels to the other Contracting Party one or more airlines for the purpose of operating the Agreed Services on the Specified Routes and to withdraw the designation of any Airline or to substitute another Airline for one previously designated.
2. Upon receipt of such a notification, each Contracting Party shall, consistent with its laws and regulations, and without delay, grant to the Airline(s) so designated by the other Contracting Party the appropriate operating authorizations subject to the provisions of this Article, provided that:
 - a. in the case an Airline is designated by the Kingdom of Belgium:
 - i. the Airline is established in the Territory of Kingdom of Belgium under the European Union Treaties and has a valid Operating License in accordance with European Union law; and
 - ii. effective regulatory control of the Airline is exercised and maintained by the European Union Member State responsible for issuing its Air Operator's Certificate and the relevant Aeronautical Authority is clearly identified in the designation; and

- iii. the Airline is owned, directly or through majority ownership, and is effectively controlled by Member States of the European Union or the European Free Trade Association and/or by nationals of such States,
 - b. in the case an Airline is designated by the Republic of Kenya:
 - i. the Airline is established in the Territory of the Republic of Kenya and has a valid Operating License in accordance with applicable law of the Republic of Kenya; and
 - ii. effective regulatory control of the Airline is exercised and maintained by the Republic of Kenya; and
 - iii. the Airline is owned, directly or through majority ownership, and it is effectively controlled by the Republic of Kenya and/or by nationals of the Republic of Kenya,
- and that:
- c. the Contracting Party designating the Airline is maintaining and administering the standards set forth in Article 12 (Fair Competition), Article 17 (Safety) and Article 18 (Aviation Security); and
 - d. the Designated Airline(s) is/are qualified to meet the conditions prescribed under the laws and regulations normally applied to the operations of International Air Services by the Contracting Party considering the application or applications.
3. Upon receipt of the operating authorization of paragraph 2 of this Article, the Designated Airline(s) 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.

ARTICLE 5: Revocation and Suspension of Authorization

- 1. Either Contracting Party may revoke, withhold, suspend or limit the operating authorization or technical permissions of an airline designated by the other Contracting Party where:
 - a. in the case an Airline is designated by the Kingdom of Belgium:
 - i. the Airline is not established in the Territory of Kingdom of Belgium under European Union Treaties or does not have a valid Operating License in accordance with European Union law; or
 - ii. effective regulatory control of the Airline is not exercised or not maintained by the European Union Member State responsible for issuing its Air Operator's Certificate or the relevant Aeronautical Authority is not clearly identified in the designation; or

- iii. the Airline is not owned, directly or through majority ownership, or is not effectively controlled by Member States of the European Union or the European Free Trade Association and/or by nationals of such States,
 - b. in the case an Airline is designated by the Republic of Kenya:
 - i. the Airline is not established in the Territory of the Republic of Kenya or has no valid operating license in accordance with applicable law of the Republic of Kenya; or
 - ii. effective regulatory control of the Airline is not exercised or not maintained by the Republic of Kenya; or
 - iii. the Airline is not owned, directly or through majority ownership, or is not effectively controlled by the Republic of Kenya and/or by nationals of the Republic of Kenya,
 - c. in case the other Contracting Party is not maintaining and administering the standards set forth in Article 12 (Fair Competition), Article 17 (Safety) and Article 18 (Aviation Security);
 - d. in the event of failure by such airlines to comply with the laws and regulations of that Contracting Party
- 2. Unless immediate action is essential to prevent further non-compliance with the conditions as referred to in paragraph 1 of this Article, the rights established by this Article shall be exercised only after consultation with 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.

CHAPTER III COMMERCIAL PROVISIONS

ARTICLE 6: Tariffs

1. Each Contracting Party shall allow tariffs for air services to be decided by each Designated Airline based on commercial considerations in the marketplace. Intervention by the Contracting Parties shall be limited to:
 - a) prevention of unreasonably discriminatory tariffs or practices;
 - b) protection of consumers from tariffs that are unreasonably high or restrictive due to the abuse of a dominant position; and
 - c) protection of airlines from tariffs that are artificially low due to direct or indirect governmental subsidy or support.
2. Tariffs for international air transportation between the territories of the Contracting Parties shall not be required to be filed. Neither Contracting Party shall require the notification or filing by a Designated Airline of the other Contracting Party of tariffs charged by charterers to the public, except as may be required on a non-discriminatory basis for information purposes. Notwithstanding the foregoing, the Designated Airlines of the Contracting Parties shall provide access, on request, to information on existing and proposed tariffs to the aeronautical authorities of the Contracting Parties in a manner and format acceptable to those aeronautical authorities for the purposes of this Article.
3. Except as otherwise provided in this Article, neither Contracting Party shall take unilateral action to prevent the inauguration or continuation of a tariff proposed to be charged or charged by a Designated Airline of either Contracting Party for international air transportation.
4. If a Contracting Party believes that a tariff proposed to be charged by a Designated Airline of the other Contracting Party for international air transportation is inconsistent with considerations set forth in paragraph 1 of this Article, it shall request consultations and notify the other Contracting Party of the reasons for its dissatisfaction as soon as possible. These consultations shall be held not later than thirty (30) days after receipt of the request, and the Contracting Parties shall cooperate in securing information necessary for reasoned resolution of the issue. If the Contracting Parties reach agreement with respect to a tariff for which a notice of dissatisfaction has been given, each Contracting Party shall use its best efforts to put that agreement into effect. Without such mutual agreement to the contrary, the previously existing tariff shall continue in effect.
5. Notwithstanding the paragraphs of this Article, the tariffs to be charged by the designated airline(s) of the Republic of Kenya for the carriage wholly within the European Union shall be subject to European Union law.

ARTICLE 7: Principles governing operation of agreed services

1. In operating the agreed services, the designated airlines of each Contracting Party shall take into account the interest of the designated 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 route.
2. The agreed services provided by the designated airlines of the Contracting Parties shall bear reasonable 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 meet the current and reasonably anticipated requirements for the carriage of passengers, cargo and mail between the territory of the Contracting Party which has designated the airline and the countries of ultimate destination of the traffic.
3. Provision for the carriage of passengers, cargo and mail both taken up and discharged at points on the specified routes in the territories of States other than that designating an airline shall be made in accordance with the general principle 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 airline passes after taking account of other transport services established by airlines of the States comprising the area;
 - c) the requirements of long-haul airline operation.
4. The designated airlines shall, not later than 30 days prior to the date of operation of any agreed service, submit for approval their proposed flight programs to the aeronautical authorities of both Contracting Parties. Said flight programs shall include i.a. the type of service, the aircraft to be used, the frequencies and the flight schedules.
This shall likewise apply to later changes.
In special cases this time limit may be reduced, subject to the consent of the said authorities.

ARTICLE 8: Ground handling provisions

Subject to the laws and regulations of each Contracting Party including, in the case of the Kingdom of Belgium, European Union law, each designated airline shall have in the territory of the other Contracting Party the right to perform its own ground handling ("self-handling") or, at its option, the right to select among competing suppliers that provide for ground handling services in whole or in part.

Where such laws and regulations limit or preclude self-handling and where there is no effective competition between suppliers that provide ground handling services, each designated airline shall be treated on a non-discriminatory basis as regards their access to self-handling and ground handling services provided by a supplier or suppliers.

ARTICLE 9: Code-share and intermodality

In operating or holding out services under this Agreement, any designated airline of one Contracting Party may enter into cooperative marketing arrangements, such as blocked-space agreements or code-sharing arrangements, with:

- (a) an airline or airlines of the same Contracting Party; and
- (b) an airline or airlines of the other Contracting Party; and
- (c) an airline or airlines of a third country; and
- (d) any surface (land or maritime) transport provider, at the condition that the point of origin and the point of destination of the air transport are within the territory of each Contracting Party;

provided that:

- (i) the operating carrier holds the appropriate traffic rights; and
- (ii) the marketing carriers hold the appropriate route rights within the relevant bilateral provisions; and
- (iii) the arrangements meet the requirements relating to safety and competition normally applied to such arrangements. In respect of passenger transport sold involving code-shares, the purchaser shall be informed at the point of sale, or in any case at check-in, or on boarding where no check-in is required for a connecting flight, which transport providers will operate each sector of the service.

ARTICLE 10: Staff requirements

1. The designated airlines of one Contracting Party shall be allowed on the basis of reciprocity, to maintain in the territory of the other Contracting Party their representatives and commercial, operational and technical staff as required in connection with the operation of the agreed services.
2. These staff requirements may, at the option of the designated airlines, be satisfied by their own personnel of any nationality or by using the services of any other organisation, company or airline operating in the territory of the other Contracting Party and authorised to perform such services in the territory of that Contracting Party.
3. The representatives and staff shall be subject to the laws and regulations in force of the other Contracting Party. Consistent with such law and regulations, each Contracting Party shall, on the basis of reciprocity, grant the necessary work permits, employment visas or other similar documents to the representatives and staff referred to in paragraph 1 of this article.
4. To the extent permitted under national law, both Contracting Parties shall dispense with the requirement of work permits or employment visas or other similar documents for personnel performing certain temporary services and duties.

ARTICLE 11: Sales and revenues

1. Each designated airline shall be granted the right to engage in the sale of air transportation in the territory of the other Contracting Party directly and, at its discretion, through its agents.

Each designated airline shall have the right to sell transportation in the currency of that territory or, at its discretion, in freely convertible currencies of other countries.

Any person shall be free to purchase such transportation in currencies accepted for sale by that airline.

2. Each Contracting Party grants to the designated airlines of the other Contracting Party the right of free transfer of the excess of receipts over expenditures earned by the designated airline in its territory. Such transfers shall be effected on the basis of the official exchange rates for current payments, or where there are no official exchange rates, at the prevailing foreign exchange market rates for current payments, applicable on the day of the introduction of the request for transfer by the airlines designated by the other Contracting Party and shall not be subject to any charges except normal service charges collected by banks for such transactions.
3. Each Contracting Party shall, on the basis of reciprocity, exempt the designated airlines of the other Contracting Party from any form of taxation on income or profits derived by those airlines in the territory of the first Contracting Party from the operation of international air services, as well as from any tax on turnover or capital.

This provision shall not apply if a Convention for the avoidance of double taxation providing for a similar exemption is in force between the Contracting Parties.

ARTICLE 12: Fair competition

1. There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to compete in operating the agreed services on the specified routes.

2. Each Contracting Party shall allow each designated airline to determine the frequency and capacity of the international air transport it offers, according to commercial and market-based considerations within the capacity entitlements agreed between the aeronautical authorities of the Contracting Parties in accordance with the Annex to this Agreement. Neither Contracting Party shall unilaterally limit the volume of traffic, frequency or regularity of service, or the aircraft type or types operated by the airlines designated by the other Contracting Party, except as may be required according to the terms of this Agreement or by such uniform conditions as may be contemplated by the Convention.

3. Neither Contracting Party shall allow its designated airline or airlines, either in conjunction with any other airline or airlines or separately, to abuse market power in a way which has or is likely or intended to have the effect of severely weakening a competitor or excluding it from a route.

CHAPTER IV FINANCIAL PROVISIONS

ARTICLE 13: Taxes, customs duties and charges

1. Each Contracting Party shall exempt the designated airlines of the other Contracting Party from import restrictions, customs duties, excise taxes, inspection fees and other national, regional or local duties and charges on aircraft, fuel, lubricating oils, consumable technical supplies, spare parts including engines, regular aircraft equipment, ground equipment, aircraft stores and other items intended for use or used solely in connection with the operation or servicing of aircraft of the designated airlines of such other Contracting Party operating the agreed services, as well as printed ticket stock, airway bills, any printed material which bears the insignia of the company printed thereon and usual publicity material distributed without charge by those designated airlines.
2. The exemptions granted by this article shall apply to the items referred to in paragraph 1 of this article, whether or not such items are used or consumed wholly within the territory of the Contracting Party granting the exemption, provided such items are:
 - a) introduced into the territory of one Contracting Party by or on behalf of the designated airlines of the other Contracting Party, but not alienated in the territory of the said Contracting Party;
 - b) retained on board aircraft of the designated airlines of one Contracting Party upon arriving in or leaving the territory of the other Contracting Party;
 - c) taken on board aircraft of the designated airlines of one Contracting Party in the territory of the other Contracting Party and intended for use in operating the agreed services.
3. Regular airborne equipment, the ground equipment, spare parts, supplies of fuels and lubricants and 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.
4. Baggage, cargo and mail in transit shall be exempt from customs duties and other similar taxes.
5. The exemptions provided by this Article shall also be available where a Designated Airline(s) of one Contracting Party has contracted with another Airline, which similarly enjoys such exemptions from the other Contracting Party, for the ban or transfer in the Territory of the other Contracting Party of the items specified in paragraphs 1, 2 and 3 of this Article.
6. Nothing in this Agreement shall prevent Kingdom of Belgium from imposing, on a non-discriminatory basis, taxes, levies, duties, fees or charges on fuel supplied in its

Territory for use in an aircraft of a Designated Airline of the Republic of Kenya that operates between a point in the Territory of the European part of the Kingdom of Belgium and another point in the Territory of Kingdom of Belgium or in the Territory of another European Union Member State.

ARTICLE 14: User charges

1. User Charges that may be imposed and/or controlled by the competent charging authorities or bodies of each Contracting Party on the Airlines of the other Contracting Party shall be just, reasonable, not discriminatory and equitably appointed among categories of users. In any event, any such Users Charges shall be assessed on the Airlines of the other Contracting Party on terms not less favourable than the most favourable terms available to any other Airline at the time the charges are assessed, taking into account national regulations in force.
2. Each Contracting Party shall encourage consultations between the competent charging authorities or bodies in its Territory and the Airline(s) using the services and facilities, and shall encourage the competent charging authorities or bodies and the Airline(s) to exchange such information as may be necessary to permit an accurate review of the reasonableness of the charges in accordance with the principles of paragraphs 1 and 2 of this Article. Each Contracting Party shall encourage the competent charging authorities to provide users with reasonable notice of any proposal for charges to enable users to express their views before changes are made.

CHAPTER V REGULATORY PROVISIONS

ARTICLE 15: Application of Laws, Regulations and Procedures

1. The laws, regulations and procedures of either Contracting Party relating to the entrance, while within, 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(s) of the other Contracting Party upon their entrance into, and until and including their 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, currency, sanitary requirements and quarantine shall be complied with, by crews or passengers and/or on behalf of cargo and mail carried by aircraft of the Designated Airline(s) 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, cargo and mail in 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 the threat of unlawful interference, such as violence, air piracy and occasional measures for the combat of illicit drug traffic, be subject to no more than a simplified control.
This provision shall not apply if a passenger is in transit to a destination situated in a State, Party to the Convention in pursuance of the Schengen Agreement of 14 June 1985.
4. Neither of the Contracting Parties shall give preference to its own or any other Airline over the Designated Airline(s) of the other Contracting Party in the application of its regulations specified in paragraphs 1 and 2 of this article or in the use of airports, airways and air traffic services and associated facilities under its control.
5. Each Contracting Party shall, upon request of the other Contracting Party, supply copies of the relevant laws, regulations and procedures referred to in this Agreement.

ARTICLE 16: Recognition of Certificates and Licenses

1. Certificates of airworthiness, certificates of competency and licenses issued, or validated in accordance with the laws and regulations of one Contracting Party, including for Kingdom of Belgium in accordance with European Union laws and regulations, and unexpired shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services on the routes specified in the Annex, provided always that such certificates or licenses were issued or validated, equal or above the minimum standards established under the Chicago Convention.

Each Contracting Party, however, reserves the right to refuse to recognize, for flights above its Territory, certificates of competency and licenses granted or validated for its own nationals by the other Contracting Party.

2. If the certificates or licences referred to in paragraph 1 of this article were issued or rendered valid according to requirements different from the standards established under the Convention, and if such difference has been filed with the International Civil Aviation Organisation, the aeronautical authorities of the other Contracting Party may request consultations in accordance with Article 21 of this Agreement with a view to satisfying themselves that the requirements in question are acceptable to them.

ARTICLE 17: Safety

1. Each Contracting Party may request consultations at any time concerning safety standards in any area relating to air crew, aircraft or their operation adopted by the other Contracting Party. Such consultations shall take place within thirty (30) days of that request.
2. Where the Kingdom of Belgium has designated an Airline whose regulatory control is exercised and maintained by another European Union Member State, the rights of the other Contracting Party under Article 4 shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other European Union Member States and in respect of the operating authorization of that Airline.
3. If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards and requirements in any such area that are at least equal to the minimum standards established at that time pursuant to the 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 that other Contracting Party shall take appropriate corrective action. Failure by the other Contracting Party to take appropriate action within fifteen (15) days or such longer period as may be agreed, shall be grounds for the application of Article 5 (Revocation and Suspension of Authorization) of this Agreement.
4. Notwithstanding the obligations mentioned in Article 33 of the 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 authorized 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 conditions of the aircraft

and its equipment (ramp inspections), provided this does not lead to unreasonable delay.

5. 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 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 Convention,

the Contracting Party carrying out the inspection shall, for the purpose of Article 33 of the Convention, be free to conclude that the requirements under which the certificates or licenses 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 Convention.

6. 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 4 of this Article is denied by the 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 5 of this Article arise and to draw the conclusions referred to in that paragraph.
7. Each Contracting Party reserves the right to suspend or vary the operating authorization 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, consultations or otherwise, that immediate action is essential to the safety of the Airline's operation.
8. Any action by one Contracting Party in accordance with paragraphs 3 or 7 of this Article shall be discontinued once the basis for the taking of that action ceases to exist.

ARTICLE 18: Aviation Security

1. The Contracting Parties reaffirm, consistent with their rights and obligations under international law, that their mutual obligations to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement. Without limiting the generality of their rights and obligations under international law, the Contracting Parties shall in particular act in conformity with the provisions of the Convention on 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 The 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, its supplementary Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991, as well as any other Convention or Protocol on Aviation Security which becomes binding upon the Contracting Parties.

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, the 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 Chicago Convention to the extent that such security provisions are applicable to the Parties; they shall require that operators of aircraft of their registry or operators of aircraft which have their principal place of business or permanent residence in their Territory of the Contracting Parties or, in the case of the Kingdom of Belgium operators of aircraft which are established in its Territory under the European Union Treaties and have valid Operating Licenses in accordance with European Union law, and the operators of airports in their Territory act in conformity with such aviation security provisions.

Each Contracting Party agrees that its operators of aircraft shall be required to observe for departure from or while within the Territory of the other Contracting Party, aviation security provisions in conformity with the law in force in that country, including, in the case of Kingdom of Belgium, European Union Law.

4. Each Party agrees that such operators of 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 Party. Each Contracting Party shall ensure that adequate measures are effectively applied within its Territory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft Stores prior to and during boarding or loading. Each Contracting Party shall also give positive consideration to any request from the other Party for reasonable special security measures for its aircraft or passengers to meet a particular threat.
5. When an incident 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.

6. When a Contracting Party has reasonable grounds to believe that the other Party has departed from the provisions of this Article, the first Contracting Party may request consultations. Such consultations shall start within fifteen (15) days of receipt of such a request from either Party. Failure to reach a satisfactory agreement within fifteen (15) days from the start of consultations shall constitute grounds for withholding, revoking, limiting, suspending or imposing conditions on the authorizations of the Airline or Airlines designated by the other Party. When justified by an emergency, or to prevent further non-compliance with the provisions of this Article, the first Party may take interim action at any time.

CHAPTER VI PROCEDURAL PROVISIONS

ARTICLE 19: Consultation

1. In a spirit of close cooperation the Aeronautical Authorities of the Contracting Parties may consult each other from time to time with a view to ensuring the implementation of, and satisfactory compliance with, the provisions of this Agreement.
2. Either Contracting Party may request consultations with a view to amend this Agreement and/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.

ARTICLE 20: 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 their dispute by bilateral negotiations.
2. If the Contracting Parties fail to reach a settlement by negotiation, 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. If the President is a national of the same country as one of the Contracting Parties, the most senior Vice President who is not disqualified on that ground shall make the appointment.
3. Except as otherwise agreed, the arbitration 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 no later than fifteen (15) days after the tribunal is fully constituted.

4. Except as otherwise agreed by the Contracting Parties or prescribed by the tribunal, each Party shall submit a memorandum within forty-five (45) days of the time the tribunal is fully constituted. Replies shall be due sixty (60) days later. The tribunal shall hold a hearing at the request of either Party or at its discretion within fifteen (15) days after replies are due.
5. The tribunal shall attempt to render a written decision within thirty (30) days after completion of the hearing or, if no hearing is held, after the date both replies are submitted. The decision of the majority of the tribunal shall prevail.
6. The Contracting Parties may submit requests for clarification of the decision within fifteen (15) days after it is rendered and any clarification given shall be issued within fifteen (15) days of such request.
7. The decision of the tribunal shall be binding on the Contracting Parties.
8. The expenses of the tribunal shall be shared equally between the Contracting Parties.
9. If and so long as either Contracting Party fails to comply with any decision given under paragraph 3 of this Article, the other Party may limit, withhold or revoke any rights or privileges which it has granted by virtue of this agreement to the Contracting Party in default or to the Designated Airline or Airlines in default.

CHAPTER VII FINAL PROVISIONS

ARTICLE 21: Modifications

1. If either of the Contracting Parties considers it desirable to modify any provision of this Agreement, it may request consultations with the other Contracting Party. Such consultations, which may be between aeronautical authorities and which may be through discussion or by correspondence, shall begin within a period of sixty (60) days from the date of the request.
2. If a general multilateral air convention comes into force in respect of both Contracting Parties, the provisions of such convention shall prevail. Consultations in accordance with paragraph 1 of this article may be held with a view to determining the extent to which this Agreement is affected by the provisions of the multilateral convention.
3. Any modification agreed pursuant to such consultations shall come into force when it has been confirmed by an exchange of diplomatic notes.
4. The Contracting Parties agree that the Route Schedule in the Annex can be modified after agreement between the Aeronautical Authorities through an administrative arrangement.

ARTICLE 22: Termination

1. 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.
2. 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 of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement between the Contracting Parties before the expiry of this period. In the absence of acknowledgement of receipt of the notice of termination by the other Contracting Party, such notice shall be deemed to have been received fourteen (14) days after the receipt of that notice by the International Civil Aviation Organization.

ARTICLE 23: Registration with the International Civil Aviation Organization

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

ARTICLE 24: Entry into Force

This Agreement shall enter into force on the first day of the month following the date of receipt of the last written notification through diplomatic channels by which the Contracting Parties have informed each other that the formalities and constitutional requirements for its entry into force in their respective countries have been complied with.

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

DONE in [...] on this [...] day of [...] in two original copies in the English language.

.....
FOR THE KINGDOM OF BELGIUM:
Represented by
The Federal Government
The Flemish Government
The Walloon Government
The Government of the Brussels
Capital Region

.....
FOR THE REPUBLIC OF KENYA

Annex: Route Schedule

I. Route Schedule

a. For the Designated Airline(s) of the Kingdom of Belgium:

Any points in Belgium- any intermediate points - any points in Kenya - any beyond points v.v.

b. For the Designated Airline(s) of the Republic of Kenya:

Any points in Kenya - any intermediate points - any points in Belgium- any beyond points v.v.

Notes

1. The designated airlines of each Contracting Party may on any or all flights omit calling at any of the intermediate and/or beyond points mentioned above, provided that the agreed services on the routes begin or end in the territory of the party which has designated the airlines.
2. The designated airlines of each Contracting Party may select any intermediate and/or beyond points at its own choice and may change its selection in the next season on condition that no traffic rights are exercised between those points and the territory of the other party.
3. Each Designated Airline may on any or all flights and at its option:
 - a. operate flights in either or both directions;
 - b. combine different flight numbers within one aircraft operation;
 - c. serve intermediate and beyond points and points in the territories of the Contracting Parties in any combination and in any order;
 - d. serve points behind any point in its Territory with or without Change of Aircraft or flight number and hold out and advertise such services to the public as through services; and
 - e. combine traffic on the same aircraft regardless of where such traffic originate.
4. Without directional or geographic limitation and without loss of any right to carry traffic otherwise permissible under this Agreement, provided that any service either begins or terminates in the Territory of the country designating the Airline(s).
5. The exercise of fifth freedom traffic rights will be subject to approval between the Aeronautical Authorities of both Parties.