

INTERNATIONAL COURT OF JUSTICE

SPECIAL AGREEMENT

SEISING THE INTERNATIONAL COURT OF JUSTICE OF THE DISPUTE
BETWEEN THE DEMOCRATIC REPUBLIC OF SHELBY AND
THE CHANGRETTA FEDERATION
IN THE MATTER OF THE USE OF WEAPONS AGAINST CIVIL AVIATION
– SHELBY AIRWAYS FLIGHTS 254 and 368

jointly notified to the Court on the first of July 2022

COUR INTERNATIONALE DE JUSTICE

COMPROMIS

DE SAISINE DE LA COUR INTERNATIONALE DE JUSTICE,
AU SUJET DU DIFFÉREND ENTRE LA RÉPUBLIQUE DÉMOCRATIQUE DE
SHELBY ET LA FÉDÉRATION DE CHANGRETTA RELATIF
À L'UTILISATION D'ARMES CONTRE L'AVIATION CIVILE – VOLS
SHELBY AIRWAYS No. 254 et 368

notifié conjointement à la Cour le 1er juillet 2022

**JOINT NOTIFICATION
ADDRESSED TO THE REGISTRAR OF THE COURT**

The Hague, the 1st of July 2022

On behalf of the Government of the Democratic Republic of Shelby and the Changretta Federation, and in accordance with Article 40(1) of the Statute of the International Court of Justice, we have the honour to transmit to you a certified true copy of the Special Agreement for Submission to the International Court of Justice of the Dispute between the Democratic Republic of Shelby (Applicant) and the Changretta Federation (Respondent) concerning the use of weapons against civil aviation Shelby Airways Flights 254 and 368, signed at The Hague, The Netherlands, on 20 January 2022.

(Signed)

Her Excellency Mrs Polly Grey,
Ambassador of the Democratic
Republic of Shelby
to the Kingdom of The Netherlands

(Signed)

His Excellency Mr Billy Kimber
Ambassador of the
Changretta Federation
to the Kingdom of The Netherlands

**THE 2023 LEIDEN-SARIN INTERNATIONAL AIR LAW MOOT COURT
COMPETITION**

COMPROMIS

DEMOCRATIC REPUBLIC OF SHELBY (*applicant*)

v.

THE CHANGRETTA FEDERATION (*respondent*)

IN THE MATTER OF THE USE OF WEAPONS AGAINST CIVIL AVIATION
– SHELBY AIRWAYS FLIGHTS 254 and 368

A. APPLICABLE SOURCES OF INTERNATIONAL LAW

1. The parties to this case are the Democratic Republic of Shelby and the Changretta Federation. Both States are parties to the following Conventions:

(i) *The Convention on International Civil Aviation*, signed at Chicago on 7 December 1944 (Chicago Convention), all Protocols of amendment to the Convention. Neither of the States has notified any difference between its own legislation and the corresponding Standards and Recommended Practices of ICAO (SARPs) included in Annexes 11, 13, 15 and 17;

(ii) *The United Nations Charter*, signed at San Francisco on 26 June 1945 (U.N. Charter);

(iii) *The Convention on Offences and Certain other Acts Committed on Board Aircraft*, signed at Tokyo on 14 September 1963 (Tokyo Convention);

(iv) *The Convention on the Law of Treaties*, signed at Vienna on 23 May 1969 (Vienna Convention);

(v) *The Convention for the Suppression of Unlawful Seizure of Aircraft*, signed at The Hague on 16 December 1970 (The Hague Convention); and

(vi) *The Convention on the Suppression of Unlawful Acts relating to International Civil Aviation*, signed at Beijing on 10 September 2010 (Beijing Convention).

Additionally, the Democratic Republic of Shelby is a party to:

(vii) *The Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft*, signed in Beijing on 10 September 2010 (Beijing Protocol).

B. INTRODUCTION

2. The Democratic Republic of Shelby and the Changretta Federation historically have been part of the Union of the Gusofmen. In 1990, when the Union of the Gusofmen began to unravel, part of the Union, formed of four regions, declared independence, forming the sovereign and independent Changretta Federation, which was confirmed by popular approval in a plebiscite on 20 December 1991.

3. After a *coup d'état* in 1998, the Union of the Gusofmen was dismantled and, after democratic elections, a new regime was installed and a new state emerged; the Democratic Republic of Shelby.

4. The Democratic Republic of Shelby borders the Changretta Federation to the east and the Green Sea and the Zouk Sea to the south. In the far southeast, the Democratic Republic of Shelby is separated by the Changretta Federation by the Shadow Strait, which connects the Sea of Zouk to the Green Sea.

5. Both the Democratic Republic of Shelby and the Changretta Federation have established Air Traffic Authorities (ATS) (Shelbycontrol and Changacontrol, respectively) in accordance with Standard 2.1 of Annex 11 to the Chicago Convention. These entities are governmental agencies that provide Air Traffic Services within the limits of their respective sovereign territorial boundaries.

C. BACKGROUND

6. The Democratic Republic of Shelby and the Changretta Federation signed an International Air Services Agreement on 20 November 2012 (Annex 1), with the purpose to make it possible for airlines to offer the travelling and shipping public a variety of service options and to encourage individual airlines to develop and implement innovative and competitive prices, ensuring at the same time the highest degree of safety and security.

7. The Agreement provides in *Article 3 – Operating Authorisation*, as summarised, states that:

- either Party may prevent the use of leased aircraft for services under the Agreement, which does not comply with the safety and security requirements provided by the Agreement;
- the designated airlines have their principal place of business and permanent residence in the territory of the designating Party; and
- the Party designating the airline has and maintains effective regulatory control of the airline.

8. In June 2016, the national Government of the Changretta Federation passed Law No. 666/2016, allowing the country's airlines to place aircraft leased from foreign companies on the country's aircraft register. The Changretta Federation airlines have almost 690 leased jets, most of them leased abroad. Most of the aircraft that the Changretta Federation Government has registered are also registered in the Democratic Republic of Bloomers.

9. As of 27 June 2020, 570 aircraft are registered both in Bloomers and the Changretta Federation. Changafлот, Changretta's Federation State carrier, has 157 aircraft registered in both countries. Other airlines with double registered aircraft are Changa Cargo, West Changa, Vendeta, Black Swan, Phobia and Independence, all airlines being designated to operate the agreed services under the International Air Services Agreement. In line with the provisions of Article 83 *bis* of the Chicago Convention, the Changretta Federation and Bloomers have signed a transfer agreement; however, the agreement excludes Article 31 of the Chicago Convention from its transferred responsibilities.

10. On 18 October 2020, the Democratic Republic of Shelby called on the Changretta Federation to immediately cease the double registration, so as to urgently remedy the violation of international air law, indicating that under Article 18 of the Chicago Convention this conduct constitutes an infraction and endangers the safety and security of civil aviation.

11. Furthermore, the Democratic Republic of Shelby notified the Council of the International Civil Aviation Organization (ICAO) of the infractions to the Chicago Convention committed by the Changretta Federation and requested ICAO to take immediate measures against the Changretta Federation as it is a threat to the international civil aviation safety and security.

12. On 12 November 2020, the Democratic Republic of Shelby notified the Changretta Federation that all aircraft of the designated airlines under the International Air Services Agreement are banned from entering the airspace of the Democratic Republic of Shelby.

13A. In response to the measures and accusations brought by the Democratic Republic of Shelby, the Changretta Federation banned all aircraft of Shelbian companies from the Changretta Federation's airspace. The President of the Federation issued a statement, in the form of a declaration on national television, indicating that:

- the prohibition of access to the territory of the Democratic Republic of Shelby to the Changretta Federation airlines is not supported by any concrete evidence;
- the actions taken unilaterally were a direct violation of the key principles and basic foundations of the Chicago Convention, which are to ensure full respect for the rights of all ICAO member States and fair opportunities for each of them to use air carriers engaged in international air traffic;
- in this regard, the aviation authorities of the Changretta Federation have taken retaliatory measures related to depriving operators of the Democratic Republic of Shelby of the right to fly to and through the Changretta Federation;
- the transfer of aircraft to the State Register of Civil Aircraft of Changretta Federation is carried out in strict accordance with national legislation and the Chicago Convention (Articles 18 - Dual Registration, 19 - National Legislation Regulating Registration and 21 - Notification of Registration); and
- Changretta Federation rejects any concern expressed by the Democratic Republic of Shelby regarding the safety of flights of Changretta Federation aircraft and declares that there is no factual evidence of non-compliance of aircraft of Changretta Federation airlines with the requirements of ICAO.

D. STATEMENT OF FACTS

13B. On 31 December 2020, a breaking news piece was broadcast on the Democratic Republic of Shelby national television channel:

Known activist and hacktivist group Solomons claims responsibility for a computer virus that is affecting air traffic control systems of the region. The virus, known as Hatefly, is causing air traffic control systems to slow down.

14. On 31 December 2020, at 13:05 UTC, due to performance issues with the Radar Data Processing System of Shelbycontrol (a system called ARTAS), Shelbycontrol introduces a reduction in capacity in all its sectors. On 31 December 2020, at around 13:35 UTC, Shelbycontrol identifies problems with ARTAS and decides to switch to the Radar Fallback System while the problem with ARTAS persists.

15. Following the breaking news broadcast on 31 December 2020, at 15:23 UTC, Shelbycontrol disconnects all connections with neighbouring Air Navigation Service Providers (ANSPs), ARTAS performance issues are suspected to originate from a cyber-attack. This disconnection affects automatic flight transfers through On-Line Data Interchange (OLDI) as leased lines with neighbouring ANSPs are used for both OLDI and radar data exchange. Communication with neighbouring ANSPs is thereafter switched over to Plain Old Telephone System (POTS) only. Shelbycontrol's Communications, Navigation and Surveillance (CNS) team simultaneously starts a cold reset of the ARTAS system and, following unsuccessful reset attempts, on 31 December 2020, at 15:45 UTC, the CNS team starts a total reinstallation of ARTAS. At the same time, Shelbycontrol asks its Cyber Incident Response Team (CIRT) for a confirmation of the cyber-attack.

16. On 31 December 2020, at 16:50 UTC, the CNS team recognises that ARTAS reinstallation attempts were unsuccessful.

17. The Radar Fallback System has reduced accuracy and timeliness in presenting data and no Medium Term Conflict Detection (MTCD). Owing to the situation, the air traffic controllers of Shelbycontrol are overloaded.

18. On 31 December 2020, at 18:38 UTC, the air traffic controller (ATC) responsible for the MOPED sector observes two aircraft, Flight 254 and Flight 368 flying at the same level and on convergent trajectories that have a risk to enter into a conflict trajectory. At 18:42 UTC, under low visibility conditions, the Short Term Conflict Alert (STCA) is triggered. ADS-B is not yet implemented in the Democratic Republic of Shelby, and no aircraft is equipped with the system. ATC instructs Flight 254 to descend at a lower flight level. At 18:42:15 UTC, a mid-air collision takes place between Flight 254 and Flight 368. All persons on board both aircraft perished.

As required by the regulations of the Democratic Republic of Shelby, pilots disregarded TCAS information and followed ATC instructions.

19. One week after the event, the Cybercrime Prevention Unit (CPU) of the Democratic Republic of Shelby discovered that the command and control server at the centre of the Solomons attack was physically located in the Changretta Federation territory at the headquarters of the Ministry of Internal Affairs and was masking its identity by operating through the “dark web”.

20. The Shelby Ministry of External Affairs issued a *note verbale* to the Embassy of the Changretta Federation expressing dismay at what can only be described as an act against civil aviation in clear violation of international law and accusing the Changretta Federation of infringing Article 3 *bis* of the Chicago Convention, the cyberattack being a clear use of weapons against civil aircraft in flight as retaliation for the ban of aircraft in the airspace of the Democratic Republic of Shelby.

21. The Changretta Federation denied any responsibility for the cyberattack, sustaining that it was conducted by a hacktivist group with no connection to Changretta. It further stated that the Changretta Federation had been itself the target of the attack.

E. FOLLOW UP

22. The mid-air collision of Flight 254 and Flight 368 affected the international community and the public perception with respect to the safety of civil aviation. Political and public pressure has mounted on both States regarding their responsibilities and significantly soured their bilateral relations.

23. The Democratic Republic of Shelby conducted an investigation in accordance with Annex 13 of the Chicago Convention, qualifying the event as an accident and concluded that it was caused by:

- a) performance issues with the Radar Data Processing System (ARTAS) caused by the cyber-attack; and
- b) ATC contribution, the controller gave incorrect information/instructions to Flight 254 as to the position of Flight 368.

24. As rhetoric escalate between the two countries, diplomats from the Democratic Republic of Shelby and the Changretta Federation met over the course of one month in an attempt to resolve the differences.

25. Making use of the dispute settlement mechanism established under Article 84 of the Chicago Convention, the Parties brought the case to the attention of the ICAO Council. The Council, deliberating on the issue at hand, concluded that the Changretta Federation violated Article 3 *bis*, Article 18 and Annex 17 of the Chicago Convention, and requested the Changretta Federation to immediately cease its unlawful activities.

26. The Changretta Federation decided to appeal the decision adopted by the ICAO Council on the grounds that the Council did not act in an independent and impartial capacity in the proceedings. In addition, the Democratic Republic of Shelby submitted an application to the International Court of Justice pursuant to Article 14 para. 3 of the International Air Services Agreement.

F. RELIEF SOUGHT

The Democratic Republic of Shelby requests the Court to rule that:

- (a) The decision of the ICAO Council is independent and impartial, and is to be regarded as such and the Changretta Federation is obliged to comply.
- (b) The Changretta Federation breached its obligations under Article 3 *bis* and Annex 17 of the Chicago Convention.
- (c) The Changretta Federation breached its obligations under Article 18 of the Chicago Convention.
- (d) The Changretta Federation breached its obligations under the International Air Services Agreement.
- (e) The Changretta Federation is responsible for the accident under international law.

The Changretta Federation requests the Court to rule that:

- (a) The decision of the ICAO Council should be set aside as it is not independent and impartial.
- (b) The Changretta Federation did not breach its obligations under Article 3 *bis* and Annex 17 of the Chicago Convention.
- (c) The Changretta Federation did not breach its obligations under Article 18 of the Chicago Convention.
- (d) The Changretta Federation did not breach its obligations under the International Air Services Agreement.
- (e) The Changretta Federation is not responsible for the accident.

Annex 1: AIR SERVICES AGREEMENT BETWEEN THE DEMOCRATIC REPUBLIC OF SHELBY AND THE CHANGRETTA FEDERATION

Preamble

The Government of the Democratic Republic of Shelby and the Government of the Changretta Federation hereinafter referred to as the “Parties”;

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 and operating air services between and beyond their respective territories;

Have agreed as follows:

**Article 1
Definitions**

For the purposes of this Agreement, unless otherwise stated, the term:

- (a) “air transportation” means the public carriage by aircraft of passengers, baggage, cargo and mail, separately or in combination, for remuneration or hire;
- (b) “aeronautical authorities” means, in the case of the Democratic Republic of Shelby; in the case of the Changretta Federation; or in both cases any other authority or person empowered to perform the functions now exercised by the said authorities;
- (c) “Agreement” means this Agreement, its Annex, and any amendments thereto;
- (d) “capacity” is the amount of services provided under the Agreement, usually measured in the number of flights (frequencies) or seats or tons of cargo offered in a market (city pair, or country-to-country) or on a route during a specific period, such as daily, weekly, seasonally or annually;
- (e) “Convention” means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944, and includes any Annex adopted under Article 90 of that Convention, and any amendment of the Annexes or Convention under Articles 90 and 94, insofar as such Annexes and amendments have become effective for both Parties;
- (f) “designated airline” means an airline which has been designated and authorised in accordance with this Agreement;

- (g) “domestic air transportation” is air transportation in which passengers, baggage, cargo and mail which are taken on board in a States territory are destined to another point in that same State’s territory;
- (h) “ICAO” means the International Civil Aviation Organization;
- (i) “Party” is a State which has formally agreed to be bound by this Agreement;
- (j) “territory” in relation to a State [means the land areas and territorial waters adjacent thereto and the airspace above them under the sovereignty of that State] has the meaning assigned to it in Article 2 of the Convention;
- (k) “air service”, “international air service”, “airline”, and “stop for non-traffic purposes”, have the means assigned to them in Article 96 of the Convention.

Article 2

Grant of rights

Route schedule

1. Each Party shall permit the air carriers of the other Party to operate on the routes specified hereunder:

- (a) for air carriers of the Democratic Republic of Shelby:
any points in the Democratic Republic of Shelby – any intermediate points – any points in the Changretta Federation – any points beyond;
- (b) for air carriers of the Changretta Federation:
any points in the Changretta Federation – any intermediate points – any points in the Democratic Republic of Shelby – any points beyond.

Traffic rights

2. Each Party grants to the other Party the following rights for the conduct of international air transport activities by the air carriers of the other Party on a non-discriminatory basis:

- (a) the right to fly across its territory without landing;
- (b) the right to make stops in its territory for non-traffic purposes;
- (c) the right to perform scheduled and non-scheduled international air transport activities for passenger, combination and all-cargo services:
 - (i) for air carriers of the Democratic Republic of Shelby the right to provide international air transport services between any points in the Democratic Republic of Shelby and any points in the Changretta Federation with:
 - (A) third and fourth freedom traffic rights without limitation on routes, capacity and/or frequencies; and

- (B) fifth freedom traffic rights for all-cargo services between the Democratic Republic of Shelby and the Changretta Federation, provided that the exercise of fifth freedom traffic rights does not exceed seven weekly frequencies;
- (ii) for air carriers of the Changretta Federation the right to provide international air transport services between any points in the Changretta Federation and any points in the Democratic Republic of Shelby with:
 - (A) third and fourth freedom traffic rights without limitation on routes, capacity and/or frequencies; and
 - (B) fifth freedom traffic rights for all-cargo services between the Changretta Federation and the Democratic Republic of Shelby, provided that the exercise of fifth freedom traffic rights does not exceed seven weekly frequencies.
- (d) the rights otherwise specified in this Agreement.

Operational flexibility

3. Air carriers of each Party may on any or all flights and at their option on the routes specified in paragraph 1:

- (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 Parties in any combination and in any order in accordance with paragraph 2;
- (d) omit stops at any point or points;
- (e) transfer traffic from any of its aircraft to any of its other aircraft at any point (change of gauge);
- (f) make stopovers at any points whether within or outside the territory of either Party;
- (g) carry transit traffic through the territory of the other Party;
- (h) combine traffic on the same aircraft regardless of where such traffic originates; and
- (i) serve more than one point, within the Democratic Republic of Shelby, or within the Changretta Federation, on the same service (co-terminalisation).

4. Each Party shall allow each air carrier of the other Party to determine the frequency and capacity of the international air transport it offers based on commercial considerations in the marketplace. Consistent with this right, neither Party shall unilaterally limit the volume of traffic, frequency or regularity of service, routing, origin or destination of traffic, or the aircraft type or types operated by the air carriers of the other Party, except for customs, technical, operational, air traffic management safety, environmental or health protection reasons or unless otherwise provided for in this Agreement.

Article 3

Operating authorisation

1. On receipt of an application for an operating authorisation from an air carrier of a Party, the competent authorities of the other Party shall grant the appropriate operating authorisations and technical permissions with minimum procedural delay, provided that:

(a) for an air carrier of the Democratic Republic of Shelby:

(i) the air carrier has its principal place of business in the Democratic Republic of Shelby, and holds a valid operating licence in accordance with the law of the Democratic Republic of Shelby;

(ii) effective regulatory control of the air carrier is exercised and maintained by the Democratic Republic of Shelby; and

(iii) the air carrier is owned, directly or through majority ownership, and it is effectively controlled by the Democratic Republic of Shelby and/or its nationals;

(b) for an air carrier of the Changretta Federation:

(i) the air carrier has its principal place of business in the Changretta Federation, and holds a valid operating licence in accordance with the law of the Changretta Federation;

(ii) effective regulatory control of the air carrier is exercised and maintained by the Changretta Federation; and

(iii) the air carrier is owned, directly or through majority ownership, and it is effectively controlled by the Changretta Federation and/or its nationals;

(c) Articles 8 and 9 of the Agreement are complied with; and

(d) the air carrier meets the conditions prescribed under the laws and regulations normally applied to the operation of international air transport by the Party considering the application.

2. When granting operating authorisations and technical permissions, each Party shall treat all carriers of the other Party in a non-discriminatory manner.

3. On receipt of an application for an operating authorisation from an air carrier of a Party, the other Party shall recognise any fitness and/or citizenship determination made by the first Party with respect to that air carrier as if such determination had been made by its own competent authorities, and shall not enquire further into such matters. For the avoidance of doubt, this paragraph does not cover recognition of determinations in relation to safety certificates or licences, security arrangements, or insurance coverage.

Article 4

Liberalisation of ownership and control

The Parties recognise the potential benefits of the progressive liberalisation of ownership and control of their respective air carriers. The Parties agree to explore in the Joint Committee, at an

opportune juncture, the reciprocal liberalisation of ownership and control of air carriers. As a result of this examination, the Joint Committee may recommend amendments to this Agreement.

Article 5

Compliance with laws and regulations

1. While entering, within, or leaving the territory of one Party, the laws and regulations of that Party relating to the admission to, operating within, or departure from its territory of aircraft engaged in international air transport shall be complied with by the air carriers of the other Party.

2. While entering, within, or leaving the territory of one Party, the laws and regulations of that Party relating to the admission to, operating within, or departure from its territory of passengers, crew, baggage, cargo and/or mail on aircraft (including regulations relating to entry, clearance, immigration, passports, customs and quarantine, or, in the case of mail, postal regulations) shall be complied with by, or on behalf of, such passengers, crew, baggage, cargo and/or mail of the air carriers of the other Party.

3. The Parties shall permit, in their respective territory, the air carriers of the other Party to take measures to ensure that only persons with the travel documents required for entry into or transit through the territory of the other Party are carried.

Article 6

Fair competition

1. The Parties agree that their air carriers shall enjoy fair and equal opportunities to compete in the provision of air transport services.

2. The Parties shall prohibit, and where they exist, eliminate, within their respective jurisdictions and using their respective internal procedures and processes, any forms of discrimination or unfair practices which would adversely affect the fair and equal opportunity of the air carriers of the other Party to compete in providing air transport services.

3. If a Party, that is, “the acting Party”, considers that its carriers’ fair and equal opportunities to compete are adversely affected by discrimination or unfair practices prohibited under paragraph 2, it may proceed to submit a written request for consultations to the other Party, accompanied by a written report with its observations and material evidence, following the procedure of Article 11 of this Agreement.

4. If the acting Party and the other Party fail to reach an agreement on the matter within sixty (60) days from the commencement of the consultations, the acting Party may take measures against the

air carriers which have engaged in the contested conduct or which have benefitted from the discrimination or unfair practices in question. The acting Party shall notify the other Party, in writing, of the measures to be taken at least fifteen (15) days before the implementation of any such measure.

5. The measures taken pursuant to the preceding paragraph shall be appropriate, proportionate and restricted in their scope and duration to what is strictly necessary, with a view to mitigating the injury to the carriers of the acting Party and removing the undue advantage gained by the carriers against which they are directed.

6. Any actions and measures taken pursuant to paragraph 6 shall be without prejudice to the right of either Party to refer to the dispute settlement procedure laid down in Article 14.

Article 7 **Fares and rates**

1. The Parties shall permit fares and rates to be freely established by the air carriers of the Parties on the basis of free and fair competition.

2. Either Party may require, on a non-discriminatory basis, notification to its competent authorities of fares and rates offered for services originating from its territory by air carriers of both Parties on a simplified basis and for information purposes only. Such notification by the air carriers may be required to be made no earlier than the initial offering of a fare or a rate.

Article 8 **Aviation safety**

1. The Parties reaffirm the importance of close cooperation in the field of aviation safety. In that context, the Parties shall, as appropriate, engage in further cooperation in relation to accident investigation, regulatory development, the exchange of safety information, the possible participation in each other's oversight activities or conducting joint oversight activities and the development of joint projects and initiatives.

2. Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Party and still in force shall be recognised as valid by the other Party and its aeronautical authorities for the purpose of operating air services, provided that such certificates or licences were issued or rendered valid pursuant to, and in conformity with, as a minimum, the relevant international standards and recommended practices and procedures for air navigation services established under the Convention.

3. Each Party may request consultations at any time concerning the safety standards and requirements maintained and administered by the other Party in areas relating to aeronautical facilities, flight crew, aircraft and the operation of aircraft. Such consultations shall take place within 30 days of the request.

4. If, following such consultations, the requesting Party finds that the other Party does not effectively maintain and administer safety standards and requirements in the areas referred to in paragraph 3 that, unless otherwise decided, are at least equal to the minimum standards established pursuant to the Convention, the other Party shall be notified of such findings. The other Party shall submit a corrective action plan within 30 days which will include a timeline for implementation. The corrective action plan and the corresponding timeline shall be agreed by the Parties before being implemented. Failure by the other Party to take appropriate corrective action within a reasonable period of time shall constitute grounds for the requesting Party to refuse, revoke, suspend, impose conditions on or limit the operating authorisations or technical permissions or to otherwise refuse, revoke, suspend, impose conditions on or limit the operations of an air carrier which is under the safety oversight of the other Party.

5. Each Party accepts that any aircraft operated by, or on behalf of, an air carrier of a Party may, while within the territory of the other Party, be the subject of a ramp inspection by the competent authorities of the other Party to verify the validity of the relevant aircraft documents and those of its crew members and the apparent condition of the aircraft and its equipment, provided that such examination does not cause an unreasonable delay in the operation of the aircraft.

6. If a Party, after carrying out a ramp inspection, finds that an aircraft or the operation of an aircraft does not comply with the minimum standards and procedures for air navigation services established pursuant to the Convention, that Party shall notify the aircraft operator of such lack of compliance while requesting corrective action as deemed appropriate. Whenever appropriate, the competent authorities of the other Party that are responsible for the safety oversight of the air carrier operating the aircraft may be requested to give their acceptance of the corrective action taken by the aircraft operator. Notwithstanding this, each Party will allow access to the results of ramp inspections performed on aircraft operators which are under the safety oversight of the other Party.

7. Each Party shall have the right to take immediate action including the right to revoke, suspend or limit the operating authorisations or technical permissions or to otherwise suspend or limit the operations of an air carrier of the other Party, if it concludes that it is necessary in view of an immediate threat to aviation safety. The Party taking such measures shall promptly inform the other Party, providing reasons for its action.

8. Any action by a Party in accordance with paragraphs 4, 6 or 7 shall be necessary and proportionate to address a safety finding and shall be discontinued once the basis for the taking of that action ceases to exist.

Article 9

Aviation security

1. The Parties underline their commitment to achieving the highest levels of aviation security standards and may, as appropriate, engage in further dialogue and cooperation in this field.

2. The Parties reaffirm their obligations to each other to provide for the security of civil aviation against acts of unlawful interference, and in particular their obligations under the Convention, 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, The Convention on the Suppression of Unlawful Acts relating to International Civil Aviation, signed at Beijing on 10 September 2010, insofar as the Parties are parties to these conventions, as well as all other conventions and protocols relating to civil aviation security to which the Parties are parties.

3. The Parties shall provide upon request all necessary assistance to each other to address any threat to the security of civil aviation, including the prevention of acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, of their passengers and crew, airports and air navigation facilities, and any other threat to the security of civil aviation.

4. The Parties shall, in their mutual relations, act in conformity with the international aviation security standards and appropriate recommended practices established by the ICAO. They shall require that operators of aircraft of their registries, 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, at least, in conformity with such aviation security provisions.

5. Each Party shall ensure that effective measures are taken within its territory to protect civil aviation against acts of unlawful interference, including, but not limited to, screening of passengers and their cabin baggage, screening of hold baggage, screening and security controls for persons other than passengers, including crew, and their items carried, screening and security controls for cargo, mail, in-flight and airport supplies, and access control to airside and security restricted areas. Those measures shall be adjusted to meet increases in the threat to the security of civil aviation. Each Party agrees that the security provisions required by the other Party relating to the admission to, operating within, or departure from its territory of aircraft must be observed.

6. With full regard and mutual respect for each other's sovereignty, a Party may adopt security measures for entry into its territory, as well as emergency measures, in order to meet a specific security threat, which should be communicated to the other Party without delay. Each Party shall give positive consideration to any request from the other Party for reasonable special security measures, and the first Party shall take into account the security measures already applied by the other Party and any views that the other Party may offer as well as the possible adverse effects on air transport between the Parties. Except where not reasonably possible in case of emergency, each Party will inform the other Party in advance of any special security measures it intends to introduce which could have a significant financial or operational impact on the air transport services provided under this Agreement.

7. Each Party recognises, however, that nothing in this Article limits the ability of a Party to refuse entry into its territory of any flight or flights that it deems to present a threat to its security.

8. When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of aircraft, passengers, crew, airports or air navigation facilities occurs, the Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat.

9. Each Party shall take all measures it finds practicable to ensure that an aircraft subjected to an act of unlawful seizure or other acts of unlawful interference which is on the ground in its territory is detained on the ground unless its departure is necessitated by the overriding duty to protect human life. Where practicable, such measures shall be taken on the basis of mutual consultations.

10. When a Party has reasonable grounds to believe that the other Party has departed from the provisions of this Article, that Party may request immediate consultations with the other Party. Such consultations shall start within 30 days of the date of receipt of such a request or such longer period as may be agreed. Failure to reach a satisfactory agreement within 30 days of the starting date of such consultations, or a longer period as may be agreed, shall constitute grounds for the Party that requested the consultations to take action to refuse, revoke, suspend, impose conditions on or limit the operating authorisation and technical permissions of an air carrier of the other Party to ensure compliance with the provisions of this Article. When required by an emergency, or to prevent further non-compliance with the provisions of this Article, a Party may take immediate interim action.

11. Any action taken in accordance with this Article shall be necessary and proportionate to address a security threat and shall be discontinued upon compliance by the other Party with the provisions of this Article or when such action is no longer necessary.

Article 10

Air traffic management

1. The Parties shall cooperate on regulatory matters concerning air navigation services, including the oversight of such services. They shall address any policy issues relating to the performance of air traffic management, with a view to optimising overall flight efficiency, reducing costs, minimising environmental impact and enhancing the safety and capacity of the systems.
2. The Parties shall encourage their competent authorities and air navigation service providers to cooperate on interoperability issues to further integrate both Parties' systems where possible, to reduce the environmental impact of aviation, and to share information where appropriate.
3. The Parties shall promote cooperation between their air navigation service providers in order to exchange flight data and coordinate traffic flows to optimise flight efficiency, with a view to improving the use of resources and achieving predictability, punctuality and service continuity.
4. The Parties agree to cooperate on modernisation programmes, including development, deployment and best practices for economic efficiency, air traffic management and relevant aerodrome aspects, and to encourage cross-participation in validation and demonstration activities.

Article 11

Air carrier liability

The Parties reaffirm their obligations under the Convention for the Unification of Certain Rules for International Carriage by Air, done at Montreal on 28 May 1999 (the Montreal Convention).

Article 12

Consumer protection

The Parties shall cooperate to protect the interests of consumers in air transport. The objective of this cooperation shall be to achieve a high level of consumer protection. To this end, the Parties shall consult each other in the Joint Committee on matters of consumer interest, including their planned measures, with a view to achieving increased regulatory convergence and compatibility to the extent possible.

Article 13

Interpretation and implementation

1. The rights laid down in this Agreement are granted by the Parties to one another. Any reference in this Agreement to rights granted to the air carriers of a Party shall be construed only as a

reference to rights granted to that Party. Nothing in this Agreement shall be construed as intended to confer rights or to impose obligations which can be directly invoked by nationals of one Party before the courts or tribunals of the other Party.

2. The Parties shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Agreement.

3. In exercising their rights under this Agreement, the Parties shall take measures which are appropriate and proportionate to the objectives of those measures.

4. The Parties shall refrain from any measures which would jeopardise the attainment of the objectives of this Agreement.

5. Each Party shall be responsible, in its own territory, for the proper enforcement of this Agreement.

Article 14 **Dispute resolution**

1. Where either Party has concerns about possible infringement of this Agreement, it may request consultations and negotiations with the other Party.

2. Any dispute relating to the application or interpretation of this Agreement, may be referred by the Parties to the dispute settlement mechanism provided for in this Article.

3. If a Party has taken action to refuse, revoke, suspend, impose conditions on or limit the operating authorisation or technical permissions of an air carrier of the other Party, the dispute may be immediately referred to the International Court of Justice for decision.

Article 15 **Amendments**

1. Either Party may at any time request consultation with the other Party for the purpose of amending the present Agreement. Such consultation shall begin within a period of sixty (60) days from the date of receipt of such request.

2. Any amendment shall enter into force when confirmed by an exchange of diplomatic notes.

Article 16 **Termination**

Either Party may, at any time, give notice in writing, through diplomatic channels, to the other Party of its decision to terminate this Agreement. Such notice shall be sent simultaneously to the ICAO and to the United Nations Secretariat. This Agreement shall terminate at midnight GMT at the end of the International Air Transport Association (IATA) traffic season in effect one year following the date of written notice of termination, unless the notice is withdrawn by agreement of the Parties before the end of this period.

Article 17
Registration of the Agreement

This Agreement and any amendments thereto shall be registered with the ICAO, in accordance with Article 83 of the Convention, and with the United Nations Secretariat, in accordance with Article 102 of the Charter of the United Nations.

Article 18
Entry into force

This Agreement shall enter into force one (1) month after the date of the later note in an exchange of diplomatic notes between the Parties.

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