



March  
12/2019  
12/3/2019

**AIR SERVICES AGREEMENT**  
**BETWEEN**  
**THE GOVERNMENT OF THE REPUBLIC OF FINLAND**  
**AND**  
**THE GOVERNMENT OF THE**  
**REPUBLIC OF KENYA**

PARLIAMENT  
OF KENYA  
LIBRARY





The Government of the Republic of Finland and the Government of the Republic of Kenya (hereinafter referred to as the "Contracting Parties");

Being Parties to the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944;

Desiring to promote their mutual relations in the field of civil aviation and to conclude an agreement for the purpose of establishing air services between and beyond their respective territories;

Desiring to promote an international aviation system based on competition among airlines in the marketplace with minimum government interference and regulation;

Desiring to facilitate the expansion of international air service opportunities;

Desiring to ensure the highest degree of safety and security in international air services and reaffirming their grave concern about acts or threats against the security of aircraft, which jeopardize the safety of persons or property, adversely affect the operation of air services and undermine public confidence in the safety of civil aviation;

Desiring to make it possible for airlines to offer the travelling and shipping public a variety of service options and wishing to encourage individual airlines to develop and implement innovative and competitive prices;

Have agreed as follows:

### **Article 1** *Definitions*

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

1. "Aeronautical authorities" means, in the case of the Republic of Finland, the Civil Aviation Authority, and in the case of the Republic of Kenya, the Cabinet Secretary in charge of civil aviation and any person or body authorised to perform any functions at present exercised by the said aeronautical authorities or similar functions;
2. "Agreement" means this Agreement, its Annex, and any amendments to the Agreement or to the Annex;
3. "Convention" means the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944, and includes: any amendment that has entered into force under Article 94(a) of the Convention and has been ratified by both Contracting Parties, and any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as such Annex or amendment is at any given time effective for both Contracting Parties;



4. "Designated airline" means an airline designated and authorised in accordance with Article 3 of this Agreement;
5. "Price" means any fare, rate or charge for the carriage of passengers (and their baggage) and/or cargo (excluding mail) in air service including surface transportation in connection with international air transportation, if applicable, charged by airlines, including their agents, and the conditions governing the availability of such fare, rate or charge;
6. "Territory", "air service", "international air service", "airline" and "stop for non-traffic purposes" have the meaning specified in Articles 2 and 96 of the Convention;
7. "User charges" means a charge imposed on airlines for the provision of airport, air navigation or aviation security facilities or services including related services and facilities; and
8. "EU Treaties" means the Treaty on European Union and the Treaty on the Functioning of the European Union.

## **Article 2** *Grant of Rights*

- (1) Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the purpose of operating international air services by a designated airline or airlines (hereinafter called "agreed services") over the routes specified in the appropriate section of the Annex (hereinafter called "specified routes").
- (2) Subject to the provisions of this Agreement the designated airline(s) of each Contracting Party shall enjoy the following rights:
  - (a) right to fly without landing across the territory of the other Contracting Party;
  - (b) right to make stops in the territory of the other Contracting Party for non-traffic purposes;
  - (c) right to make stops at the point(s) on the route(s) specified in the Annex to this Agreement for the purpose of taking on board and discharging international traffic in passengers, baggage, cargo and mail separately or in combination for remuneration or hire.
- (3) The airlines of each Contracting Party, other than those designated under Article 3 of this Agreement, shall also enjoy the rights specified in paragraph (2) (a) and (b) of this Article.



(4) Nothing in paragraph (2) of this Article shall be deemed to confer on the designated airline(s) of one Contracting Party the right of taking on, in the territory of the other Contracting Party, passengers, baggage and cargo including mail carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

### Article 3

#### *Designation and Authorisation*

1. Each Contracting Party shall have the right to designate an airline or airlines for the purpose of operating the agreed services and to withdraw or alter such designations. Such designations shall be made in writing and transmitted to the other Contracting Party through diplomatic channels.
2. On receipt of such a designation and of applications from the designated airline, in the form and manner prescribed for operating authorisations and technical permissions, the other Contracting Party shall grant the appropriate authorisations and permissions with minimum procedural delay, provided:
  - a) in the case of an airline designated by the Republic of Finland:
    - (i) it is established in the territory of the Republic of Finland under the EU Treaties and has a valid Operating Licence 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 Certificate and the relevant aeronautical authority is clearly identified in the designation; and
    - (iii) the airline is owned, directly or through majority ownership, and it is effectively controlled by Member States of the EU or the European Free Trade Association and/or by nationals of such States.
  - b) in the case of an airline designated by the Kenya:
    - (i) it is established in the territory of the Kenya and is licensed in accordance with the applicable law of the Kenya, and
    - (ii) the Republic of Kenya has and maintains effective regulatory control of the airline;
    - (iii) the airline is owned, directly or through majority ownership, and it is effectively controlled by the Republic of Kenya and/or by its nationals.
  - c) the designated airline is qualified to meet the conditions prescribed under the laws and regulations normally applied to the operation of international air services by the Contracting Party considering the application or applications.



3. When an airline has been so designated and authorised it may begin at any time to operate the agreed services, provided that the airline complies with all applicable provisions of the Agreement.

#### **Article 4**

##### *Revocation of Authorisation*

1. Either Contracting Party may revoke, suspend or limit the operating authorisation or technical permissions of an airline designated by the other Contracting Party where:

- a) in the case of an airline designated by the Republic of Finland:
  - (i) it is not established in the territory of the Republic of Finland under the EU Treaties or does not have a valid Operating Licence 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 Certificate, or the relevant aeronautical authority is not clearly identified in the designation;
  - (iii) the airline is not owned, directly or through majority ownership, or it is not effectively controlled by Member State of the European Union or the European Free Trade Association and/or by nationals of such states.
- b) in the case of an airline designated by the Republic of Kenya:
  - (i) it is not established in the territory of the Republic of Kenya and is not licensed in accordance with the applicable law of the Republic of Kenya; or
  - (ii) the Republic of Kenya is not maintaining effective regulatory control of the airline; or
  - (iii) the airline is not owned, directly or through majority ownership, and it is not effectively controlled by the Republic of Kenya and/or by its nationals.
- c) that airline has failed to comply with the laws and regulations referred to in Article 5 of this Agreement.

2. Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph 1 of this Article is essential to prevent further infringements of laws and/or regulations, such right shall be exercised only after consultations with the aeronautical authorities of the other Contracting Party. Such consultations shall begin within a period of fifteen (15) days from the date of a request for consultations or as otherwise agreed between the Contracting Parties.



## **Article 5**

### *Application of Laws and Regulations*

1. The laws and regulations of one Contracting Party governing entry into, or departure from its territory of aircraft engaged in international air services or to the operation and navigation of such aircraft while within the said territory shall apply to the designated airline(s) of the other Contracting Party.
2. The laws and regulations of one Contracting Party governing entry to, stay in or departure from its territory of passengers, crew, cargo or mail, such as formalities regarding entry, exit, emigration and immigration, customs, health and quarantine shall apply to passengers, crew, cargo and mail carried by the aircraft of the designated airline(s) of the other Contracting Party, while they are within the said territory.
3. Passengers, baggage and cargo in direct transit across the territory of either Contracting Party and not leaving the area of the airport reserved for such purposes shall, except in respect of security measures against acts of violence, smuggling of narcotics and air piracy, be subject to no more than a simplified control.
4. Neither Contracting Party shall give preference to its own or any other airline over a designated airline of the other Contracting Party engaged in similar international air services in the application of its immigration, customs, quarantine and similar regulations.

## **Article 6**

### *Exemption from Taxes, Customs Duties and other Charges*

1. Aircraft operated on international air services by a designated airline of one Contracting Party, as well as their regular equipment, spare parts, supplies of fuel and lubricants, aircraft stores (including food, beverages and tobacco) on board such aircraft shall be exempted from all taxes, customs duties, inspection fees and other similar charges on arriving in the territory of the other Contracting Party, provided such equipment, spare parts, supplies and stores remain on board the aircraft up to such time as they are re-exported or are used or consumed by such aircraft on flights over that territory.
2. There shall also be exempt from the taxes, duties, fees and charges referred to in paragraph 1 of this Article, with the exception of charges based on the cost of the service provided:
  - a) aircraft stores taken on board in the territory of one Contracting Party, within reasonable limits, for use on an outbound aircraft engaged in an international air service of a designated airline of the other Contracting Party;
  - b) spare parts, including engines, introduced into the territory of one Contracting



Party for the maintenance or repair of aircraft engaged in an international air service of a designated airline of the other Contracting Party;

c) fuel, lubricants and consumable technical supplies introduced into or supplied in the territory of one Contracting Party for use in an international air service of a designated airline of the other Contracting Party, even when these supplies are to be used on the part of the journey performed over the territory of the first mentioned Contracting Party, in which territory they are taken on board.

d) airline documents, such as tickets and air waybills, as well as publicity and promotional material within reasonable limits, intended for use by a designated airline of one Contracting Party and introduced into the territory of the other Contracting Party.

3. Materials referred to in paragraph 2 of this Article may be required to be kept under customs supervision or control.

4. The regular airborne equipment, as well as the materials, supplies and spare parts normally retained on board aircraft operated by a designated airline of one 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. In such case, they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.

5. Baggage and cargo in direct transit across the territory of a Contracting Party shall be exempt from taxes, customs duties, fees and other similar charges not based on the cost of services on arrival or departure.

6. The exemptions provided by this Article shall also be available where the designated airlines of one Contracting Party have contracted with another airline, which similarly enjoys such exemptions from the other Contracting Party, for the loan or transfer in the territory of the other Contracting Party of the items specified in paragraphs 1 and 2 of this Article.

7. Nothing in this Agreement shall prevent the Republic of Finland 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 air carrier of the Republic of Kenya that operates between a point in the territory of the Republic of Finland and another point in the territory of the Republic of Finland or in the territory of another European Union Member State.



**Article 7**  
*Capacity provisions*

1. There shall be fair and equal opportunity for the designated airlines of each Contracting Party to operate air services on any route specified in the Annex to this Agreement.
2. In operating the agreed services the designated airlines of each Contracting Party shall take into account the interests 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 routes.
3. The agreed services provided by the designated airlines of the Contracting Parties shall bear a close relationship to the requirements of the public for transportation on the specified routes and shall have as their primary objective the provision, at a reasonable load factor, of capacity adequate to carry the current and reasonably anticipated requirements for the carriage of passengers and cargo, including mail, coming from or destined for the territory of the Contracting Party designating the airline. Provision of the carriage of passengers and cargo, including mail, both taken on board and discharged at points on the specified routes in the territories of States, other than that designating the airline shall be made in accordance with the general principles that capacity shall be related to:
  - (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 agreed service passes, after taking account of other services established by airlines of the states comprising the area; and
  - (c) the requirements of through airline operation.

**Article 8**  
*Pricing*

1. Each Contracting Party shall allow prices 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 prices or practices;
  - b) protection of consumers from prices that are unreasonably high or restrictive due to the abuse of a dominant position; and
  - c) protection of airlines from prices that are artificially low due to direct or indirect governmental subsidy or support.



2. Prices 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 prices 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 prices 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 price 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 price 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 price 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 price shall continue in effect.

## Article 9

### *Airline Representation and Sales*

1. The designated airline(s) of each Contracting Party shall have the right to freely establish and maintain in the territory of the other Contracting Party, within the scope of the laws and regulations in force therein, such offices and facilities, as well as administrative, commercial, technical, operational, and other specialist personnel as may be necessary for the requirements of the designated airline concerned.

2. The designated airlines of the Contracting Parties shall be free to sell air transport and related services on their own transportation documents in the territories of both Contracting Parties, either directly or, at the air carrier's discretion, through an agent, other intermediaries appointed by the air carrier or through the internet or any other available channel in local currency or in any freely convertible other currency. Each Contracting Party shall refrain from restricting the right of a designated airline of the other Contracting Party to sell, and of any person to purchase such transportation.

3. The designated airlines of each Contracting Party shall be permitted to pay for local expenses, including, but not limited to, purchases of fuel, in the territory of the other



Contracting Party in local currency. At their discretion, the designated airlines of each Contracting Party may pay for such expenses in the territory of the other Contracting Party in freely convertible currencies at the market rate of exchange.

3. Each Contracting Party shall grant to a designated airline of the other Contracting Party the right to convert into freely convertible currencies and remit at any time, in any way, to the country of its choice on demand local revenues in excess of sums locally disbursed. Such transfers shall be permitted on the date the carrier makes the initial application for remittance at the rate of exchange applicable to current transactions in effect at the time revenues are presented for conversion and remittance, and shall not, with the exception of normal banking charges and procedures, be subject to any charge, limitation or delay.

#### **Article 10** *Ground handling*

Each designated airline shall have the right to provide their own ground handling services in the territory of the other Contracting Party or otherwise to contract these services out, in full or in part, at its option, with any of the suppliers authorized for the provision of such services. Where or as long as the laws and regulations applicable to ground handling in the territory of one Contracting Party prevent or limit either the freedom to contract these services out or self-handling, 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 11** *User Charges*

1. User charges that may be imposed by the competent charging authorities or bodies of each Contracting Party on the designated airlines of the other Contracting Party shall be just, reasonable, not unjustly discriminatory, and equitably apportioned among categories of users. In any event, any such user charges shall be assessed on the designated 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.

2. User charges imposed on the designated airlines of the other Contracting Party may reflect, but shall not exceed, the full cost to the competent charging authorities or bodies of providing the appropriate airport, airport environmental, air navigation and aviation security facilities and services at the airport or within the airport system. Such full cost may include a reasonable return on assets after depreciation. Facilities and services for which charges are made shall be provided on an efficient and economic basis.

3. Each Contracting Party shall encourage consultations between the competent charging authorities or bodies in its territory and the airlines using the services and facilities, and shall encourage the competent charging authorities or bodies and the airlines 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 changes in user charges to enable users to express their views before changes are made.

4. Neither Contracting Party shall be held, in dispute resolution procedures pursuant to Article 16 of this Agreement, to be in breach of a provision of this Article, unless (i) it fails to undertake a review of the charge or practice that is the subject of complaint by the other Contracting Party within a reasonable amount of time; or (ii) following such a review it fails to take all steps within its power to remedy any charge or practice that is inconsistent with this Article.

## **Article 12** *Flight Safety*

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

2. If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards in the areas mentioned in paragraph 1 that meet the standards established at that time pursuant to the Convention, the other Contracting Party shall be informed of such findings and of the steps considered necessary to conform with those standards. The other Contracting Party shall then take appropriate corrective action within an agreed time period.

3. Pursuant to Article 16 of the Convention, it is further agreed that, any aircraft operated by, or on behalf of an airline of one Contracting Party, on service to or from the territory of the other Contracting Party, may, while within the territory of the other Contracting Party be the subject of a search by the authorised representatives of the other Contracting Party, provided that this does not cause unreasonable delay in the operation of the aircraft. Notwithstanding the obligations mentioned in Article 33 of the Convention, the purpose of this search is to verify the validity of the relevant aircraft documentation, the licensing of its crew, and that the aircraft equipment and the condition of the aircraft conform to the standards established at that time pursuant to the Convention.

4. When urgent action is essential to ensure the safety of an airline operation, each Contracting Party reserves the right to immediately suspend or vary the operating authorisation of an airline or airlines of the other Contracting Party.



5. Any action by one Contracting Party in accordance with paragraph 4 of this Article shall be discontinued once the basis for the taking of that action ceases to exist.
6. With reference to paragraph 2 above, if it is determined that a Contracting Party remains in non-compliance with the standards established at that time pursuant to the Convention when the agreed time period has lapsed, the Secretary General of the International Civil Aviation Organization should be advised thereof. The latter should also be advised of the subsequent satisfactory resolution of the situation.
7. Where one Contracting Party has designated an airline whose regulatory control is exercised and maintained by a third State, the rights of the other Contracting Party under this Article shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that third State and in respect of the operating authorisation of that airline.

### **Article 13** *Aviation Security*

1. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation to each other 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, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988, and the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991, as well as with any other agreement relating to the security of civil aviation which both Parties adhere to.
2. The Contracting Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, their passengers and crew, airports and air navigation facilities, and any other threat to the security of civil aviation.
3. The Contracting Parties shall, as a minimum, act in conformity with the aviation security provisions and technical requirements established by the International Civil Aviation Organization and designated as Annexes to the Convention to the extent that such security provisions and requirements are applicable to the Contracting Parties; they shall require that operators of aircraft of their registry or operators of aircraft who have their principal place of business or permanent residence in their territory or are established in the territory of the Republic of Finland under the EU Treaties and have received an operating licence in accordance with European Union law and the operators of airports in their territory act in conformity with such aviation security provisions.



4. Each Contracting Party agrees that such operators of aircraft shall be required to observe the aviation security provisions and requirements referred to in paragraph 3 above required by the other Contracting Party for entry into, departure from, or while within the territory of that other Contracting Party. For entry into, departure from, or while within the territory of the Republic of Finland, operators of aircraft shall be required to observe aviation security provisions in conformity with European Union law. 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 sympathetic consideration to any request from the other Contracting Party for reasonable special security measures 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 Contracting Party has departed from the aviation security provisions of this Article, the aeronautical authorities of that Contracting Party may request immediate consultations with the aeronautical authorities of the other Contracting Party. Failure to reach a satisfactory agreement within fifteen (15) days from the date of such request shall constitute grounds to withhold, revoke, limit, or impose conditions on the operating authorisation and technical permissions of an airline or airlines designated by that Contracting Party. When required by an emergency, a Contracting Party may take interim action prior to the expiry of fifteen (15) days. Any action taken in accordance with this paragraph shall be discontinued upon compliance by the other Contracting Party with the security provisions of this Article.

#### **Article 14**

##### *Intermodal Services*

Notwithstanding any other provision of this Agreement, designated airlines and indirect providers of cargo transportation of both Contracting Parties shall be permitted, without restriction, to employ in connection with international air services any surface transportation for cargo to or from any points in the territories of the Contracting Parties or in third countries, including transport to and from all airports with customs facilities, and including, where applicable, the right to transport cargo in bond under applicable laws and regulations. Such cargo, whether moving by surface or by air, shall have access to airport customs processing and facilities. Airlines may elect to perform their own surface transportation or to provide it through arrangements with other surface carriers, including surface transportation operated by other airlines and indirect providers of cargo air services. Such intermodal cargo services may be offered at a single, through price for the air and surface transportation combined, provided that shippers are not misled as to the facts concerning such transportation.

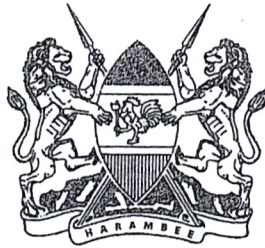


**Article 15**  
*Fair competition*

Each Contracting Party shall, where necessary, take all appropriate action within its jurisdiction to eliminate all forms of discrimination or unfair competitive practices adversely affecting the competitive position of the designated airline(s) of the other Contracting Party.

**Article 16**  
*Consultations and Settlement of Disputes*

1. In a spirit of close co-operation the aeronautical authorities of either Contracting Party may at any time request consultations related to the implementation, interpretation, application and satisfactory compliance with the provisions of this Agreement or compliance with this Agreement. Such consultations shall begin within a period of sixty (60) days from the date of the receipt of such a request, unless otherwise agreed between the aeronautical authorities.
2. Any dispute which cannot be resolved by consultations may, at the request of either Contracting Party be submitted to a mediator or a dispute settlement panel. Such a mediator or panel may be used for mediation, determination of the substance of the dispute or to recommend a remedy or resolution of the dispute.
3. The Contracting Parties shall agree in advance on the terms of reference of the mediator or of the panel, the guiding principles or criteria and the terms of access to the mediator or the panel. They shall also consider, if necessary, providing for an interim relief and the possibility for the participation of any Party that may be directly affected by the dispute, bearing in mind the objective and need for a simple, responsive and expeditious process.
4. A mediator or the members of a panel may be appointed from a roster of suitably qualified aviation experts maintained by the International Civil Aviation Organization (ICAO). The selection of the expert or experts shall be completed within fifteen (15) days of receipt of the request for submission to a mediator or to a panel. If the Contracting Parties fail to agree on the selection of an expert or experts, the selection may be referred to the President of the Council of ICAO. Any expert used for this mechanism should be adequately qualified in the general subject of the dispute.
5. A mediation should be completed within sixty (60) days of engagement of the mediator or the panel and any determination including, if applicable, any recommendation, should be rendered within sixty (60) days of engagement of the expert or experts. The Contracting Parties may agree in advance that the mediator or the panel may grant interim relief to the complainant, if requested, in which case a determination shall be made initially.
6. The Contracting Parties shall cooperate in good faith to advance the mediation and to implement the decision or determination of the mediator or the panel, unless they otherwise agree in advance to be bound by decision or determination. If the Contracting Parties agree in



advance to request only a determination of the facts, they shall use those facts for resolution of the dispute.

7. The costs of this mechanism shall be estimated upon initiation and apportioned equally, but with the possibility of re-apportionment under the final decision.

8. The mechanism is without prejudice to the continuing use of the consultation process, the subsequent use of arbitration, or termination of the Agreement under Article 19.

#### **Article 17** *Amendments*

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 shall begin within a period of sixty (60) days from the date of the request, unless both Contracting Parties agree to an extension of this period. Any modification agreed in such consultations shall be approved by each Contracting Party in accordance with its legal procedures and shall enter into force on the first day of the second month after the Contracting Parties have notified each other through diplomatic channels that these procedures have been complied with.

2. Notwithstanding the provisions of paragraph 1 of this Article, amendments relating only to the Annex may be agreed upon between the aeronautical authorities of the Contracting Parties and shall become effective as agreed between them subject to the national laws and regulations of the Contracting Parties.

#### **Article 18** *Multilateral Conventions*

If any multilateral convention concerning air transportation enters into force in respect of both Contracting Parties, the provisions of such convention shall prevail. Consultations in accordance with Article 16 of this Agreement may be held with a view to determining the extent to which this Agreement is affected by the provisions of the said multilateral convention.

#### **Article 19** *Termination*

1. Either Contracting Party may at any time give notice to the other Contracting Party of its decision to terminate this Agreement. Such notice shall simultaneously be communicated to the International Civil Aviation Organization.



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

**Article 20**  
*Registration with ICAO*

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

**Article 21**  
*Entry into force*

This Agreement shall enter into force on the first day of the second month after the Contracting Parties have notified each other through diplomatic channels that the procedures necessary for the entry into force of this Agreement have been completed.

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

Done at Nairobi on this 14<sup>th</sup> day of December 2018 in two original copies in the English language.

For the Government of  
the Republic of Finland

For the Government of  
the Republic of Kenya



## ANNEX

### to the Air Services Agreement between the Government of the Republic of Finland and the Government of the Republic of Kenya

1. Routes which may be operated by the designated airlines of the Republic of Kenya, in both directions:

<u>Points of origin</u>	<u>Intermediate points</u>	<u>Points of Destination</u>	<u>Points beyond</u>
Nairobi and Mombasa	Any points	Any points in Finland	Any points

2. Routes which may be operated by the designated airlines of the Republic of Finland, in both directions:

<u>Points of origin</u>	<u>Intermediate points</u>	<u>Points of Destination</u>	<u>Points beyond</u>
Any points in Finland	Any points	Nairobi and Mombasa	Any points

3. The intermediate and beyond points to be operated by the designated airlines of the Contracting Parties have to be agreed upon directly between the aeronautical authorities of the two Contracting Parties.

4. The exercise of fifth freedom traffic rights on specified intermediate and/or beyond points shall be subject to agreement between the aeronautical authorities of the two Contracting Parties

5. Any designated airline of one Contracting Party may subject to the laws and regulations of the Contracting Party designating it, enter into co-operative marketing arrangements such as blocked-space or code sharing arrangements, with:

(a) An airline or airlines established in the territory of either Contracting Party,  
or

(b) An airline or airlines of a third Party. Should such third Party not authorise or allow comparable arrangements between the designated airlines of the other Contracting Party and other airlines on services to, from and via such third country, the Contracting Parties have the right not to accept such arrangements.

The above provisions are, however, subject to the condition that:

(a) operating airlines in such arrangements hold the appropriate traffic rights and

(b) all the airlines meet the requirements applied to such arrangements regarding information to customers and filing procedures.