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AGREEMENT

between the European Union and the Government of the Republic of Indonesia on certain aspects of air services

(OJ L 264, 8.10.2011, p. 2)

Corrected by:

► **C1** Corrigendum, OJ L 397, 26.11.2020, p. 29 (22011A1008(01))

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AGREEMENT

**between the European Union and the Government of the Republic
of Indonesia on certain aspects of air services**

THE EUROPEAN UNION hereinafter referred to as ‘the Union’

of the one part, and

THE GOVERNMENT OF THE REPUBLIC OF INDONESIA hereinafter
referred to as ‘Indonesia’

of the other part,

hereinafter referred to as ‘the Parties’,

NOTING that bilateral air service agreements have been concluded between
several Member States of the Union and Indonesia containing provisions
contrary to the law of the Union,

NOTING that the Union has exclusive competence with respect to several
aspects that may be included in bilateral air service agreements between
Member States of the Union and third countries,

NOTING that, under the law of the Union, Union air carriers established in a
Member State have the right to non-discriminatory access to air routes between
the Member States of the Union and third countries,

HAVING REGARD to the agreements between the Union and certain third
countries providing for the possibility for the nationals of such third countries
to acquire ownership in air carriers licensed in accordance with the law of the
Union,

RECOGNISING that certain provisions of the bilateral air service agreements
between Member States of the Union and Indonesia, which are contrary to Union
law, must be brought into conformity with it in order to establish a sound legal
basis for air services between the Union and Indonesia and to preserve the
continuity of such air services,

NOTING that under the law of the Union air carriers may not, in principle,
conclude agreements which may affect trade between Member States of the
Union and which have as their object or effect the prevention, restriction or
distortion of competition,

RECOGNISING that provisions in bilateral air service agreements concluded
between Member States of the Union and Indonesia which (i) require or
favour the adoption of agreements between undertakings, decisions by associ-
ations of undertakings or concerted practices that prevent, distort or restrict
competition between air carriers on the relevant routes; or (ii) reinforce the
effects of any such agreement, decision or concerted practice; or (iii) delegate
to air carriers or other private economic operators the responsibility for taking
measures that prevent, distort or restrict competition between air carriers on the
relevant routes, may render ineffective the competition rules applicable to
undertakings,

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NOTING that it is not a purpose of the Union, as part of this Agreement, to increase the total volume of air traffic between the Union and Indonesia, to affect the balance between Union air carriers and air carriers of Indonesia, or to negotiate amendments to the provisions of existing bilateral air service agreements concerning traffic rights,

HAVE AGREED AS FOLLOWS:

*Article 1***General provisions**

1. For the purposes of this Agreement, ‘Member States’ shall mean Member States of the Union and ‘EU Treaties’ shall mean the Treaty on European Union and the Treaty on the Functioning of the European Union.
2. References in each of the agreements listed in Annex 1 to nationals of the Member State that is a party to that agreement shall be understood as referring to nationals of the Member States of the Union.
3. References in each of the agreements listed in Annex 1 to air carriers or airlines of the Member State that is a party to that agreement shall be understood as referring to air carriers or airlines designated by that Member State.

*Article 2***Designation by a Member State**

1. The provisions in paragraphs 2 and 3 of this Article shall supersede the corresponding provisions in the Articles listed in Annex 2(a) and (b) respectively, in relation to the designation of an air carrier by the Member State concerned, its authorisations and permissions granted by Indonesia, and the refusal, revocation, suspension or limitation of the authorisations or permissions of the air carrier, respectively.
2. On receipt of a designation by a Member State, Indonesia shall grant the appropriate authorisations and permissions with minimum procedural delay, provided that:
 - (a) the air carrier is established in the territory of the designating Member State under the EU Treaties and has a valid Operating Licence in accordance with the law of the Union; and
 - (b) effective regulatory control of the air carrier is exercised and maintained by the Member State responsible for issuing its Air Operator’s Certificate and the relevant aeronautical authority is clearly identified in the designation; and
 - (c) the air carrier is owned, directly or through majority ownership, and it is effectively controlled by Member States and/or nationals of Member States, and/or by other states listed in Annex 3 and/or nationals of such other states.

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3. Indonesia may refuse, revoke, suspend or limit the authorisations or permissions of an air carrier designated by a Member State where:
- (a) the air carrier is not established in the territory of the designating Member State under the EU Treaties or does not have a valid Operating Licence in accordance with the law of the Union; or
 - (b) effective regulatory control of the air carrier is not exercised or not maintained by the Member State responsible for issuing its Air Operator's Certificate, or the relevant aeronautical authority is not clearly identified in the designation; or
 - (c) the air carrier is not owned, directly or through majority ownership, or it is not effectively controlled by Member States and/or nationals of Member States, and/or by other states listed in Annex 3 and/or nationals of such other states; or
 - (d) the air carrier is already authorised to operate under a bilateral agreement between Indonesia and another Member State and Indonesia can demonstrate that, by exercising traffic rights under this Agreement on a route that includes a point in that other Member State, it would be circumventing restrictions on the traffic rights imposed by that other agreement; or
 - (e) the air carrier designated holds an Air Operators Certificate issued by a Member State and there is no bilateral air services agreement between Indonesia and that Member State and that Member State has denied traffic rights to the air carrier designated by Indonesia.

In exercising its right under this paragraph, Indonesia shall not discriminate between Union air carriers on the grounds of nationality.

*Article 3***Safety**

1. The provisions in paragraph 2 of this Article shall complement the corresponding provisions in the articles listed in Annex 2(c).
2. Where a Member State has designated an air carrier whose regulatory control is exercised and maintained by another Member State, the rights of Indonesia under the safety provisions of the agreement between the Member State that has designated the air carrier and Indonesia shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other Member State and in respect of the operating authorisation of that air carrier.

*Article 4***Taxation of aviation fuel**

1. The provisions in paragraph 2 of this Article shall complement the corresponding provisions in the articles listed in Annex 2(d).

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2. Notwithstanding any other provision to the contrary, nothing in each of the agreements listed in Annex 2(d) shall prevent a Member State 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 Indonesia that operates between a point in the territory of that Member State and another point in the territory of that Member State or in the territory of another Member State.

*Article 5***Compatibility with competition rules**

1. Notwithstanding any other provision to the contrary, nothing in each of the agreements listed in Annex 1 shall (i) favour the adoption of agreements between undertakings, decisions by associations of undertakings or concerted practices that prevent, distort or restrict competition; (ii) reinforce the effects of any such agreement, decision or concerted practice; or (iii) delegate to private economic operators the responsibility for taking measures that prevent, distort or restrict competition.

2. The provisions contained in the agreements listed in Annex 1 that are incompatible with paragraph 1 of this Article shall not be applied.

*Article 6***Annexes to this Agreement**

The Annexes to this Agreement shall form an integral part thereof.

*Article 7***Revision or amendment**

The Parties may, at any time, revise or amend this Agreement by mutual consent.

*Article 8***Entry into force and provisional application**

1. This Agreement shall enter into force when the Parties have notified each other in writing that their respective internal procedures necessary for its entry into force have been completed.

2. Notwithstanding paragraph 1, the Parties agree to provisionally apply this Agreement from the first day of the month following the date on which the Parties have notified each other of the completion of the procedures necessary for this purpose.

3. This Agreement shall apply to all agreements and arrangements listed in Annex 1 including those that, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally.

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Article 9

Termination

1. In the event that an agreement listed in Annex 1 is terminated, all provisions of this Agreement that relate to the agreement listed in Annex 1 concerned shall terminate at the same time.

2. In the event that all agreements listed in Annex 1 are terminated, this Agreement shall terminate at the same time.

IN WITNESS WHEREOF, the undersigned, being duly authorised, have signed this Agreement.

Done at Brussels in duplicate, on this twenty-ninth day of June in the year two thousand and eleven, in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish, Swedish and Indonesian languages, all texts being equally authentic.

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За Европейския съюз
 Por la Unión Europea
 Za Evropskou unii
 For Den Europæiske Union
 Für die Europäische Union
 Euroopa Liidu nimel
 Για την Ευρωπαϊκή Ένωση
 For the European Union
 Pour l'Union européenne
 Per l'Unione europea
 Eiropas Savienības vārdā –
 Europos Sąjungos vardu
 Az Európai Unió részéről
 Għall-Unjoni Ewropea
 Voor de Europese Unie
 W imieniu Unii Europejskiej
 Pela União Europeia
 Pentru Uniunea Europeană
 Za Európsku úniu
 Za Evropsko unijo
 Euroopan unionin puolesta
 För Europeiska unionen
 Untuk Uni Eropa

За правителството на Република Индонезия
 Por el Gobierno de la República de Indonesia
 Za vládu Indonéské republiky
 For Republikken Indonesiens regering
 Für die Regierung der Republik Indonesien
 Indoneesia Vabariigi valitsuse nimel
 Για την Κυβέρνηση της Δημοκρατίας της Ινδονησίας
 For the Government of the Republic of Indonesia
 Pour le gouvernement de la République d'Indonésie
 Per il governo della Repubblica di Indonesia
 Indonēzijas Republikas valdības vārdā –
 Indonezijos Respublikos vyriausybės vardu
 Az Indonéz Köztársaság kormánya részéről
 Għall-Gvern tar-Repubblika tal-Indoneżja
 Voor de regering van de Republiek Indonesië
 W imieniu rządu Republiki Indonezji
 Pelo Governo da República da Indonésia
 Pentru Guvernul Republicii Indonezia
 Za vládu Indonézské republiky
 Za vladu Republike Indonezije
 Indonesian tasavallan hallituksen puolesta
 För Republiken Indonesiens regering
 Untuk Pemerintah Republik Indonesia



ANNEX I

List of agreements referred to in Article 1 of the Agreement

Air service agreements and other arrangements between the Republic of Indonesia and Member States of the European Union as modified or amended which, at the date of signature of the Agreement, have been concluded, signed or initialled:

- Air Transport Agreement between the Austrian Federal Government and the Government of the Republic of Indonesia relating to scheduled air transport, signed at Vienna on 19 March 1987, hereinafter referred to as the ‘Indonesia — Austria Agreement’ in Annex 2;

- Agreement between the Government of the Kingdom of Belgium and the Government of the Republic of Indonesia for air services between and beyond their territories, done at Djakarta on 12 March 1971, hereinafter referred to as the ‘Indonesia — Belgium Agreement’ in Annex 2;

- Air Transport Agreement between the Government of the Republic of Bulgaria and Government of the Republic of Indonesia for air services between and beyond their respective territories, done at Jakarta on 22 June 1992, hereinafter referred to as the ‘Indonesia — Bulgaria Agreement’ in Annex 2;

- Air Transport Agreement between the Government of the Czechoslovak Socialist Republic and the Government of the Republic of Indonesia, signed at Prague on 10 May 1972, hereinafter referred to as the ‘Indonesia — Czech Republic Agreement’ in Annex 2. Last modified by Exchange of letters done at Djakarta on 18 January 1986;

- Agreement between the Government of Denmark and the Government of the Republic of Indonesia for Air Services between their respective Territories, signed at Copenhagen on 23 June 1971, hereinafter referred to as the ‘Indonesia — Denmark Agreement’ in Annex 2;

- Air Services Agreement between the Government of the Republic of Finland and the Government of the Republic of Indonesia, signed at Djakarta on 7 November 1997, hereinafter referred to as the ‘Indonesia — Finland Agreement’ in Annex 2,

- Agreement between the Government of the French Republic and the Government of the Republic of Indonesia relating to air services between their respective territories and beyond, done at Djakarta on 24 November 1967, hereinafter referred to as the ‘Indonesia — France Agreement’ in Annex 2;

- Agreement between the Federal Republic of Germany and the Republic of Indonesia for Air Services between and beyond their respective Territories, signed at Djakarta on 4 December 1969, hereinafter referred to as the ‘Indonesia — Germany Agreement’ in Annex 2;

- Air Services Agreement between the Government of the Hellenic Republic and the Government of the Republic of Indonesia, done at Jakarta on 24 June 2008, hereinafter referred to as the ‘Indonesia — Greece Agreement’ in Annex 2,

- Air Transport Agreement between the Government of the Republic of Hungary and the Government of the Republic of Indonesia, signed at Djakarta on 20 September 1994, hereinafter referred to as the ‘Indonesia — Hungary Agreement’ in Annex 2,

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- Agreement between the Government of the Italian Republic and the Government of the Republic of Indonesia for air services between and beyond their respective Territories, signed at Djakarta on 7 December 1966, hereinafter referred to as the ‘Indonesia — Italy Agreement’ in Annex 2;
- Draft Agreement between the Government of the Grand Duchy of Luxembourg and the Government of the Republic of Indonesia on air services initialled in Denpasar on 15 March 2005, hereinafter referred to as the ‘Indonesia — Luxembourg Agreement’ in Annex 2,
- ►C1 Air Transport Agreement between the Government of the Kingdom of the Netherlands and the Government of the Republic of Indonesia, signed at The Hague on 23 November 1990, as modified by the Memorandum of Understanding done at The Hague on 19 August 2009, hereinafter referred to as the ‘Indonesia — Netherlands Agreement’ in Annex 2, ◀
- Air Transport Agreement between the Government of the Republic of Poland and the Republic of Indonesia relating to scheduled air transport, signed at Djakarta on 13 December 1991, hereinafter referred to as the ‘Indonesia — Poland Agreement’ in Annex 2,
- Air Services Agreement between the Government of Romania and the Government of the Republic of the Indonesia, signed at Jakarta on 7 September 1993, hereinafter referred to as the ‘Indonesia – Romania Agreement’ in Annex 2,
- Air Transport Agreement between the Government of the Slovak Republic and the Government of the Republic of Indonesia, initialled at Djakarta on 28 March 1995, hereinafter referred to as the ‘Indonesia — Slovakia Agreement’ in Annex 2,
- Air Transport Agreement between the Government of the Kingdom of Spain and the Government of the Republic of Indonesia relating to scheduled air services, done at Madrid on 5 October 1993, hereinafter referred to as the ‘Indonesia — Spain Agreement’ in Annex 2;
- Agreement between the Government of Sweden and the Government of the Republic of Indonesia for air services between their respective territories, signed at Copenhagen on 23 June 1971, hereinafter referred to as the ‘Indonesia — Sweden Agreement’ in Annex 2;
- Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic Indonesia for air services between and beyond their respective territories, signed at Jakarta on 28 June 1973, hereinafter referred to as the ‘Indonesia — UK Agreement’ in Annex 2.

▼B*ANNEX 2***List of articles in the agreements listed in Annex 1 and referred to in Articles 2 to 4 of the Agreement**

(a) Designation by a Member State:

Article 3 of the Indonesia — Austria Agreement;
 Article 3 of the Indonesia — Belgium Agreement;
 Article III of the Indonesia — Bulgaria Agreement;
 Article 3 of the Indonesia — Czech Republic Agreement;
 Article 3 of the Indonesia — Denmark Agreement;
 Article 3 of the Indonesia — Finland Agreement;
 Article 3 of the Indonesia — France Agreement;
 Article 3, paragraph 4, of the Indonesia — Germany Agreement;
 Article 3 of the Indonesia — Hungary Agreement;
 Article 3 of the Indonesia — Italy Agreement;
 Article III of the Indonesia — Luxembourg Agreement;
 Article 3 of the Indonesia — Netherlands Agreement;
 Article 3 of the Indonesia — Poland Agreement;
 Article 3 of the Indonesia — Romania Agreement;
 Article 3 of the Indonesia — Slovakia Agreement;
 Article III of the Indonesia — Spain Agreement;
 Article 3 of the Indonesia — Sweden Agreement;
 Article 3 of the Indonesia — UK Agreement.

(b) Refusal, revocation, suspension or limitation of authorisations or permissions:

Articles 3 and 4 of the Indonesia — Austria Agreement;
 Article 3 of the Indonesia — Belgium Agreement;
 Article IV of the Indonesia — Bulgaria Agreement;
 Article 3 of the Indonesia — Czech Republic Agreement;
 Article 3 of the Indonesia — Denmark Agreement;
 Articles 3 and 4 of the Indonesia — Finland Agreement;
 Article 3 of the Indonesia — France Agreement;
 Article 3, paragraph 6, of the Indonesia — Germany Agreement;
 Article 4 of the Indonesia — Hungary Agreement;
 Article 3 of the Indonesia — Italy Agreement;
 Article IV of the Indonesia — Luxembourg Agreement;

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Article 4 of the Indonesia — Netherlands Agreement;

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Articles 3 and 4 of the Indonesia — Poland Agreement;
 Article 4 of the Indonesia — Romania Agreement;
 Article 4 of the Indonesia — Slovakia Agreement;
 Articles III and IV of the Indonesia — Spain Agreement;
 Article 3 of the Indonesia — Sweden Agreement;
 Article 3 of the Indonesia — UK Agreement.

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(c) Safety:

- Articles 3 and 6 of the Indonesia — Austria Agreement;
- Article 3 of the Indonesia — Belgium Agreement;
- Article 3 of the Indonesia — Czech Republic Agreement;
- Article 3 of the Indonesia — Denmark Agreement;
- Article 16 of the Indonesia — Finland Agreement;
- Article 3 of the Indonesia — France Agreement;
- Annex 4 of the Agreed Minutes signed in Bonn on 4 June 2003 by delegations representing the aeronautical authorities of the Federal Republic of Germany and the Republic of Indonesia;
- Article 7 of the Indonesia — Greece Agreement;
- Article 16 of the Indonesia — Hungary Agreement;
- Article 3 of the Indonesia — Italy Agreement;
- Article VII of the Indonesia — Luxembourg Agreement;

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- Annex IV of the Memorandum of Understanding done at The Hague on 19 August 2009;

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- Article 6 of the Indonesia — Slovakia Agreement;
 - Article VI of the Indonesia — Spain Agreement;
 - Article 3 of the Indonesia — Sweden Agreement.
- (d) Taxation of aviation fuel:
- Article 7 of the Indonesia — Austria Agreement;
 - Article 4 of the Indonesia — Belgium Agreement;
 - Article VI of the Indonesia — Bulgaria Agreement;
 - Article 5 of the Indonesia — Czech Republic Agreement;
 - Article 4 of the Indonesia — Denmark Agreement;
 - Article 6 of the Indonesia — Finland Agreement;
 - Article 4 of the Indonesia — France Agreement;
 - Article 5 of the Indonesia — Germany Agreement;
 - Article 10 of the Indonesia — Greece Agreement;
 - Article 6 of the Indonesia — Hungary Agreement;
 - Article 4 of the Indonesia — Italy Agreement;
 - Article IX of the Indonesia — Luxembourg Agreement;
 - Article 10 of the Indonesia — Netherlands Agreement;
 - Article 6 of the Indonesia — Poland Agreement;
 - Article 9 of the Indonesia — Romania Agreement;
 - Article 8 of the Indonesia — Slovakia Agreement;
 - Article VIII of the Indonesia — Spain Agreement;
 - Article 4 of the Indonesia — Sweden Agreement;
 - Article 4 of the Indonesia — UK Agreement.

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ANNEX 3

List of other states referred to in Article 2 of the Agreement

- (a) The Republic of Iceland (under the Agreement on the European Economic Area);
- (b) The Principality of Liechtenstein (under the Agreement on the European Economic Area);
- (c) The Kingdom of Norway (under the Agreement on the European Economic Area);
- (d) The Swiss Confederation (under the Agreement between the European Community and the Swiss Confederation on Air Transport).