

## MEMORANDO DE ENTENDIMIENTO

entre las Autoridades Aeronáuticas de la República de Costa Rica y las  
Autoridades Aeronáuticas de la República Francesa

Delegaciones que representan a las Autoridades Aeronáuticas de la República de Costa Rica y las Autoridades Aeronáuticas de la República Francesa se reunieron en San José, Costa Rica, los días 13 y 14 de octubre del 2016 para tratar asuntos de interés común relacionados con los servicios aéreos entre los dos Estados.

La lista de las dos delegaciones se adjunta como Anexo I.

Las discusiones se llevaron a cabo en un ambiente agradable y cordial que caracteriza la relación entre los dos países.

Ambas delegaciones acordaron lo siguiente:

### **1. Nuevo Acuerdo Bilateral de Servicios Aéreos**

Las dos delegaciones discutieron el borrador del Acuerdo de Servicios Aéreos entre los Gobiernos de los dos Estados. Este Acuerdo se adjunta como Anexo II del presente Memorando de Entendimiento. Las dos delegaciones acordaron recomendar a sus respectivos Gobiernos acelerar la firma del Proyecto de Acuerdo de Servicios Aéreos.

En ausencia de un Convenio Fiscal Bilateral entre Costa Rica y Francia, la delegación francesa presentó una propuesta, que cumple con las recomendaciones de la Organización de Aviación Civil Internacional y las cláusulas estándar de la Organización para la Cooperación y Desarrollo Económico, con el fin de evitar la doble imposición sobre los beneficios de transporte aéreo y las ganancias de las compañías aéreas designadas de cada Parte. Esta propuesta se establece en el párrafo 2 del artículo 1, "DEFINICIONES", el artículo 13 A "GANANCIAS Y BENEFICIOS DEL TRANSPORTE AÉREO " y el párrafo 8 del artículo 23 "SOLUCIÓN DE CONTROVERSIAS" del borrador de Acuerdo de Servicios Aéreos, que se adjunta como Anexo II del presente Memorando de Entendimiento.

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La delegación costarricense no aceptó esta propuesta y manifestó su voluntad para que se negocie un Convenio Bilateral entre Costa Rica y Francia, para evitar la doble imposición.

A la espera de la firma y la entrada en vigor de dicho Acuerdo, las dos delegaciones acordaron actuar de conformidad con las disposiciones operativas del mismo, incluyendo su anexo, dentro de sus respectivas normas y reglamentos aplicables, bajo el principio de reciprocidad.

## **2. Designación de aerolíneas**

En referencia a las disposiciones del artículo 3 del Acuerdo adjunto como Anexo II, las dos delegaciones acordaron designar a una única compañía aérea, por cada Parte, con el fin de explotar los servicios convenidos en las rutas especificadas.

Cualquiera de las Partes pueden solicitar una revisión de este punto, en función del crecimiento de la demanda de servicios aéreo, entre Costa Rica y Francia.

Con el fin de explotar los servicios convenidos en las rutas especificadas, la delegación francesa confirmó la designación de Air France.

## **3. Derechos de capacidad**

Las dos delegaciones acordaron que la línea aérea designada de cada Parte tendrá derecho a explotar los servicios convenidos en las rutas especificadas, con un máximo de siete (7) frecuencias semanales, con cualquier tipo de aeronave.

Las dos delegaciones confirmaron que su objetivo común es aumentar aún más los derechos de capacidad, con el fin de reflejar la creciente demanda de servicios aéreos entre Costa Rica y Francia.

## **4. Disposiciones finales**

Las dos delegaciones acordaron que sus respectivas Autoridades Aeronáuticas deben implementar y cumplir con las disposiciones del presente Memorando de Entendimiento, para la gestión de los servicios aéreos entre sus dos Estados a partir de la fecha de su firma.

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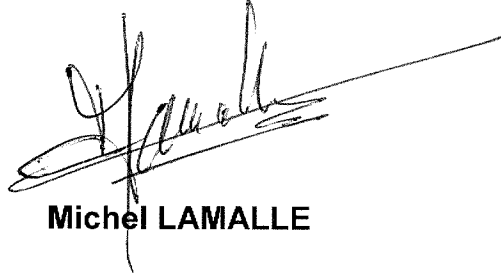
Hecho en San José, Costa Rica el 14 de octubre del 2016, en dos ejemplares originales, cada uno en idioma español y francés, ambos textos legítimamente auténticos.

Jefe de Delegación de Costa Rica

Jefe de Delegación de Francia



**Eduardo MONTERO GONZALEZ**



**Michel LAMALLE**

**Lista de Delegación de Costa Rica**

Eduardo Montero González  
**Jefe de Delegación**  
Vice Presidente del Consejo Técnico

**Delegados**

William Rodríguez López  
Director Consejo Técnico

Enio Cubillo Araya  
Director General DGAC

Gianella Baltodano Andujo  
Subdirectora General

Oscar Monge Castro  
Jefe Tratados Internacionales Ministerio de  
Relaciones Exteriores y Culto

**Lista de Delegación Francesa**

Michel LAMALLE  
**Jefe de la Delegación**  
Director Adjunto para las aerolíneas y los servicios aéreos  
Dirección General de Aviación Civil Francesa

**Delegados**

Dominique GRASS  
Experto en Acuerdos Bilaterales de Transporte Aéreo  
Dirección General de Aviación Civil Francesa

Stéphane TOULET  
Primer Consejero  
Embajada de Francia en Costa Rica

**Observador**

Pierre GENOLINI  
Asuntos Internacionales  
Air France

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**AGREEMENT BETWEEN**  
**THE GOVERNMENT OF THE FRENCH REPUBLIC**  
**AND**  
**THE GOVERNMENT OF THE REPUBLIC OF COSTA**  
**RICA**  
**RELATING TO AIR SERVICES**

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The Government of the French Republic and the Government of the Republic of Costa Rica (hereinafter referred to as "the Contracting Parties"),

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on December 7, 1944 and,

Desiring to conclude an Agreement complementary to the said Convention for the purpose of establishing air services between and beyond their respective territories,

Have agreed as follows:

## ARTICLE 1

### DEFINITIONS

1. For the purpose of this Agreement, unless otherwise stated:

(a) the term "Convention" means the Convention on International Civil Aviation opened for signature at Chicago on December 7, 1944 and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or of the Convention under Articles 90 and 94 thereof, in so far as those Annexes and amendments have been adopted by both Contracting Parties;

(b) the term "Aeronautical Authorities" means, in the case of the French Republic, Direction Générale de l'Aviation Civile, and in the case of the Republic of Costa Rica, the Ministry of Public Works and Transport, the Civil Aviation Technical Board, and the Directorate General of Civil Aviation, or any person or body authorised to perform functions exercised by the above-mentioned Authorities or similar functions;

(c) the term "designated airline" means an airline which has been designated in accordance with Article 3 of this Agreement;

(d) the term "territory" has the meaning assigned to it in Article 2 of the Convention;

(e) the terms "air service", "international air service", "airline" and "stop for non-traffic purposes" have the meanings respectively assigned to them in Article 96 of the Convention;

(f) the term "specified routes" means the routes specified in the route schedule attached to this Agreement;

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(g) the term "agreed services" means scheduled air services performed for the transport of passengers, mail and cargo, separately or in combination, for compensation, on the specified routes;

(h) the term "tariff" means the prices to be paid, applied by airlines directly or through their agents, for the carriage of passengers, baggage and cargo, and the conditions under which those prices apply, including the remuneration and conditions offered to agencies, but excluding remuneration or conditions for the carriage of mail;

(i) the term "user charges" means a charge made to airlines by the relevant authorities for the use of an airport or of air navigation facilities for aircraft, their crews, passengers and cargo; and

(j) the term "Agreement" means this Agreement, the Annex attached thereto and any amendments to the Agreement or to the Annex agreed upon according to the provisions of Article 22 of this Agreement.

[2. (a) This Agreement shall apply, on the taxation of profits and gains, to the following existing taxes imposed by the Parties

(i) in the case of Costa Rica: (..)

(ii) in the case of France:

- corporation tax;

- contributions on corporation tax;

as well as any withholding tax, prepayments or advance payments connected with the above mentioned taxes.

(b). This Agreement shall apply also to any identical or substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes. The Aeronautical authorities of the contracting Parties shall notify each other of any significant changes that have been made in their taxation laws. ]

3. The Annex forms an integral part of this Agreement. All references to the Agreement shall include the Annex unless explicitly agreed otherwise.

## ARTICLE 2

### GRANT OF RIGHTS

1. Each Contracting Party grants to the other Contracting Party the following rights for the conduct of scheduled and non-scheduled international air services by airlines of the other Contracting Party:

(a) the right to fly across its territory without landing;

(b) the right to make stops in its territory for non-traffic purposes.

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2. Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the purpose of establishing and operating scheduled international air services on the routes specified in the Annex to this Agreement. While operating agreed services on specified routes, an airline designated by one Contracting Party shall enjoy, in addition to the rights specified in paragraph 1 of this Article, the right to make stops in the territory of the other Contracting Party at the points specified on the specified routes for the purpose of taking on board and discharging passengers and cargo including mail, separately or in combination, to or from the territory of the first Contracting Party.

3. Nothing in this Agreement shall be deemed to confer on the airline of one Contracting Party the right to take on board, in the territory of the other Contracting Party, passengers, their baggage, and cargo including mail, carried for hire or remuneration for discharge at another point within the territory of that other Contracting Party.

### ARTICLE 3

#### DESIGNATION AND AUTHORISATION OF AIRLINES

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines for the purpose of operating the agreed services on the specified routes. The number of airlines to be designated shall be agreed between the Aeronautical Authorities. It has to be communicated through diplomatic channels .

2. On receipt of a designation by one Contracting Party made in accordance with the provisions of paragraph 1 of this Article, and if so requested by the designated airline, in the form and manner prescribed, the Aeronautical Authorities of the other Contracting Party shall grant, with minimum delay, the appropriate operating authorisations, provided:

- (a) in the case of an airline designated by the French Republic:
  - i. the airline is established in the territory of the French Republic under the Treaty on European Union and the Treaty on the functioning of the European Union 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's Certificate and the relevant Aeronautical Authorities are clearly identified in the designation; and
  - iii. the airline is owned, either directly or through majority ownership, by European Union Member States or European Free Trade Association Member States and/or by nationals of such states, and is effectively controlled by such states and/or nationals of such states.

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- (b) in the case of an airline designated by the Republic of Costa Rica:
- i. the airline is established in the territory of the Republic of Costa Rica and has a valid Operating Licence in accordance with the law of the Republic of Costa Rica; and
  - ii. the Republic of Costa Rica has and maintains effective regulatory control of the airline.
- (c) the designated airline is qualified to meet the conditions prescribed under the laws and regulations normally and reasonably applied to the operation of international air transportation by the Contracting Party considering the application or applications in conformity with the provisions of the Convention; and
- (d) the standards set forth in Articles 10 and 11 are being maintained and administered;
3. When an airline has been so designated and authorised it may begin at any time to operate the agreed services, subject to compliance with the provisions of this Agreement.

#### ARTICLE 4

##### WITHDRAWAL OR SUSPENSION OF AN OPERATING AUTHORISATION

1. Each Contracting Party shall have the right to revoke an operating authorisation, suspend the exercise of the rights granted in this Agreement to an airline designated by the other Contracting Party, or impose such conditions on the exercise of these rights as it may deem necessary where:

- (a) in the case of an airline designated by the French Republic:
- i. the airline is not established in the territory of the French Republic under the Treaty on European Union and the Treaty on the functioning of the European Union or has not 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's Certificate, or the relevant Aeronautical Authorities are not clearly identified in the designation; or
  - iii. the airline is not owned, either directly or through majority ownership, by European Union Member States or European Free Trade Association Member States and/or nationals of such states, or is not at all times effectively controlled by such states and/or nationals of such states.

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

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- (b) in the case of an airline designated by the Republic of Costa Rica:
- i. the airline is not established in the territory of the Republic of Costa Rica or has not a valid Operating Licence in accordance with the law of the Republic of Costa Rica; or
  - ii. the Republic of Costa Rica is not having and maintaining effective regulatory control of the airline.
- (c) in the case of failure by that airline to comply with the laws or regulations normally and uniformly applied to the operation of international air transportation by the Contracting Party granting those rights;
- (d) in any case the standards set forth in this Agreement, especially in Articles 10 and 11, are not being maintained and administered.

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 regulations, or of the provisions of this Agreement, such right shall be exercised only after consultation with the other Contracting Party. Such consultations shall take place prior to the expiry of thirty (30) days following the request by one Contracting Party, unless both Contracting Parties otherwise agree.

## **ARTICLE 5**

### **PRINCIPLES GOVERNING OPERATION OF AGREED SERVICES**

1. Each Contracting Party shall ensure for the designated airlines of both Contracting Parties fair and equal opportunities to compete in the operation of the agreed services governed by this Agreement. Each Contracting Party shall make sure that its designated airline or airlines operate(s) in conditions permitting the respect of this principle and shall, when appropriate, take steps to ensure such respect.
2. The agreed services to be operated by the designated airlines of the Contracting Parties between their respective territories on the specified routes shall bear close relationship to the requirements of the public for transportation and shall have as their primary objective the provision, at a reasonable load factor compatible with tariffs in compliance with the provisions of Article 18 of this Agreement, of appropriate capacity to meet the current and reasonably anticipated requirements for the carriage of passengers, cargo and mail in order to encourage orderly development of air services between the territories of the Contracting Parties.

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## ARTICLE 6

### FAIR COMPETITION

1. The Contracting Parties acknowledge that it is their joint objective to have a fair and competitive environment and fair and equal opportunity for the airlines of both Contracting Parties to compete in operating the agreed services on the specified routes. Therefore, the Contracting Parties shall take all appropriate measures to ensure the full enforcement of this objective.

2. The Contracting Parties assert that free, fair and undistorted competition is important to promote the objectives of this Agreement and note that the existence of comprehensive competition laws and of an independent competition authority as well as the sound and effective enforcement of their respective competition laws are important for the efficient provision of air transport services. The competition laws of each Contracting Party addressing the issues covered by this Article, as amended from time to time, shall apply to the operation of the air carriers within the jurisdiction of the respective Contracting Party. The Contracting Parties share the objectives of compatibility and convergence of Competition law and of its effective application. They will cooperate as appropriate and where relevant on the effective application of competition law, including by allowing the disclosure, in accordance with their respective rules and jurisprudence, by their respective airline(s) or other nationals of information pertinent to a competition law action by the competition authorities of each other.

3. Nothing in this Agreement shall affect, limit or jeopardise in any way the authority and powers of the relevant competition authorities and courts of either Contracting Party (and of the European Commission), and all matters relating to the enforcement of competition law shall continue to fall under the exclusive competence of those authorities and courts. Therefore, any action taken pursuant to this Article by a Contracting Party shall be without prejudice to any possible actions taken by those authorities and courts.

4. Any action taken pursuant to this Article shall fall under the exclusive responsibility of the Contracting Parties and shall be exclusively directed towards the other Contracting Party and/or to airline(s) providing air transport services to/from the Contracting Parties. Such action shall not be subject to the dispute settlement procedure foreseen in Article 23 of this Agreement.

#### Unfair competition

5. Each Contracting Party shall eliminate all forms of discrimination or unfair practices which would adversely affect the fair and equal opportunity of the airlines of the other Contracting Party to compete in providing air transport services.

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## Public subsidies and support

6. Neither Contracting Party shall provide or permit public subsidies or support to their respective airlines if these subsidies or support would significantly and adversely affect, in an unjustified way, the fair and equal opportunity of the airlines of the other Contracting Party to compete in providing air transport services. Such public subsidies or support may include, but are not limited to: cross-subsidisation; the setting-off of operational losses; the provision of capital; grants; guarantees; loans or insurance on privileged terms; protection from bankruptcy; foregoing the recovery of amounts due; foregoing a normal return on public funds invested; tax relief or tax exemptions; compensation for financial burdens imposed by public authorities; and access on a discriminatory or non-commercial basis to air navigation or airport facilities and services, fuel, ground handling, security, computer reservation systems, slot allocation or other related facilities and services necessary for the operation of air services.

7. When a Contracting Party provides public subsidies or support in the sense of paragraph 6 above to an airline, it shall ensure the transparency of such measure through any appropriate means, which may include requiring that the airline identifies the subsidy or support clearly and separately in its accounts.

8. Each Contracting Party shall, at the request of the other Contracting Party, provide to the other Contracting Party within a reasonable time financial reports relating to the entities under the jurisdiction of the first Contracting Party, and any other such information that may be reasonably requested by the other Contracting Party to ensure that the provisions of this Article are being complied with. This may include detailed information relating to subsidies or support in the sense of paragraph 6 above. The submission of such information may be subject to its confidential treatment by the Contracting Party requesting access to the information.

9. Without prejudice to any action undertaken by the relevant competition authority and/or court for the enforcement of the rules referred to in paragraphs 5 and 6:

(a) if one Contracting Party finds that an airline is being subject to discrimination or unfair practices in the sense of paragraphs 5 or 6 above and that this can be substantiated, it may submit observations in writing to the other Contracting Party. After informing the other Contracting Party, a Contracting Party may also approach responsible government entities in the territory of the other Contracting Party, including entities at the central, regional, provincial or local level to discuss matters relating to this Article. Moreover, a Contracting Party may request consultations on this matter with the other Contracting Party with a view to solving the problem. Such consultations shall start within a period of thirty (30) days of the receipt of the request. In the meantime, the Contracting Parties shall exchange sufficient information to enable a full examination of the concern expressed by one of the Contracting Parties.

(b) if the Contracting Parties fail to reach a resolution of the matter through consultations within thirty (30) days from the start of consultations or consultations do not start within a period of thirty (30) days of the receipt of the request concerning an alleged violation of paragraphs 5 or 6 above, the Contracting Party which requested the consultation shall have the right to suspend the exercise of the rights specified in this

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Agreement by the airline(s) of the other Contracting Party by refusing, withholding, revoking or suspending the operating authorisation, or to impose such conditions as it may deem necessary on the exercise of such rights, or impose duties or take other actions. Any action taken pursuant to this paragraph shall be appropriate, proportionate and restricted with regard to scope and duration to what is strictly necessary.

#### Antitrust

10. Each Contracting Party shall effectively apply antitrust laws in accordance with paragraph 2, and shall prohibit airline(s):

(a) in conjunction with any other airline(s) to enter into agreements, take decisions or engage in concerted practices which may affect air transport services to/from that Contracting Party and which have as their object or effect the prevention, restriction or distortion of competition. This prohibition may be declared inapplicable where such agreements, decisions or practices contribute to improving the production or distribution of services or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and do not: (a) impose on the airlines concerned restrictions which are not indispensable to the attainment of these objectives; (b) afford such airlines the possibility of eliminating competition in respect of a substantial part of the services in question, and

(b) to abuse a dominant position in a way which may affect air transport services to/from that Contracting Party.

11. Each Contracting Party shall entrust the enforcement of the antitrust rules referred to in paragraph 10 above exclusively to its relevant and independent competition authority and/or court.

12. Without prejudice to any action undertaken by the relevant competition authority and/or court for the enforcement of the rules referred to in paragraph 10, if one Contracting Party finds that an airline suffers from an alleged violation of paragraph 10 above and that this can be substantiated, it may submit observations in writing to the other Contracting Party. After informing the other Contracting Party, a Contracting Party may also approach responsible government entities in the territory of the other Contracting Party, including entities at the central, regional, provincial or local level to discuss matters relating to this Article. Moreover, a Contracting Party may request consultations on this matter with the other Contracting Party with a view to solving the problem. Such consultations shall start within a period of thirty (30) days of the receipt of the request. In the meantime, the Contracting Parties shall exchange sufficient information to enable a full examination of the concern expressed by one of the Contracting Parties.

13. If the Contracting Parties fail to reach a resolution of the matter through consultations within thirty (30) days from the start of consultations or consultations do not start within a period of thirty (30) days of the receipt of the request concerning an alleged violation of paragraph 10, and provided the relevant competent competition authority or court has found an antitrust violation, the Contracting Party which requested the

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consultation shall have the right to suspend the exercise of the rights specified in this Agreement by the airline(s) of the other Contracting Party by refusing, withholding, revoking or suspending the operating authorisation, or to impose such conditions as it may deem necessary on the exercise of such rights, or impose duties or take other actions. Any action taken pursuant to this paragraph shall be appropriate, proportionate and restricted with regard to scope and duration to what is strictly necessary.

## **ARTICLE 7**

### **CAPACITY**

1. The capacity to be provided by the designated airline(s) on the agreed services shall be agreed and reviewed between the Aeronautical Authorities of the Contracting Parties.
2. If, on review, the Aeronautical Authorities fail to agree on the capacity to be provided on the agreed services, the capacity that may be provided by the designated airline(s) of the Contracting Parties shall not exceed the total capacity previously agreed to be provided in accordance with the provisions of paragraph 1.

## **ARTICLE 8**

### **APPLICATION OF LAWS AND REGULATIONS**

1. The laws, regulations and procedures of one Contracting Party relating to the admission to or departure from its territory of aircraft engaged in international air services or relating to the operation and navigation of such aircraft, while within the territory, shall apply to aircraft of the designated airline or airlines of the other Contracting Party and shall be applied to such aircraft upon entrance into or departure from, or while within the territory of the first Contracting Party.
2. The laws and regulations of one Contracting Party relating to the admission to or departure from its territory of passengers, baggage, crew, mail and cargo of aircraft shall be complied with by or on behalf of such passengers, baggage, crew, mail and cargo of the airline or airlines of the other Contracting Party upon entrance into or departure from the territory of one Contracting Party.
3. The laws and regulations mentioned in paragraphs 1 and 2 of this Article are the same as those applying to the national aircraft engaged in similar international air services as well as those applying to passengers, baggage, crew, cargo and mail carried by those aircraft.

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## ARTICLE 9

### CERTIFICATES OF AIRWORTHINESS, CERTIFICATES OF COMPETENCY AND LICENCES

1. Certificates of airworthiness, certificates of competency and licences issued or rendered valid in accordance with the laws and regulations of one Contracting Party, including, in the case of France, European Union law, shall be recognised as valid by the other Contracting Party for the purpose of operating agreed services on specified routes provided always that the requirements under which such certificates or licences were issued or rendered valid are at least equal to the standards which may be established pursuant to the Convention.
2. Each Contracting Party, however, reserves the right not to recognise as valid, for the purpose of flight over its own territory, certificates of competency and licences granted to its own nationals by the other Contracting Party.

## ARTICLE 10

### AVIATION SAFETY

1. Each Contracting Party may request consultations at any time concerning the safety standards maintained by the other Contracting Party in areas relating to aeronautical facilities, flight crew, aircraft and their operation. 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 referred to in paragraph 1 that are at least equal to the minimum standards established at that time pursuant to the Convention, the first Contracting Party shall notify the other Contracting Party of those findings and the other Contracting Party shall take appropriate corrective action. Failure by the other Contracting Party to take appropriate action within a reasonable time, and in any case within fifteen (15) days or such longer period as may be agreed, shall be grounds for the application of Article 4 of this Agreement.
3. Notwithstanding the obligations mentioned in Article 33 of the Convention, it is agreed that any aircraft operated or leased by the airline or airlines of one Contracting Party on services to or from the territory of the other Contracting Party may, while within the territory of the other Contracting Party, be made the subject of an examination by the authorities representative of the other Contracting Party on board and around the aircraft to check both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment (in this Article called "ramp inspection"), provided this does not lead to unreasonable delay.

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4. If any such ramp inspection or series of ramp inspections gives rise to:
  - (a) serious concerns that an aircraft or the operation of an aircraft does not comply with the minimum standards established at that time pursuant to the Convention, or,
  - (b) serious concerns that there is a lack of effective maintenance and administration of safety standards established at that time pursuant to the Convention,

the Contracting Party carrying out the inspection shall, for the purposes of Article 33 of the Convention, be free to conclude that the requirements under which certificates or licences in respect of that aircraft or in respect of the operator or crew of that aircraft had been issued or rendered valid are not equal to or above the minimum standards established at that time pursuant to the Convention.

5. In the event that access for the purpose of undertaking a ramp inspection of an aircraft operated by the airline or airlines of one Contracting Party in accordance with paragraph 3 above is denied, the other Contracting Party shall be free to infer that serious concerns of the type referred to in paragraph 4 above arise and draw the conclusions referred to in that paragraph.

6. Each Contracting Party reserves the right to suspend or vary the operating authorisation of an airline or airlines of the other Contracting Party immediately in the event the first Contracting Party concludes, whether as a result of a ramp inspection, a series of ramp inspections, a denial of access for ramp inspection, consultation or other form of dialogue, that immediate action is essential to the safety of an airline or airlines operation.

7. Any action by one Contracting Party in accordance with paragraphs 2 or 6 above shall be discontinued once the basis for the taking of that action ceases to exist.

8. Where the French Republic has designated an airline whose regulatory control is exercised and maintained by another Member State of the European Union, the rights of the Republic of Costa Rica under this Article shall apply equally in respect of the maintenance, exercise or administration of safety standards by that Member State of the European Union and in respect of the operating authorisation of that airline.

## ARTICLE 11

### 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

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23 September 1971, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, opened for signature at Montreal on 24 February 1988, the Convention on Marking of Plastic Explosives for the Purpose of Detection signed at Montreal on 1 March 1991, and any other multilateral agreement governing civil aviation security binding upon both Contracting Parties.

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

3. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention to the extent that such security provisions are applicable to the Contracting Parties ; they shall require that operators of aircraft that have their principal place of business or permanent residence in their territory and, in the case of the French Republic, operators that are established in its territory and have an operating licence in accordance with European Union law, as well as the operators of airports in their territory, act in conformity with such aviation security provisions. In this paragraph, reference to the aviation security provisions includes any difference notified by the Contracting Party concerned. Each Contracting Party shall give advance information to the other Contracting Party of its intention to notify any difference concerning these provisions.

4. Each Contracting Party agrees that its operators of aircraft may be required to observe, for departure from, or while within the territory of the other Contracting Party, the aviation security provisions in conformity with the law in force in that country, in accordance with Article 8 of this Agreement. Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crew, their 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 passengers, crew, aircraft, airports and 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 provisions related to aviation security provided for in this Article, the first Contracting Party may request immediate consultations with the other Contracting Party. Without prejudice to the provisions of Article 4 of this Agreement, failure to reach a satisfactory agreement within fifteen (15) days from the date of such request shall constitute grounds for suspension of the rights granted to the Contracting Parties under this Agreement. When required by an emergency presenting a direct and

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exceptional threat to the security of passengers, crew or aircraft of one Contracting Party and if the other Contracting Party has not adequately fulfilled its obligations under paragraphs 4 and 5 of this Article, a Contracting Party may take immediately the appropriate provisional protection measures to ward off the threat. 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 12**

### **USER CHARGES**

1. User charges that may be imposed by the relevant Authorities or bodies from one Contracting Party on the designated airline or airlines of the other Contracting Party for the use of airport facilities and services, safety, security, air navigation and other facilities under their control shall be just, reasonable, non discriminatory and equitably apportioned among categories of users. They shall not be higher than those imposed for the use of such services and facilities by any other airline operating the same or similar international services.

2. These charges may reflect, but shall not exceed, an equitable proportion of the total cost incurred for the provision of airport facilities and services as well as the safety, security and air navigation services and facilities. The services and facilities for which charges are made, shall be provided on an economic and efficient basis. The Authorities or relevant bodies of each Contracting Party shall notify the designated airline or airlines of the other Contracting Party of any proposed significant change concerning these charges; such notification shall take place within a reasonable period of time before the change enters into force. In case of an increase of charges, each Contracting Party shall encourage consultations between the Authorities or relevant bodies in its territory and the airlines using the services and facilities.

## **ARTICLE 13**

### **CUSTOMS DUTIES AND TAXES**

1. Upon entering the territory of one Contracting Party, aircraft operated on international air services by the designated airline or airlines of the other Contracting Party, as well as their regular equipment, fuel and lubricants, consumable technical supplies, spare parts including engines, and aircraft stores (including but not limited to such items as food, beverages and liquor, tobacco and other products for sale to or use by passengers in limited quantities during the flight), equipment as well as other items intended for or used solely in connection with the operation or maintenance of aircraft operating an international air service, shall be, on a temporary basis and until their re-exportation, on the basis of reciprocity, exempt from all customs duties, import restrictions, property taxes, capital levies, inspection fees, excise taxes, and similar fees and charges imposed by the national or local authorities, provided such equipment and supplies remain on board the aircraft.

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2. There shall also be exempt, on the basis of reciprocity, from the taxes, duties, inspection fees and charges referred to in paragraph 1 of this Article, with the exception of charges based on the cost of the services provided:

(a) aircraft stores introduced into or supplied in the territory of a Contracting Party and taken on board, within reasonable limits, for use on outbound aircraft of the designated airline or airlines of the other Contracting Party operating international air services, even when these stores are to be used on part of the journey performed over the territory of the Contracting Party in which they are taken on board;

(b) regular equipment, spare parts, including engines, introduced into the territory of a Contracting Party and for the servicing, maintenance, repair and supplying of aircraft of a designated airline of the other Contracting Party engaged in international air services;

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

(d) printed documents and promotional advertising materials including but not limited to, timetables, brochures, printed forms introduced into the territory of one Contracting Party and intended to be given away for free on board the aircraft by the designated airline or airlines of the other Contracting Party;

(e) safety and security equipment for use at airports or cargo terminals.

3. The equipment and supplies referred to in paragraphs 1 and 2 of this Article may be required to be kept under the supervision or control of the relevant Authorities and their property not to be transferred without payment of relevant customs duties and taxes.

4. The exemptions provided by this Article shall also be available where the designated airline or 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.

5. The regular airborne equipment, as well as the materials and supplies normally retained on board the aircraft of an airline of either Contracting Party, may be unloaded in the territory of the other Contracting Party only with the approval of the customs authorities of that territory. 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.

6. Nothing in that Agreement shall prevent:

(a) The French Republic from imposing, in conformity with European Union legislation, on a non-discriminatory basis, taxes, levies, duties, fees or charges on fuel supplied in its territory for use in an aircraft of a designated airline of the Republic of Costa Rica that

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operates between a point in the territory of the French Republic and another point in the territory of the French Republic or of another European Union Member State.

(b) The Republic of Costa Rica from imposing, in conformity with its law and legislation, on a non-discriminatory basis, taxes, levies, duties, fees or charges on fuel supplied in its territory for use in an aircraft of a designated airline of the French Republic that operates between a point in the territory of Republic of Costa Rica and another point in the territory of the Republic of Costa Rica or of another Member State of the Community of Latin American and Caribbean States.

### **[Article 13 A]**

#### **[Air transport profits and gains]**

1. Profits derived by a designated airline of a Party from the operation of aircraft in international traffic shall be taxable only in the Party in which the place of effective management of the designated airline is situated.
2. Gains derived by a designated airline of a Party from the alienation of aircraft operated in international traffic or from movable property pertaining to the operation of such aircraft shall be taxable only in the Party in which the place of effective management of the designated airline is situated.
3. The provisions of paragraphs 1 and 2 shall also apply, under the same conditions, to profits and gains derived by a designated airline of a Party from the participation in a pool, a joint business or an international operating agency.
4. Should consideration need to be given to the meaning of the terms "profits" or "gains derived by a designated airline of a Party from the operation" or "the alienation of aircraft in international traffic" the Parties agree to refer to Article 8 (air transport) and the Commentary thereon of the Organisation for Economic Cooperation and Development's Model Tax Convention on Income and on Capital for guidance.
5. If an agreement between the Contracting Parties on avoidance of double taxation and the prevention of tax evasion on income addresses operation of aircraft in international traffic and provides for rules different from those of this Article, that agreement prevail.]

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## ARTICLE 14

### COMMERCIAL OPPORTUNITIES

1. The designated airline or airlines of one Contracting Party have the right, on the basis of reciprocity, to establish offices in the territory of the other Contracting Party in order to promote and sell air services.
2. The designated airline or airlines of one Contracting Party shall be entitled, on the basis of reciprocity, to bring in and maintain in the territory of the other Contracting Party its or their own managerial, operational and commercial staff and other specialist staff required for the provision of air transportation.
3. Each Contracting Party shall grant the necessary staff of the designated airline or airlines of the other Contracting Party, on the basis of reciprocity, authorised access in its territory to the airport and the areas concerned by the aircraft operations, crew, passengers and cargo of a designated airline of the other Contracting Party.
4. Each Contracting Party shall grant the designated airline or airlines of the other Contracting Party, on the basis of reciprocity, the right to bring in and maintain in its territory, additional staff required by such designated airline or airlines of the other Contracting Party for its or their operations for short periods not exceeding ninety (90) days.
5. The Contracting Parties shall make sure that passengers, without regard to nationality, may purchase tickets from the airline of their choice, in local currency or in freely convertible currency accepted by that airline. These principles shall also apply to cargo transportation.
6. The designated airline or airlines of one Contracting Party shall be granted, on the basis of reciprocity, in the territory of the other Contracting Party, the right to engage, in local currency or in any freely convertible currency, with its or their tickets, in the sale of passenger and cargo air transportation in its or their own offices and through accredited agents of its or their choice. The designated airline or airlines of one Contracting Party shall have the right to open and maintain, in the territory of the other Contracting Party, nominative bank accounts in the currency of either Contracting Party or in any freely convertible currency at its or their discretion.

## ARTICLE 15

### COOPERATIVE MARKETING ARRANGEMENTS

1. For the conduct of the agreed services, the designated airline(s) of each Contracting Party may enter into cooperative marketing arrangements such as blocked-space, code-sharing or any other joint venture arrangements, with:
  - (a) an airline or airlines of either Contracting Party; and
  - (b) an airline or airlines of a third country.

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2. The operating airline(s) involved in the cooperative marketing arrangements shall hold the appropriate authority and the underlying traffic rights, including the route rights and the capacity entitlements, and meet the requirements normally applied to such arrangements.
3. All marketing airline(s) involved in the cooperative marketing arrangements shall hold the appropriate authority and the underlying route rights, and meet the requirements normally applied to such arrangements.
4. The total capacity operated by the air services performed under such arrangements shall be counted only against the capacity entitlement of the Contracting Party designating the operating airline(s). The capacity offered by the marketing airline(s) on such services shall not be counted against the capacity entitlement of the Contracting Party designating that airline.
5. In addition to the operating airline(s), the Aeronautical Authorities of each Contracting Party may require the marketing airline(s) to file schedules for approval.
6. When holding out services for sale under such arrangements, the concerned airline or its agent shall make it clear to the purchaser at the point of sale as to which airline shall be the operating airline on each sector of the service and with which airline(s) the purchaser is entering into a contractual relationship.

## **ARTICLE 16**

### **TRANSFER OF EARNINGS IN EXCESS**

1. Each Contracting Party shall grant upon request, on the basis of reciprocity, to the designated airline or airlines of the other Contracting Party, the right to convert and to remit to the territory or territories of its or their choice the excess of local receipts from the sale of air transportation services and related activities in its territory, after payment of income taxes. Conversion and remittance shall be permitted expeditiously, without taxation, at the exchange rate applicable to day-to-day operations and remittances at the time the airline makes the initial application for remittance.
2. Each Contracting Party shall grant the designated airline or airlines of the other Contracting Party the right to use part or all of its or their receipts earned in its territory for the payment of all charges related to its or their transportation activity (including purchases of fuel) and other activities related to air transportation.
3. In so far as payment services between the Contracting Parties are governed by a special agreement, the said agreement shall apply.

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## ARTICLE 17

### GROUND HANDLING

Subject to the laws and regulations of each Contracting Party, including, in the case of France, European Union law, each airline shall have in the territory of the other Contracting Party the right to perform its own ground handling ("self-handling") or, at its option, the right to select among competing suppliers that provide ground handling services in whole or in part. Where such laws and regulations limit or preclude self-handling and where there is no effective competition between suppliers that provide ground handling services, each designated airline shall be treated on a non-discriminatory basis as regards their access to self-handling and ground handling services provided by a supplier or suppliers.

## ARTICLE 18

### TARIFFS

1. The tariffs (including taxes and/or surcharges) to be charged by the designated airlines of each Contracting Party shall be freely and independently established at reasonable levels, due regard being paid to all relevant factors, including the cost of operation, the cost of fuel, the characteristics of the service and a reasonable profit.

2. Each Contracting Party may require notification to or filing with its Aeronautical Authorities of tariffs to be charged to or from its territory by designated airlines of the other Contracting Party. Notification or filing by the airlines of both Contracting Parties may be required no more than thirty (30) days before the proposed date of effectiveness. In exceptional cases, notification or filing may be permitted on shorter notice than normally required.

3. Without prejudice of the applicable competition and consumer protection laws prevailing in each Contracting Party, intervention by the Contracting Parties shall be limited to:

(a) protection of consumers from prices that are unreasonably high or restrictive due to the abuse of a dominant position;

(b) protection of airlines from prices that are artificially low due to direct or indirect subsidy or support;

(c) protection of airlines from prices that are artificially low, where evidence exists as to an intent to eliminate competition.

4. Where the Aeronautical Authorities of either Contracting Party find that a certain tariff do not meet the criteria defined in paragraph 1 and/or falls within the categories set forth in paragraph 3 (a), 3 (b) and/or 3 (c) they shall send reasoned notification of their dissatisfaction to the Aeronautical Authorities of the other Contracting Party and to the airline involved as soon as possible, and in no event later than thirty (30) days after the

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date of notification or filing of the tariff in question. Furthermore they may request consultations on this matter with the Aeronautical Authorities of the other Contracting Party. Such consultations shall take place within a period of thirty (30) days of the receipt of the request. Unless both Aeronautical Authorities have agreed to disapprove tariffs in writing, the tariffs shall be treated as having been approved.

## **ARTICLE 19**

### **APPROVAL OF FLIGHT SCHEDULES**

1. The flight schedules of the designated airline or airlines of one Contracting Party may be requested for approval by the Aeronautical Authorities of the other Contracting Party.
2. In that case the flight schedules shall be communicated at least thirty (30) days prior to the beginning of the operations and shall specify in particular the timetables, frequency of services, types of aircraft, configurations and numbers of seats to be made available to the public.
3. Any change to the approved flight schedules of a designated airline of one Contracting Party shall be submitted for approval to the Aeronautical Authorities of the other Contracting Party.

## **ARTICLE 20**

### **TRANSIT**

1. Passengers and cargo in transit through the territory of one Contracting Party shall be subject to a simplified control.
2. Cargo and baggage in transit through the territory of one Contracting Party shall be exempt from all customs duties, inspection fees and other duties and charges.

## **ARTICLE 21**

### **STATISTICS**

The Aeronautical Authorities of one Contracting Party shall provide or shall cause their designated airline or airlines to provide the Aeronautical Authorities of the other Contracting Party, upon request, statements of statistics as may be reasonably required for the purpose of reviewing the operation of the agreed services.

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## ARTICLE 22

### CONSULTATIONS AND MODIFICATIONS

1. In a spirit of close cooperation, the Aeronautical Authorities of the Contracting Parties shall consult as often as deemed necessary with a view to ensuring the satisfactory implementation of the principles and provisions of this Agreement. Such consultations shall begin within a period of sixty (60) days of the date of receipt of a request for consultations by a Contracting Party.
2. Each Contracting Party may at any time request consultations with the other Contracting Party with a view to interpreting the provisions of this Agreement or to make any amendment or modification to the provisions of this Agreement or its Annex it considers desirable. Such consultations may be held between Aeronautical Authorities and may be through discussion or by correspondence. These consultations shall begin within a period of sixty (60) days from the date of receipt of the request for consultations by the other Contracting Party.
3. The amendments or modifications to this Agreement agreed upon according to the provisions of paragraph 2 of this Article shall, where appropriate, come into effect after confirmation, through diplomatic channels, that the internal procedures required in each Contracting Party have been completed.

## ARTICLE 23

### SETTLEMENT OF DISPUTES

1. If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement, the Contracting Parties shall in the first place endeavour to settle it by direct negotiations between the Aeronautical Authorities in accordance with the provisions of Article 22 of this Agreement.
2. If the Aeronautical Authorities of the Contracting Parties fail to reach an agreement, the dispute shall be settled through diplomatic consultations. Such consultations shall begin within a period of no more than sixty (60) days following the date of receipt of a request for consultations by the other Contracting Party.
3. If the Contracting Parties fail to reach a settlement through negotiations in accordance with paragraphs 1 and 2 of this Article, they may agree to refer the dispute for decision to some person or body mutually agreed upon; or, at the request of either Contracting Party, to refer it for decision to a tribunal of three arbitrators. In such case, each Contracting Party shall nominate an arbitrator and the third arbitrator, who shall not be a national of either Contracting Party, shall be appointed by the two arbitrators so nominated and shall act as a President of the tribunal. Each of the Contracting Parties shall nominate its arbitrator within a period of sixty (60) days from the date of receipt by either Contracting Party from the other of a notice through diplomatic channels requesting arbitration of the dispute; the third arbitrator shall be appointed within a period of sixty (60) days following the nomination of the first two arbitrators. If either Contracting Party fails to nominate its arbitrator within the period specified, or if the third arbitrator is not

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appointed within the period specified, the President of the Council of the International Civil Aviation Organization may at the request of either Contracting Party appoint an arbitrator or arbitrators as the case requires. In such case, the third arbitrator shall be a national of a state having diplomatic relations with both Contracting Parties at the time of the appointment.

4. In the case of the appointment of the third arbitrator by the President of the Council of International Civil Aviation Organization, if the President of the Council of International Civil Aviation Organization is prevented from carrying out the said function or if he is a national of either Contracting Party, the appointment shall be made by the Vice-president and if the Vice-president is also prevented from carrying out the said function or if he is a national of either Contracting Party, the appointment shall be made by a senior member of the Council who is not a national of either Contracting Party.

5. The arbitral tribunal shall freely determine its procedures. The expenses of the national arbitrators shall be borne by the Contracting Party that nominated him. All other expenses of the arbitral tribunal shall be shared equally between the Contracting Parties.

6. The Contracting Parties shall comply with any decisions under paragraph 3 of this Article.

7. In any case where one of the Contracting Parties does not comply with a decision under paragraph 3 of this Article and for as long as it so does, the other Contracting Party may limit, refuse or revoke any right or privilege granted under this Agreement.

[8. If any dispute arises between the Contracting parties relating to the interpretation or application of article 13 A of this agreement, the Minister of Finance, in the case of the French Republic, or his authorised representative, and ..., in the case of the Republic of Costa Rica, shall endeavour to resolve it by mutual agreement procedure. Paragraphs 1 to 7 are not applicable.]

## ARTICLE 24

### MULTILATERAL AGREEMENTS

If, after the entry into force of this Agreement, both Contracting Parties become bound by a multilateral agreement that addresses matters covered by this Agreement, the provisions of such agreement shall prevail. Both Contracting Parties may hold consultations in accordance with Article 22 of this Agreement with a view to determining the extent to which this Agreement is affected by the provisions of such multilateral agreement and whether this Agreement should be revised to take account of this multilateral agreement.

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## ARTICLE 25

### TERMINATION

Each Contracting Party may at any time give notice in writing through diplomatic channels of its decision to terminate this Agreement. Such notice shall be communicated simultaneously to the International Civil Aviation Organization. In such case the Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by mutual agreement before the expiry of this period. If the other Contracting Party fails to acknowledge receipt, the notice shall be deemed to have been received fifteen (15) days after the date on which the International Civil Aviation Organization acknowledged receipt thereof.

## ARTICLE 26

### REGISTRATION WITH THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

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

## ARTICLE 27

### ENTRY INTO FORCE

Each Contracting Party shall notify the other Contracting Party through diplomatic channels of the completion of the constitutional procedures it requires to give effect to this Agreement, which shall enter into force on the first day of the second month following the date of receipt of the latter of these notifications.

In witness whereof, the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

Done at \_\_\_\_\_ in duplicate this \_\_\_\_\_ in the French and the Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE  
FRENCH REPUBLIC

FOR THE GOVERNMENT OF THE  
REPUBLIC OF COSTA RICA

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ANNEX

ROUTE SCHEDULE

2. Route to be operated by the designated airline or airlines of the French Republic:

Points in the French Republic	Intermediate points	Points in the Republic of Costa Rica	Points beyond
any point or points in France	any point or points	any point or points in Costa Rica	any point or points

3. Route to be operated by the designated airline or airlines of the Republic of Costa Rica:

Points in the Republic of Costa Rica	Intermediate points	Points in the French Republic	Points beyond
any point or points in Costa Rica	any point or points	any point or points in France	any point or points

Notes:

a) The designated airline or airlines of each Contracting Party may, at their convenience, on part or whole of its or their services:

- operate flights in one or both directions;
- omit stops at one or more points on the specified routes;
- modify the order of service of the points on the specified routes (includes the possibility to serve intermediary points as beyond points and vice-versa and omit stops in one direction of a service);
- terminate their service in the territory of the other Contracting Party or beyond;
- serve, without traffic rights, in co-terminalisation points of the specified routes in the territory of the other Contracting Party;
- change the non-specified points of the Route Schedule through notification to the Aeronautical Authorities.

provided the corresponding services start or terminate in the territory of the Contracting Party which designated the airline.

b) The exercise of traffic rights by a designated airline or airlines of each Contracting Party between intermediary points or beyond points in third countries and the territory of the other Contracting Party shall be subject to an agreement between the Aeronautical Authorities of both Contracting Parties.

c) On any segment of the routes above, a designated airline of any Contracting Party may, at any point, perform change of gauge without any limitation as to change in type or

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number of aircraft operated. This possibility is given provided that operations beyond the point of change of gauge are in continuation of the transportation operated primarily on the main trunk of the specified route.

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