

No. 54833*

**Netherlands (in respect of Aruba)
and
United States of America**

Agreement between the Kingdom of the Netherlands, in respect of Aruba, and the United States of America on civil aviation security for preclearance operations at Queen Beatrix International Airport in Aruba (with annexes). Washington, 7 April 2016

Entry into force: *19 March 2017, in accordance with article XVIII*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Netherlands, 18 December 2017*

**No UNTS volume number has yet been determined for this record. The Text(s) reproduced below, if attached, are the authentic texts of the agreement /action attachment as submitted for registration and publication to the Secretariat. For ease of reference they were sequentially paginated. Translations, if attached, are not final and are provided for information only.*

**Pays-Bas (à l'égard d'Aruba)
et
États-Unis d'Amérique**

Accord entre le Royaume des Pays-Bas, à l'égard d'Aruba, et les États-Unis d'Amérique relatif à la sûreté de l'aviation civile pour le prédédouanement à l'Aéroport international Reine Beatrix à Aruba (avec annexes). Washington, 7 avril 2016

Entrée en vigueur : *19 mars 2017, conformément à l'article XVIII*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Pays-Bas,
18 décembre 2017*

**Aucun numéro de volume n'a encore été attribué à ce dossier. Les textes disponibles qui sont reproduits ci-dessous sont les textes originaux de l'accord ou de l'action tels que soumis pour enregistrement. Par souci de clarté, leurs pages ont été numérotées. Les traductions qui accompagnent ces textes ne sont pas définitives et sont fournies uniquement à titre d'information.*

Agreement between the Kingdom of the Netherlands, in respect of Aruba, and the United States of America on Civil Aviation Security for Preclearance Operations at Queen Beatrix International Airport in Aruba

Whereas an Agreement between the United States of America and the Kingdom of the Netherlands in respect of Aruba on preclearance for entry into the United States was concluded at Washington on December 2, 1994, and amended on May 22, 2008, hereafter referred to as "the 1994/2008 Agreement.

Whereas the United States of America and the Kingdom of the Netherlands, in respect of Aruba, (hereinafter "the Parties") have as a common objective the promotion and development of administrative and operational cooperation in civil aviation security, particularly in the area of Preclearance operations;

Whereas the Parties recognize the 1994/2008 Agreement as a separate and individual agreement, and desire to complement the 1994/2008 Agreement with cooperative activities in the field of civil aviation security relating to Preclearance operations;

Whereas the Parties affirm a common interest in permitting passengers who have pre-cleared U.S. customs, immigration, and other border controls at Queen Beatrix International Airport in Aruba (hereinafter "the Preclearance Airport"), to deplane into the Sterile Areas of airports within the territory of the United States;

Whereas the Parties recognize that entry into the Sterile Area at a U.S. airport is dependent on sustainable airport passenger checkpoint Screening standards implemented at the Preclearance Airport at a level commensurate with the Screening standards implemented at U.S. airports;

Whereas the Parties desire to increase the exchanges of information in areas pertinent to the identification of civil aviation security threats and the development of security standards pertaining to the Screening of passengers, property, and checked baggage, if appropriate, particularly with respect to Preclearance operations; and

Whereas the Parties desire to set forth a vehicle for the conduct of cooperative activities in the field of civil aviation security relating to Preclearance operations, consistent with the framework set forth in the Agreement and without prejudice to the 1994/2008 Agreement;

It is agreed as follows:

Article I

Definitions

Competent Authorities

Means, in the case of the United States, the Transportation Security Administration of the Department of Homeland Security of the United States of America ("DHS/TSA") and, in the case of Aruba, the Minister in charge of Transport ("MT") or the Department of Civil Aviation of Aruba ("DCA") as indicated in the specific articles (collectively, "the Competent Authorities"), or their respective successors.

Cleared Person

Means an individual and his or her accessible property that a U.S. Preclearance officer, after examination and inspection, has cleared for entry and admission into the United States and whose person and accessible property have been screened and cleared using Screening protocols that are mutually acceptable to the Parties as established pursuant to this Agreement.

Confidential Information

Means information provided by DCA and obtained or developed in the conduct of security activities, the disclosure of which DCA has determined would cause damage to the safety or other sensitive interests of Aruba or its stakeholders.

Passenger Screening Checkpoint

Means the location at the entry to a Sterile Area, at which individuals or accessible property are inspected for the presence of explosives, incendiaries, weapons, or other prohibited items. These locations include the Screening checkpoint or boarding gate where individuals and accessible property are inspected with metal detectors, x-ray machines, and other methods.

Preclearance

Means the procedure of conducting examination and inspection in the territory of one Party required for entry/admission into the territory of the other Party.

Screening

Means the aviation security inspection of individuals and property for weapons, explosives, incendiaries, and other prohibited items.

Selectee

Means a person selected for special Screening requirements by a computer-assisted passenger pre-screening system, or another process as mutually determined and approved by DHS/TSA and DCA.

Sensitive Security Information

Means information obtained or developed in the conduct of security activities, including research and development, the disclosure of which DHS/TSA has determined would constitute an unwarranted invasion of privacy, reveal trade secrets or privileged or confidential information obtained from any person, or be detrimental to the security of transportation.

Sterile Area

Means a portion of an airport that provides passengers access to boarding aircraft, and to which access is controlled by specified security measures, which include the Screening of persons and accessible property.

Article II

Objective

This Agreement sets forth the terms and conditions under which the Competent Authorities will engage in cooperative activities in the area of civil aviation security, and establish Screening standards for passengers departing the Preclearance Airport for the United States that are comparable to those implemented at U.S. airports. In addition, this Agreement sets forth the terms and conditions, as may be further specified in an Appendix hereto, whereby DHS/TSA may accept DCA's procedures for checked baggage Screening. Cooperative activities undertaken pursuant to this Agreement will provide for the development and implementation of mutually acceptable airport passenger checkpoint and checked baggage Screening standards, if applicable, at the Preclearance Airport to ensure that the screening of passengers, accessible property, and checked baggage Screening, if applicable, is performed using standards comparable to Screening standards implemented at the U.S. airports at which the Cleared Persons and checked baggage will arrive. Accordingly, these activities will ensure the security and facilitation of passengers and checked baggage arriving in the United States from the Preclearance Airport, particularly passengers transferring flights upon arrival in the United States, and align U.S. and Aruba's security measures while reducing unnecessary duplication or redundancies, to the extent appropriate and consistent with the respective laws and regulations of the Parties.

Article III

Implementation

- A. Annexes to this Agreement are legally binding and constitute an integral part of this Agreement.
- B. The duly authorized representatives of DHS/TSA and MT, in accordance with the terms and conditions of this Agreement, may develop and conclude project arrangements, to be documented as non-legally binding appendices to this Agreement ("Appendices"), delineating their cooperative activities. The Appendices shall contain a description of the type of cooperation to be performed, the personnel and other resources required to accomplish the tasks, the estimated costs, implementation plans, the type of equipment to be used or loaned (if any), and duration, as appropriate. Any activity conducted under an Appendix shall be consistent with and subject to the terms of this Agreement.
- C. The designated official within the DHS/TSA for the coordination and management of this Agreement is the Assistant Administrator of the Office of Global Strategies or his/her designee.
- D. For Aruba DCA is responsible for the coordination and management of this Agreement.

Article IV

Scope of work

- A. The cooperative activities in relation to civil aviation security for Preclearance operations between the Competent Authorities of the Parties may include, but are not necessarily limited to, the following:
1. Providing general expertise to assist in developing and improving civil aviation security infrastructure, standards, procedures, policies, training and equipment;
 2. In accordance with Annex C, assisting in the development of formal training and performance testing related to civil aviation security for screener personnel at the Preclearance Airport;
 3. Developing and implementing comparable and mutually acceptable standards, and sharing best practices and procedures for passenger and accessible property Screening;
 4. Sharing information and experience related to operational processes in civil aviation security for Preclearance operations, including information related to Screening methods and the evaluation of new and advanced security equipment in an airport environment;
 5. In accordance with Annex D, loaning necessary equipment to achieve comparable screening standards for passenger and accessible property Screening;
 6. In accordance with Annex A, conducting joint operational assessments of the Parties' respective civil aviation security infrastructure, programs, procedures, and processes, for the Screening of passengers and accessible property in connection with the Preclearance operations; and
 7. Developing and carrying out joint initiatives aimed at enhancing international civil aviation security in connection with Preclearance operations.
- B. Relevant cooperative activities in civil aviation security for Preclearance operations and the development of security standards and procedures pertaining to the Screening and Preclearance of passengers shall be consistent with this Agreement.
- C. Any exchange of information or material that may involve Confidential Information or Sensitive Security Information, shall be done in accordance with applicable laws and policies, this Agreement and Annex B hereto.

Article V

Screening standards at the preclearance airport

- A. The Competent Authorities shall establish, and DCA shall ensure implementation of, passenger and accessible property Screening standards at the Preclearance Airport that are comparable to the Screening standards at commercial airports in the United States. Accordingly, such standards shall provide for, among other things, the establishment and maintenance of Sterile Areas in the Preclearance Airport in accordance with the following requirements:
1. Ensuring that the Sterile Area is cleared of unauthorized persons, explosives, incendiaries, or weapons each time the area is put into operation following a period of non-control;
 2. Controlling against access by unauthorized persons and the unauthorized introduction of explosives, incendiaries, weapons, or other prohibited items;
 3. Screening any person upon entry into the Sterile Area, and rescreening any person, who for any reason exited from the Sterile Area to a public (non-sterile) area, upon reentry into the Sterile Area;

4. Establishing and implementing breach control procedures to ensure that any unauthorized person who is discovered in the Sterile Area, and his or her accessible property, are continuously monitored until removed from the Sterile Area, and that appropriate law enforcement authorities are immediately notified of the incident;
5. Establishing and implementing procedures to ensure that the Sterile Area has not been contaminated in the event of a breach where security and law enforcement personnel are not able to continuously monitor and respond to the unauthorized person or prohibited item in the Sterile Area. Mitigation measures shall include full or partial terminal evacuation, as appropriate, and notification of appropriate authorities; and
6. Establishing and implementing notification procedures and effective communications channels to ensure the adequacy of law enforcement officer ("LEO") response in the event of a breach of the Sterile Area.

B. The Competent Authorities shall establish and implement a mutually acceptable list of items that are prohibited from the Sterile Area. That list shall include, but is not limited to, guns and firearms, club-like items, explosives, incendiaries, disabling chemicals and other dangerous or sharp items that could be used to cause catastrophic damage to an aircraft or might be used by those with the intent to hijack an aircraft.

C. The screening standards developed by the Competent Authorities and the list of prohibited items, discussed in Article V.A and V.B above, may be amended or otherwise modified from time to time depending on current threat information or other circumstances as may be mutually agreed upon.

Article VI

Screeners standards at the preclearance airport

A. The Competent Authorities shall establish, and DCA shall ensure implementation of, standards for all persons performing Screening functions at the Preclearance Airport, which shall be comparable to the screener standards required in the United States. Accordingly, such standards shall ensure that screeners at the Preclearance Airport shall:

1. Meet minimum physical and educational standards;
2. Successfully undergo a background check that is comparable to those applied to screeners at airports in the United States;
3. Complete formal classroom training, on-the-job training, recurrent training, and where needed, remedial training that is comparable to the level of training provided to screeners at airports in the United States. Training shall, at a minimum, include instruction in proper Screening techniques, physical inspection, use of metal detectors, use of X-ray systems, and Threat Image Projection training or a comparable alternative;
4. Be subject to a program of performance testing through undisclosed evaluation of screeners' abilities to detect and process people and property prohibited from entering the Sterile Area in accordance with Arabian law; and
5. Be subject to a program of annual screener proficiency recertification using both written examinations and practical applications.

The standards may be further specified in an Appendix hereto.

B. DCA shall ensure implementation at the Preclearance Airport so as to maintain staffing levels and supervision sufficient to support the configuration of each Passenger Screening Checkpoint.

Article VII

Passenger screening methods at the preclearance airport

The Competent Authorities shall establish, and DCA shall ensure implementation of, mutually acceptable procedures to ensure that passengers and other persons at the Preclearance Airport are prevented from carrying prohibited items into the Sterile Area or onboard an aircraft, and that such mutually acceptable procedures shall be comparable to the passenger Screening procedures required in the United States, and, at a minimum, shall ensure the following:

- A. All persons desiring to pass beyond the Passenger Screening Checkpoint or board an airplane shall be screened for prohibited items.
- B. Any person who refuses to be screened shall be denied passage beyond the Passenger Screening Checkpoint.
- C. Prior to an individual being permitted to pass beyond the Passenger Screening Checkpoint, Screening shall:
 1. Normally be accomplished through the use of metal detectors. Where metal detectors are not available, a physical body search shall be conducted using procedures comparable to those employed in the United States;
 2. Satisfactorily resolve all indications of unaccounted for metal on an individual's person.