

THE PACIFIC ISLANDS CIVIL AVIATION SAFETY AND SECURITY TREATY

CONFORMED COPY

(Includes amendments of the Amending Protocol dated 24 January 2006 which came into force on 20th July 2006.)

PREAMBLE

The Parties to this Treaty (hereinafter, "the Parties");

ACKNOWLEDGING the global basis of civil aviation encompassed by the Chicago Convention on International Civil Aviation and its related protocols and amendments,

RECOGNISING the difficulties faced by individual states in discharging their obligations and responsibilities under the Chicago Convention on International Civil Aviation and its related protocols and amendments,

RECOGNISING the advantages to individual states of a standardised regional approach to civil aviation safety and security regulatory oversight,

CONFIRMING the decision of the Pacific Islands Forum Aviation Ministers to establish a cooperative and regionally based safety and security regulatory organisation to meet the needs of Pacific Island States,

DESIRING to ensure the highest degree of safety and security in air transport and reaffirming the grave concern about acts or threats against the security of aircraft expressed by Pacific Islands Forum Aviation Ministers,

Have agreed as follows:

ARTICLE 1 - DEFINITIONS

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

- (a) "Constitution" means the Constitution of the Pacific Aviation Safety Office which provides direction to the Council and staff of the Pacific Aviation Safety Office

(b) "Convention" means the Convention on International Civil Aviation, opened for signature at Chicago on December 7, 1944, including any relevant amendments and any relevant Annex and amendments thereto;

(c) "Council" means the Council of Directors of the Pacific Aviation Safety Office, comprising the Parties' authorised representatives, which provides the policy direction for the Pacific Aviation Safety Office; and representatives from other organisations;

(d) "Forum Island Countries" means the Pacific Island members of the Pacific Islands Forum;

(e) "Inspector" means a person appointed or recruited by the Pacific Aviation Safety Office to undertake inspection duties;

(f) "Pacific Islands Forum members" means Forum Island Countries, Australia and New Zealand;

(g) "Pacific Aviation Safety Office" or "PASO" means the international organisation established in accordance with the terms of this Treaty to provide aviation safety and security regulatory oversight advice to those Parties seeking its services;

(h) "Party" means any State which has signed the Treaty or otherwise acceded to the Treaty once it has entered into force;

(i) "Requested level of service provision" means the classification of services to be provided by the PASO, that have been agreed and that are included in an agreement between a Party to this treaty and the PASO;

(j) "Safety" means a combination of measures and directions intended to provide appropriate standards for civil aviation including the requirements of Annexes 1, 6, 8 and 14 to the Convention and related documentation;

(k) "Secretary General" means the Secretary General of the Pacific Islands Forum Secretariat;

(l) "Security" means a combination of measures and human and material resources intended to safeguard civil aviation against acts of unlawful interference including the requirements of Annex 17 to the Convention and related documentation;

(m) "Treaty" means this Treaty, and any amendments thereto.

ARTICLE 2 - SOVEREIGNTY

The Parties recognise that each Party has complete and exclusive sovereignty over its airspace and responsibility for aviation safety and security regulatory oversight within its territory.

ARTICLE 3 - REGIONAL AND COLLABORATIVE BASIS.

Without prejudice to Article 2 and consistent with the rights and obligations of the Parties under international law, the Parties agree that the following obligations for the regulatory oversight of civil aviation under the Convention be met in a regional and collaborative manner;

- (i) Airworthiness,
- (ii) Flight Operations,
- (iii) Airports,
- (iv) Security, and
- (v) Personnel licensing for these subjects.

ARTICLE 4 - THE MECHANISM FOR REGIONAL COLLABARATION

1. The Parties agree that the mechanism used to meet the obligations in Article 3, will be the establishment of a centralised technical advisory organisation known as the Pacific Aviation Safety Office (PASO). The Pacific Aviation Safety Office shall function in accordance with the provisions of this Treaty, the Constitution of the Pacific Aviation Safety Office and other directions provided by the Council of Directors of the Pacific Aviation Safety Office. In the event of any

inconsistency between the Constitution and this Treaty, or the Council decisions and this Treaty, the Treaty shall prevail.

2. The Pacific Aviation Safety Office shall provide to any Party as requested by that Party, advice and technical assistance on matters related to the regulatory oversight of civil aviation safety and security of that Party on a cost recovery basis.

3. The Pacific Aviation Safety Office shall have international legal personality and such legal capacity as may be necessary to carry out its functions. In particular, the Pacific Aviation Safety Office shall have full legal capacity to, among others,

(i) contract,

(ii) borrow money required to satisfy PASO's objectives, and

(iii) institute legal proceedings.

4. The Pacific Aviation Safety Office, its assets, property, income and its operations and transactions shall be exempt from all taxation. PASO shall also be exempt from any obligation for the payment, withholding or collection of any tax or duty. The privileges and immunities which the Pacific Aviation Safety Office shall enjoy in the territory of a Party are those defined in Article 8, and those provided under the domestic laws of the Party concerned.

ARTICLE 5 - RESPONSIBILITIES OF PARTIES

The Parties shall:

(a) retain at all times full responsibility for all matters related to aviation safety and security in their respective territories;

(b) support the will and intent of this Treaty by directing the Pacific Aviation Safety Office through membership of the Council;

(c) meet their annual financial contribution as set by the Council;

(d) for those parties requesting services from PASO, institute and maintain an aviation safety and security legislative framework in a standardised and consistent manner;

(e) review and respond to, and act appropriately upon such reports and recommendations, as the Pacific Aviation Safety Office may provide, to fully meet international obligations;

(f) ensure that any fees charged by the Pacific Aviation Safety Office to recover costs for the provision of services are reimbursed in a timely manner;

(g) subject to a Party's domestic law, respond positively and in a timely manner to requests for information or data submitted by Pacific Aviation Safety Office through that Party's authorised representative on the Council; and

(h) from time to time notify Council and other Parties of any change in their requested level of service provision by Pacific Aviation Safety Office.

ARTICLE 6 - THE PACIFIC AVIATION SAFETY OFFICE COUNCIL OF DIRECTORS

1. The Pacific Aviation Safety Office Council of Directors shall consist of representatives of the Parties and such representatives of other organisations as may be decided by the Council and detailed in the Constitution.

2. The objective of the Pacific Aviation Safety Office Council of Directors is to support the mission of the Pacific Aviation Safety Office to inculcate an aviation safety and security culture in the Pacific.

3. The Functions of the Council shall be to:

(a) appoint the General Manager of the Pacific Aviation Safety Office;

(b) provide policy and strategic direction to Pacific Aviation Safety Office;

(c) abide by, and from time to time review the adequacy and appropriateness of, the Constitution of the Pacific Aviation Safety Office and amend as required;

(d) adopt rules of procedures and financial regulations, including in relation to annual and service fees, and other such administrative regulations as may be required to amplify the Constitution of the Pacific Aviation Safety Office;

(e) consider and approve the proposed annual budgets, work programmes, fee structures and staffing levels of the Pacific Aviation Safety Office;

(f) receive, examine, comment on and release the annual report of the General Manager of the Pacific Aviation Safety Office;

(g) appoint financial auditors and receive their reports annually.

4. The Council shall appoint a Chair with a tenure of 12 months. The Chair may exercise a vote in Council decisions.

5. The Council shall hold a meeting at least once each calendar year. The Council may meet at anytime during the year following the agreement of 50% or more of the Parties.

6. Generally decisions in Council shall be by consensus, however if all efforts to reach a decision by consensus have been exhausted, then decisions will be undertaken by open vote requiring a 2/3 majority of Parties present and voting. Consideration may be given in the Constitution to the use of written proxy authorities.

7. The Council shall determine a type of membership of representation other than Parties.

8. Only Parties shall be entitled to vote in Council decisions. In addition, Parties that have not satisfied their financial obligations under the Constitution shall not be entitled to vote.

ARTICLE 7 - FUNCTIONS OF THE PACIFIC AVIATION SAFETY OFFICE

1. Subject to the directions of Council and the Constitution, the functions of the Pacific Aviation Safety Office shall be to:

- (a) conduct aviation safety and security regulatory tasks as requested by, and agreed with, any Party, subject to Article 4(2);
- (b) provide any Party upon request with advice and technical assistance relating to the regulatory oversight of civil aviation safety and security by that Party, using as a basis the standardised rules and procedures under that Party's legislative frameworks subject to Article 4(2);
- (c) provide an annual work plan showing anticipated activities;
- (d) prepare an annual budget and annual report;
- (e) maintain records concerning aviation safety and security; and
- (f) provide any Party that has requested advice and technical assistance with applicable copies of reports, findings of non-compliance and recommendations for rectification.

2. The Pacific Aviation Safety Office shall report to the Council on a regular basis on the implementation of the work plan, commitments, and any indications of unsafe incidents or trends in civil aviation safety and/or security.

ARTICLE 8 - AUTHORISATION

1. Inspectors shall be authorised, by a Party requesting services from the Pacific Aviation Safety Office, to conduct surveillance, data gathering and other activities for the purposes of facilitating advice to that Party as required for appropriate aviation regulatory oversight, consistent with the Convention. Inspectors shall not be authorised to undertake such activities outside the territory of the Party requesting services without the prior consent of the state in whose territory such activities are proposed to take place.

2. Inspectors shall, when carrying out their duties on behalf of a Party, be deemed to be officers of the civil aviation administration of that Party, and shall attract rights, privileges and responsibilities no less favourable than those granted to civil aviation officers of that Party.

3. Parties shall indemnify Inspectors from any pertinent legal suit arising out of the appropriate performance of their duties.

ARTICLE 9 - SETTLEMENT OF DISPUTES

In case of a dispute between Parties as to the interpretation or application of, or compliance with, this Treaty, the Parties concerned shall seek a settlement of the dispute through negotiation, mediation or any other peaceful means of their own choice.

ARTICLE 10 - SIGNATURE, ACCEPTANCE, APPROVAL

1 This Treaty shall be open for signature by Pacific Islands Forum Members and shall remain open for signature for twelve months from the 7th day of August two thousand and four.

2. Instruments of accession or approval shall be deposited with the Depositary.

3. Each Party shall be a member of PASO and of the Council.

4. Each Party, in accordance with its judicial system, shall promptly take such action as is necessary to make effective in its own territory the provisions of this Treaty and shall inform the Council of its actions taken in respect thereof.

ARTICLE 11 - ACCESSION

1. After the entry into force of this Treaty, any Pacific Island Forum Member who has not signed the Treaty within twelve months from the date on which it was opened for signature, may accede to the Treaty upon deposit of an instrument of accession to the Depositary.

2. After the entry into force of this Treaty, the Parties may, by 2/3 majority, invite other States who are not Pacific Island Forum Members to accede to this Treaty.

3. For each State which accedes to the Treaty after the entry into force of the Treaty, this Treaty shall enter into force on the thirtieth day following the deposit of its instrument of accession.

ARTICLE 12 - ENTRY INTO FORCE

1. This Treaty shall enter into force thirty days after the fifth signature on the Treaty.
2. If there are less than five signatories after the lapse of the twelve month period from the date this Treaty is opened for signature, this Treaty shall enter into force thirty days after the deposit by the fifth State of its instrument of accession. Such State shall be inclusive of those States who have signed the Treaty.

ARTICLE 13 - AMENDMENT

1. Any Party may propose amendments to this Treaty by a written communication addressed to the Depositary. The Depositary shall promptly circulate the proposal to all Parties.
2. Discussion in Council will be the normal method of progressing amendments however the Parties may notify the Depositary in writing of acceptance of the amendment.
3. Amendments to this Treaty shall enter into force thirty days following notification by the Party which, by its acceptance of the amendment, constitutes the required 2/3 majority.

ARTICLE 14 - WITHDRAWAL

A Party may withdraw from this Treaty by giving written notice of withdrawal to the Depositary. The withdrawal shall be effective twelve months after receipt of the notice by the Depositary, unless the Party withdraws its notice by written communication to the Depositary prior to the end of the twelve months period.

ARTICLE 15 - DEPOSITARY

The Secretary General of the Pacific Islands Forum Secretariat shall be the Depositary of this Treaty and any amendment or revisions thereto. The Depositary shall register this Treaty with the Secretary-General of the United Nations in accordance with article 102 of the Charter of the United Nations and to the

Secretary General of the International Civil Aviation Organisation in accordance with ARTICLE 83 of the Convention.

IN WITNESS THEREOF, the undersigned, duly authorised thereto by their respective governments, have signed this Treaty.