

3<sup>rd</sup> CONSULTATION MEETING  
BETWEEN THE AERONAUTICAL AUTHORITIES OF  
THE FEDERATIVE REPUBLIC OF BRAZIL  
AND  
THE RUSSIAN FEDERATION  
MEMORANDUM OF UNDERSTANDING

Delegations representing the Aeronautical Authorities of the Federative Republic of Brazil and the Russian Federation met in Rio de Janeiro, Brazil on 8<sup>th</sup> and 9<sup>th</sup> of February 2011 for air services consultations in relation to the Bilateral Air Services Agreement between the Government of the Federative Republic of Brazil and the Government of the Russian Federation signed in Moscow on January 22<sup>th</sup> 1993 (hereinafter referred to as "the Agreement").

As a result of the discussions, which were held in a friendly and cordial atmosphere, the two delegations have agreed and signed the text of this Memorandum.

The list of delegations is attached as Attachment A to this Memorandum.

The delegations have reached the following understandings:

**1. Establishment of a new ASA**

The delegations reached an agreement on a draft text of an Air Services Agreement (the "Draft Agreement"), attached at Attachment B, pending agreement on Article 10 (Customs Duties) and Article 12 (Tariffs), which need internal consultations.

After final agreement on the text, the aeronautical authorities intend to submit the draft Agreement to their respective authorities for approval.

**2. Administrative and Operational Provisions**

The delegations agreed that the following provisions are an integral part of this Memorandum, and shall produce effects of administrative character between the aeronautical authorities of the Parties from the date of its signature:

**2.1. Capacity**

The airlines of each Party will be entitled to operate the following capacity between the two countries:

- Seven (7) weekly frequencies for combination services; and
- Seven (7) weekly frequencies for all-cargo services.



## 2.2. Tariffs

The delegations agreed that for air services operated between the two countries, tariffs may be freely established by the airlines.

The delegations also agreed that either Party may require filing with its aeronautical authorities of tariffs charged for services originating from its territory by airlines of the other Party. Such filing by the airlines may be required to be made no earlier than the initial offering of a tariff.

The delegations agreed to further discuss the reasons for consultations regarding tariffs. Each delegation presented a proposal for Article 12 (Tariffs) of the draft Agreement.

## 2.3 Route Schedule and Traffic Rights

A. Routes to be operated by the designated airlines of Brazil:

Points of Departure	Intermediate Points	Points of Destination	Points Beyond
Points in Brazil	Any points	Moscow and 3 points in Russia to be nominated by the aeronautical authorities of Brazil	Any points

B. Routes to be operated by the designated airlines of Russia:

Points of Departure	Intermediate Points	Points of Destination	Points Beyond
Points in Russia	Any points	Rio de Janeiro and 3 points in Brazil to be nominated by the aeronautical authorities of Russia	Any points

Notes:

1. Intermediate points and points beyond may be omitted by the designated airlines of the Parties at their discretion.
2. The right of the designated airlines of one Party to transport passengers, cargo and mail between points in the territory of the other Party and points in the territory of third countries (exercise of fifth freedom traffic right) shall be subject to agreement between the aeronautical authorities of the Parties.
3. Charter, additional and non-scheduled flights shall be carried out based on preliminary request of the airlines, submitted to the aeronautical authorities at least five working days before the departure.

## 2.4 Code Sharing Provisions

Any designated airline may enter into commercial and/or co-operative marketing arrangements including, but not limited to, blocked-space or code sharing arrangements, with any other airline, including an airline of a third country, provided that:

- a) the operating airline in such arrangements holds the appropriate operating authorization and traffic rights;

- b) both, the operating and marketing airlines hold the appropriate route rights;
- c) the sale of services for carriage of passengers between a point in the territory of the other country and a point in a third country, or between two points in the territory of the other country, be exercised only by an airline which holds such traffic rights;
- d) in respect of each ticket sold, the purchaser is informed at the point of sale which airline will operate each flight forming part of the service;
- e) the activities mentioned are carried out in accordance with the laws and regulations applicable in each country, including those governing competition;
- f) the relevant airline has secured any necessary approvals from its own authorities, for the purposes of ensuring that the code sharing arrangement is consistent with bilateral arrangements with any relevant third country; and
- g) code sharing agreements will be subject to approval by aeronautical authorities of both sides.

## **2.5 Approval of Schedules**

The aeronautical authorities of each Party may, according to its National laws and regulations, require the designated airlines to submit their envisaged flight schedules for approval at least 45 (forty-five) days prior to the operation of the agreed services. The same procedure shall apply to any modification thereof.

For supplementary flights which the designated airline of one Party wishes to operate on the agreed services outside the approved timetable, that airline must request prior permission from the aeronautical authorities of the other Party. Such requests shall be submitted at least 5 working days prior to the operation of such flights.

## **2.6 Transsiberian routes network**

The Russian delegation stated that rights to operate along Transsiberian routes network in the airspace of the Russian Federation cannot be granted until the provision for commercial agreement between Russian and Brazilian designated airlines is fulfilled. The delegation stressed that this policy is applied on a non-discriminatory basis to all airlines operating in such conditions.

The Brazilian delegation emphasized its disagreement with that policy, clarifying that the issue has been harming the aeronautical relationship between Brazil and Russia for the past decades. The delegation stressed its wishes that such a requirement be eliminated in the near future, once it unduly hampers commercial opportunities for airlines and the connectivity between the countries.

## **2.7 Other Matters**

The Brazilian delegation stated that regarding the provision on Tariffs (Article 12 of the draft Agreement), the expression "unjust and unreasonable" mean that the level of any tariff should be related to the cost of providing the service. The delegation also explained that oversight of competition in Brazil is under other agency's mandate.

The Brazilian delegation also observed the multiple meanings of the expression "fair and equal opportunity", as mentioned on Article 13 (Principles Governing Operation) of the draft Agreement. This expression is intended to ensure that the Parties facilitate the market conditions needed by all airlines to exploit the full range of rights provided for under the Agreement.

The Russian delegation clarified that in their regulatory system, the designated airlines shall submit their envisaged flight schedules for approval to the aeronautical authorities of Russia.

The Brazilian Delegation explained to the Russian Delegation the restrictions in force in Guarulhos International Airport (São Paulo), in accordance with a Resolution of the Civil Aviation Council of Brazil (CONAC), due to the current limitations of infrastructure capacity in that airport. It is expected that those restrictions may be withdrawn as soon as such capacity problems are solved. It was stressed that airlines applying for operation authorizations in that airport will be treated on a non discriminatory basis.

Both delegations noted appreciation for the beginning of a direct flight of Transaero Airlines between the Russian Federation and the Federative Republic of Brazil and welcome further development of such operations, as well as improvement in the air links between the two countries.

3. **Entry into force**

Both delegations agreed that this Memorandum shall take effect upon its signature and shall supplement the Memorandum of Understanding between the aeronautical authorities signed on February 14<sup>th</sup> 2008, replacing its concerned provisions.

Signed in Rio de Janeiro, Brazil on February 9<sup>th</sup> 2011.

For the Brazilian Delegation

  
Bruno Silva Dalcolmo  
Head of Delegation

For the Russian Delegation

  
Elena A. Mikheeva  
Head of Delegation

**Brazil Delegation**

Head of Delegation

1. Bruno Silva Dalcolmo Superintendent of International Relations  
ANAC – National Civil Aviation Agency

Members

2. Roque Felizardo da Silva Neto Manager, Air Services Agreements  
Negotiations  
ANAC – National Civil Aviation Agency
3. Guttemberg R. Pereira Technical Manager, Air Services  
Negotiations  
ANAC – National Civil Aviation Agency
4. Francisco Carvalho de Lima Regulation Specialist  
ANAC – National Civil Aviation Agency
5. Marcelo Marinho Regulation Specialist  
ANAC – National Civil Aviation Agency

**Airlines**

6. Caio Cruz TAM
7. João Paulo Lopes TAM
8. Ciro Camargo VRG



**Russian Delegation**

Head of Delegation

1. Elena A. Mikheeva

Head Air Service Division  
Department of State Policy in Civil  
Aviation  
Ministry of Transport of the Russian  
Federation

Members

2. Julia A. Volodina

Senior Expert  
Department of State Policy in Civil  
Aviation  
Ministry of Transport of the Russian  
Federation

3. Andrey V. Budaev

General Consul of the Russian Federation  
Rio de Janeiro

4. Maxim G. Vasiliev

Consul of the Russian Federation  
Rio de Janeiro

5. Sergey V. Sapozhnikov

Vice-Consul of the Russian Federation  
Rio de Janeiro

**Airlines**

6. Alexey V. Leonov

“Volga Dnepr” Group

7. Kamil R. Feyzrakhmanov

“Polet Airlines”

8. Denis E. Savchenko

“Transaero Airlines”

9. Tatiana Silva

“Transaero Airlines”  
Legal Representative for Brazil