

## AGREED MINUTES

1. Delegations of the Grand-Duchy of Luxembourg and of the aeronautical authorities of the Russian Federation met in Luxembourg from 19 to 20 June 2012 to hold consultations on bilateral aviation relations.

The consultations were conducted in a cordial and friendly atmosphere.

The delegation list is attached hereto as well as the agenda of the meeting.

2. With regard to agenda item 1a, the delegations agreed to a protocol amending the Air Transport Agreement between the Government of the Russian Federation and the Government of the Grand-Duchy of Luxembourg signed on 7 May 1997.

The text of the protocol, initialed in Luxembourg on 20 June 2012, is attached in Annex 1. The delegations agreed that the provisions of the protocol shall be applied provisionally from the date of signature of the present Agreed Minutes at the level of aeronautical authorities.

3. Concerning agenda item 1b the Russian delegation stated that the Russian side is not in a position to implement the Agreed Principles on Siberian Overflights due to Russia's fundamental opposition to the EU-ETS regime. The Luxembourg delegation regretfully took note of this position while voicing its objection to linking these two entirely unrelated issues. The Luxembourg delegation reiterated that the implementation of the Agreed Principles is a clear commitment in the framework of Russia's accession to the World Trade Organization.

Furthermore the Russian delegation drew the attention of the Luxembourg delegation to point II.3 of the Agreed Principles, and gave its interpretation of that provision. The Luxembourg delegation disagreed with the Russian interpretation and stated that the negotiation of traffic rights and the implementation of the Agreed Principles are separate issues. The Russian delegation took note of this position.

4. Concerning agenda item 2 the Luxembourg delegation proposed:
  - a. an increase of the total number of weekly frequencies under the existing Memorandum of Understanding dated 23<sup>rd</sup> June 2011, from 35 to 50;
  - b. the possibility for Luxembourg-designated cargo carriers to operate with 3<sup>rd</sup> and 4<sup>th</sup> freedom traffic rights to four points in Russia with further continuation eastbound (excluding 5<sup>th</sup> freedom traffic rights);

- c. the possibility for Luxembourg-designated cargo carriers to operate the routes Cologne-Moscow v.v. and Luxembourg-Leipzig-Moscow v.v. with commercial traffic rights on all sectors.


The Russian delegation took note of those proposals and stated that concerning point a. an increase of overflying frequencies is linked to the implementation of EU-ETS on Russian carriers. Proposals contained in point b. have to be further studied with the participation of designated airlines of both sides and those of point c. do not fall under the existing bilateral Air Transport Agreement.

While deploring the linking of the bilateral issues with the EU-ETS and having in mind the overall excellent relations between the two countries, the Luxembourg delegation expressed its readiness to continue the dialogue on these matters at all appropriate levels.

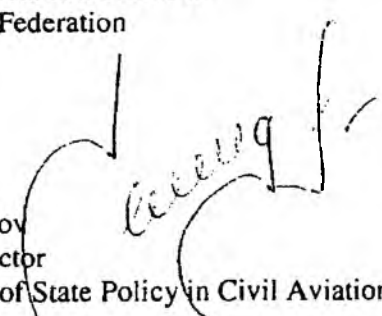
5. Following the MOU dated 23<sup>rd</sup> June 2011 both delegations reconfirmed that overflights that include a technical stop on the territory of the Russian Federation shall not be counted against the overall quota of frequencies as per said MOU.
6. Under "Any Other Business", the Luxembourg delegation raised the subject of visa requirements by the Russian Federation for civilian air crew members of Luxembourg-designated airlines, which place a significant burden on their operations. While expressing its hope that the matter may be resolved within the updating of the EU-Russia visa facilitation agreement in the near future as indicated by the Russian delegation, the Luxembourg delegation requested to continue discussions at all levels to explore practical steps with a view to reaching a bilateral solution. Discussions at the technical level between the Russian and the Luxembourg sides shall continue through diplomatic channels.

Done in Luxembourg in duplicate in the English language on 20<sup>th</sup> June 2012.

For the delegation of  
the Government of  
the Grand Duchy of Luxembourg

  
Jean Graff  
Director of International Economic Relations  
Ministry of Foreign Affairs

For the delegation of  
the aeronautical authorities of  
the Russian Federation

  
Oleg Demidov  
Deputy Director  
Department of State Policy in Civil Aviation  
Ministry of Transport

## **List of Delegations**

### **Delegation of the Russian Federation**

**Mr. Oleg Demidov**  
Deputy Director  
Department of State Policy in Civil Aviation  
Ministry of Transport

**Mr. Boris Zhilko**  
Deputy Director  
First European Department  
Ministry of Foreign Affairs

**Ms. Margarita Sabinina**  
Expert  
Department of State Policy in Civil Aviation  
Ministry of Transport

**Mr. Andrey Shumilin**  
Director Network and Fleet development  
AirBridgeCargo

**Ms. Anna Varshavskaya**  
Senior Manager Aviation Business Development  
Novaport

### **Delegation of the Grand-Duchy of Luxembourg**

**Mr. Jean Graff**  
Director of International Economic Relations  
Ministry of Foreign Affairs

**Mr. Charles Klein**  
Head of International Relations  
Civil Aviation Authority

Mr. Pierre Franck  
Secrétaire de Légation 1er en Rang  
Ministry of Foreign Affairs

Ms. Isabelle Welter  
Conseiller de direction adjoint  
International Relations Department  
Civil Aviation Authority

Ms. Adelina Chats  
Expert  
Civil Aviation Authority

Mr. Peter Koster  
Chief Executive Officer  
West Air Luxembourg S.A.

Mr. Henning zur Hausen  
Sr. Vice-President  
Member of the Executive Committee  
Cargolux Airlines International S.A.

Mr. Patrick Jeanne  
Manager Traffic Rights  
Cargolux Airlines International S.A.

Consultations between  
the Government of the Grand-Duchy of Luxembourg  
and  
the Government of the Russian Federation  
on bilateral aviation relations

Luxembourg, June 19-20<sup>th</sup> 2012

**AGENDA**

1. Amendment of the bilateral Air Transport Agreement and its Annex in view of bringing them in conformity with:
  - a. EU competition law (amendments earmarked during June 2011 negotiations)
  - b. Agreed Principles on Siberian Overflights (removal of requirement to make compensation payments for Siberian overflight)
  
2. Discussion of operational arrangements (review of MOU):
  - a. Commercial operations to Russia
  - b. Clarification of the MOU signed in June 2011
  
3. A.O.B.
  - a. Implementation of EU Regulation 859/2011 concerning Cargo Security
  - b. EU ETS
  - c. Russian visa requirements for air crew members

**PROTOCOL AMENDING THE AIR TRANSPORT AGREEMENT  
BETWEEN THE GOVERNMENT OF THE RUSSIAN FEDERATION AND  
THE GOVERNMENT OF THE GRAND-DUCHY OF LUXEMBOURG  
DONE ON 7 MAY 1997**

The Government of the Russian Federation and the Government of the Grand-Duchy of Luxembourg (hereinafter referred to as "Contracting Parties"), amending the Air Transport Agreement between the Government of the Russian Federation and the Government of the Grand-Duchy of Luxembourg done on 7 May 1997 (hereinafter referred to as "the Agreement"),

have agreed as follows:

**Article 1**

The following changes shall be made to the Agreement:

1. In article 1:

- To formulate point a) of paragraph 1 as follows:

““aeronautical authorities” means, in the case of the Russian Federation, the Ministry of Transport of the Russian Federation or any person or body authorized to perform any functions presently exercised by the said authority, and in the case of the Grand-Duchy of Luxembourg, the Ministry in charge of Transport or any person or body authorized to perform any functions presently exercised by the said authority.”

- To supplement paragraph 1 with the following point f):

“f) “Air Operator Certificate” has the meaning assigned to it in Annex 6 “Operation of Aircraft” to the Convention.”

2. Paragraph 4 of Article 3 is declared null and void.

3. To add the following paragraph 4 to Article 4:

“4. Each Contracting Party shall designate such airlines for the purposes of operating agreed services on the specified routes which are established on the territory of the State of either Contracting Party.

Each Contracting Party shall have the right to refuse to grant the operating authorization referred to in paragraph 2 of this Article or to impose such conditions as it may deem necessary on the exercise by the designated airline of the rights specified in Article 3 of the Agreement, in any case where the said Contracting Party is not satisfied that the designated airline of the other Contracting Party:

- is established in the territory of the State of that other Contracting Party; or
- has a valid Operating Licence and Air Operator Certificate in accordance with the applicable legislation of the State of the designating Contracting Party; or
- effective regulatory control of the airline is exercised and maintained by the State responsible for issuing its Air Operator Certificate and the relevant aeronautical authority is clearly identified in the designation.”;

4. To formulate paragraph 1 of Article 5 as follows:

“1. Each Contracting Party shall have the right to revoke an operating authorization or to suspend the exercise of the rights specified in Article 3 of the Agreement by an airline designated by the other Contracting Party or to impose such conditions as it may deem necessary on the exercise of these rights:

- a) in any case where it is not satisfied that the airline fulfills the conditions set in Article 4 paragraph 4 of the Agreement; or
- b) in case of a failure by that airline to comply with the legislation of the Contracting Party granting these rights; or
- c) in case the airline otherwise fails to operate in accordance with the conditions prescribed under the Agreement; or
- d) in case effective regulatory control over the airline designated by one Contracting Party is exercised by a State with which the other Contracting Party does not have a bilateral air services agreement and that State has denied traffic rights to the airline designated by that other Contracting Party.”;

5. Paragraph 2 of Article 9 is declared null and void;

6. To formulate Article 10 as follows:

#### **“Article 10**

1. The tariffs applicable between the territories of the two Contracting Parties shall be established at reasonable levels, due regard being paid to all relevant factors including the cost of operation, the interests of users, commercial benefit, reasonable profit, class of service and the tariffs of other airlines operating over whole or part of the routes.

2. Designated airlines of either Contracting Party develop the tariffs independently.
  3. The Aeronautical Authorities of either Contracting Party may request to intervene in a tariff, in case of:
    - (a) prevention of unreasonably discriminatory tariffs;
    - (b) protection of consumers against prices that are unreasonably high or restrictive because of the abuse of a dominant position;
    - (c) protection of airlines against prices to the extent that they are artificially low because of direct or indirect government subsidy; and
    - (d) protection of airlines against prices that are low due to unfair competition, where the evidence exists.
  4. The Aeronautical Authorities of either Contracting Party may require tariffs for approval for purposes mentioned in paragraph 3 of this Article. In this case, the tariffs shall be submitted to the Aeronautical Authorities for approval 30 days prior the application of the tariff.”;
7. To add the following Article 14 bis:

**“Article 14 bis**

1. Each Contracting Party may request consultations at any time concerning safety standards in any area relating to crew, aircraft or their operation adopted by the other Contracting Party. 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 any area referred to in paragraph 1 of this Article that are at least equal to the minimum standards established pursuant to the Convention, the other Contracting Party is notified of those findings and of the steps considered necessary to conform with those minimum standards, and that other Contracting Party shall take appropriate corrective action. Failure by the other Contracting Party to take appropriate action within fifteen (15) days or such longer period as may be agreed shall be grounds for the application of Article 5 of the Agreement.
3. Notwithstanding the obligations mentioned in Article 33 of the Convention it is agreed that any aircraft operated by the designated 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 authorized representatives 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 for its conformity with the standards of International Civil Aviation Organization (in this Article called “ramp inspection”), provided this does not lead to unreasonable delay.



4. If any such ramp inspection or series of ramp inspections gives rise to serious concerns that an aircraft or the operation of an aircraft does not comply with the minimum standards established pursuant to the Convention, or there is a lack of effective maintenance and administration of safety standards established 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 the certificates or licences in respect of that aircraft or in respect of the crew of that aircraft had been issued or rendered valid, or that the requirements under which that aircraft is operated, are not equal to or below the minimum standards established pursuant to the Convention.

5. Each Contracting Party reserves the right to suspend or vary the operating authorization of an airline or airlines designated by the other Contracting Party if a result of a ramp inspection or a series of ramp inspections, a denial of access for ramp inspection, consultations referred to in paragraph 1 of this Article or other factors reveals evidence that immediate action is essential to the safety of the airline operation.

6. Any action by one Contracting Party in accordance with paragraphs (2) or (5) above shall be discontinued once the basis for the taking of that action ceases to exist.”

## Article 2

This Protocol shall enter into force from the date of the last written notification through diplomatic channels that the necessary internal procedures for the entry into force have been fulfilled by the Contracting Parties.

Done in \_\_\_\_\_ on \_\_\_\_\_ 201\_ in duplicate in Russian, French and English languages, all versions being equally authentic. In case of divergences of interpretation, the English text shall be applicable.

**For the Government of the  
Russian Federation**

**For the Government of the  
Grand-Duchy of Luxembourg**

