

## MEMORANDUM OF UNDERSTANDING

Delegations representing the Aeronautical Authorities of the Russian Federation and the Republic of Austria met in St.-Petersburg on 2 and 3 November 2011 to review and update the present regulatory bilateral framework pursuant to the Air Service Agreement between the Government of the Russian Federation and Federal Government of the Republic of Austria signed at 8 November 1993 (referred to hereafter as the ASA). Lists of the two delegations are attached as Annex 1.

The consultations were held in a cordial and friendly atmosphere and both delegations expressed their desire to further promote their aeronautical relations in a spirit of cooperation and complete understanding for their mutual benefits.

The delegations discussed the following issues:

### **1. Updating of the ASA**

Both delegations discussed and agreed on the draft of the Protocol amending the ASA in terms of definitions, traffic rights, EU designation, tariffs, aviation safety, attached as Annex 2. Both delegations will take necessary efforts to adopt necessary governmental decision in order to sign the draft Protocol.

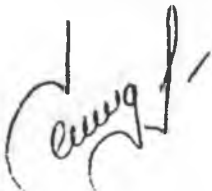
The Austrian side also passed to the Russian side its proposals on Article 10 and 15 as attached as Annex 3. The Russian side took note of these proposals. Both delegations agreed to discuss these proposals at a later stage.

### **2. European Union's Emissions Trading Scheme**

The Russian side expressed its concern with the implementation of the EU ETS on aircraft operators from third countries. The Russian side believes that such unilateral actions contradict Article 1 of the Chicago Convention and the ICAO Assembly Resolution which urges Parties involved to engage in negotiations and consultations to reach an agreement on the implementation of market based measures. The Russian side considers unacceptable the implementation of the EU ETS on international aviation and reserves its right to impose adequate measures in case Russian carriers will be included into EU ETS without being at first agreed between relevant authorities.

### **3. Code-share**

As per request of the Austrian delegation the Russian delegation explained that following the provisions of point 4.3 of the MOU of November 30, 2010 there are no limitations on points/capacity for marketing carriers.



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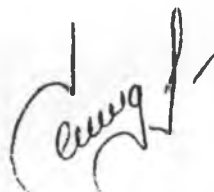
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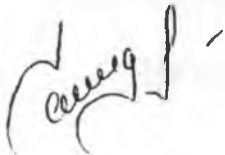
#### 4. Capacity Regime

Both delegations confirmed the following capacity regime:

- a) The designated airlines of each Contracting Party may operate up to 28 passenger/combination weekly frequencies on the route Vienna-Moscow v.v..
  - b) The designated airlines of each Contracting Party may operate up to 7 passenger/combination weekly frequencies on the route Vienna-St. Petersburg v.v..
  - c) The designated airlines of each Contracting Party may operate up to 7 passenger/combination weekly frequencies on the route between Salzburg-Moscow v.v. and up to 7 passenger/combination weekly frequencies on the route between Innsbruck-Moscow v.v., each.
  - d) The designated airlines of each Contracting Party may operate up to 7 passenger/combination weekly frequencies on the route between Salzburg-Saint Petersburg v.v. and up to 7 passenger/combination weekly frequencies on the route between Innsbruck-Saint Petersburg v.v.
  - e) The airlines designated by Austria may operate up to 7 passenger/combination weekly frequencies from any points in Austria to Moscow, Saint-Petersburg, Krasnodar, Rostov-on-Don, Yekaterinburg, Sochi, Nizhny Novgorod (excluding Moscow - Salzburg, Moscow - Innsbruck, Saint Petersburg - Salzburg, Saint-Petersburg - Innsbruck, Moscow - Vienna, Saint-Petersburg - Vienna), each.
  - f) The airlines designated by the Russian Federation may operate up to 7 passenger/combination weekly frequencies from any points in Russia (excluding Moscow and Saint-Petersburg) to Vienna, each.
  - g) The airlines designated by the Russian Federation may operate up to 7 passenger/combination weekly frequencies from any points in Russia (excluding routes Moscow - Salzburg v.v., Moscow - Innsbruck v.v., Saint-Petersburg-Salzburg v.v. and Saint-Petersburg-Innsbruck v.v.) to Salzburg, Innsbruck, Klagenufurt, Graz, Linz, each.
- ✓ In order to provide flexibility for airlines during seasonal peak periods both delegations agreed to accept the issue of shifting the provided frequencies between week days.

The Austrian Delegation repeated its proposal already forwarded in former negotiations to increase the number of frequencies especially between Vienna and Moscow, Vienna and St. Petersburg as well as Vienna and Krasnodar for carriers of both sides and to allow double designation on all specified routes outlined in the Annex to the bilateral ATA.

The Russian side took note of this proposal.



The Austrian delegation expressed disappointment, that none of these proposals could be accepted despite the fact, that the passenger volumes between Austria and Russia are considerably growing, as exemplified by recent data. Moreover, these data show an increase in market share for Russian carriers. The limitation is blocking carriers from both sides in the development of their mutually beneficial co-operation by creating a situation, that they can offer most of their connecting or transfer flights only into one direction, but not on the way back. This is hampering the development of traffic from the Russian regions into Austria and vice versa. This is limiting the real network integration for the co-operating carriers in particular as well as the integration of the Russian and West European aviation markets in general. At the same time it is limiting the increase of the Austrian tourist traffic generated to Russia.

This Memorandum of Understanding will enter into effect as of date of its signature.

Done in Saint Petersburg, on 3 November 2011


**For the delegation of the Aeronautical  
Authorities of the Russian Federation**

**OLEG O. DEMIDOV**

A handwritten signature in black ink, appearing to read 'Oleg O. Demidov', written in a cursive style.

**For the delegation of  
the Republic of Austria**

**ANTON KOZUSNIK**

A handwritten signature in black ink, appearing to read 'Anton Kozusnik', written in a cursive style.

**Russian Delegation**

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Ministry of Transport of the Russian Federation  
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Head of Delegation

**Mr. Oleg O. KLIM**

Federal Air Transport Agency  
Deputy Head

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

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Ministry of Transport of the Russian Federation  
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**Ms. Daria A. PARSHINA**

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Air Traffic Control Department  
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Observer

**Mr. Andrew M. LARCHENKO**

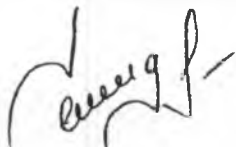
S7 Group  
Head of Division of Interlines and Alliances

**Mr. Alexey V. MAMIN**

VIM Airlines  
Deputy of Commercial Director

**Ms. Natalya R. TEIMURAZOVA**

Aeroflot – Russian Airlines  
Director External Relations and Alliances



**Mr. Vladimir A. BONDAREV**  
Rossiya Airlines  
Director External Relations

**Mr. Viacheslav Y. LADVISCHENKO**  
Rossiya Airlines  
Deputy Head of External Relations Department

**Mr. Alexander L. DELEZHA**  
Transaero Airline  
Deputy Head of External Relations Department

**Ms. Irina Zvereva**  
Airport Domodedovo

A handwritten signature in black ink, appearing to be 'Irina Zvereva', written in a cursive style.A handwritten signature in black ink, appearing to be 'Vladimir Bondarev', written in a cursive style.

## Austrian Delegation

**Mr. Anton KOZUSNIK**

Federal Ministry for European and International Affairs  
Head of Department III.6 – Environment, Transport and Telecommunication  
Head of Delegation

**Ms. Silvia GEHRER**

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**Mr. Otmar LENZ**

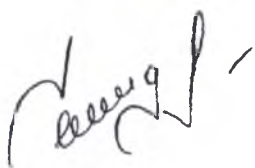
Fly Niki  
Managing Director

**Mr. Günther SEIBT**

Fly Niki  
Managing Director

**Mr. Robert BREITENFELD**

Vienna Airport/ AÖV  
Senior Manager/ Aviation Marketing & Business Development





**PROTOCOL AMENDING THE AIR SERVICES AGREEMENT BETWEEN  
THE GOVERNMENT OF THE RUSSIAN FEDERATION AND THE  
GOVERNMENT OF THE REPUBLIC OF AUSTRIA  
DONE ON 8 NOVEMBER 1993**

The Government of the Russian Federation and the Government of the Republic of Austria (hereinafter referred to as "Contracting Parties") amending the Air Services Agreement between the Government of the Russian Federation and the Government of the Republic of Austria done on 8 November 1993 (hereinafter referred to as "the Agreement")

have agreed as follows:

**Article 1**

To make the following changes in the Agreement:

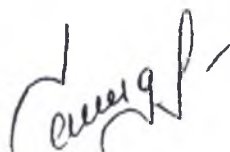
1. To supplement paragraph 1 of Article 1 with the following point g):  
"g) Air Operator Certificate has the meaning assigned to it in Annex 6 "Operation of Aircraft" to the Convention."
2. To make paragraph 4 of Article 3 null and void.
3. To formulate paragraph 4 of Article 4 as follows:

"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 a designated airline of the rights specified in Article 3 of the Agreement, in any case where the said Contracting Party is not satisfied that a 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. To formulate Article 11 as follows:

#### **"Article 11 Tariffs**

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, reasonable profit, interest of users, 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 from prices that are unreasonably high or restrictive because of the abuse of a dominant position;

(c) protection of airlines from prices to the extent that they are artificially low because of direct or indirect government subsidy; and

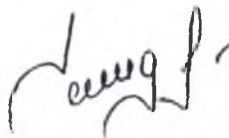
(d) protection of airlines from prices that are low due to unfair competition.

2. The Aeronautical Authorities of either Contracting Party may require tariffs for approval. In this case, the tariffs shall be submitted to the Aeronautical Authorities for approval 30 days prior the application of the tariff.";

6. To add the following Article 16<sup>1</sup>:

#### **"Article 16<sup>1</sup> Aviation Safety**

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.

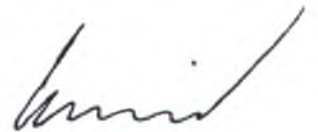
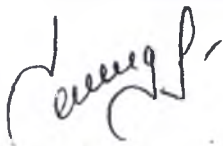
4. If any such ramp inspection or series of ramp inspections gives rise to serious concerns that an aircraft or the operation of an aircraft does not comply with the minimum standards established pursuant to the Convention, or there is a lack of effective maintenance and administration of safety standards 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 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 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 otherwise, 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 and German languages, all texts being equally authentic.

**For the Government of the  
Russian Federation**

**For the Government of the  
Republic of Austria**





PROPOSALS AUSTRIA

I. To replace ARTICLE 10 with the following:

**ARTICLE 10  
CAPACITY PROVISIONS**

1. Each Contracting Party shall allow fair and equal opportunity for the designated airlines of both Contracting Parties to compete in providing the international air transport governed by this Agreement.

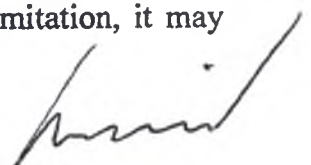
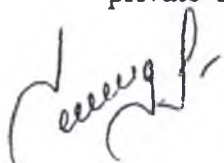
2. Each Contracting Party shall allow each designated airline to determine the frequency and capacity of the international air transport it offers based upon commercial considerations in the marketplace. Consistent with this right, neither Contracting Party shall unilaterally limit the volume of traffic, frequency or regularity of service, or the aircraft type or types operated by the airlines designated by the other Contracting Party, except as may be required for customs, technical, operational or environmental reasons under uniform conditions consistent with Article 15 of the Convention.

3. Airlines designated by a Contracting Party may be required to submit their flight schedules for approval to the aeronautical authorities of the other Contracting Party at least thirty (30) days before the proposed date of their introduction. The same procedure shall apply to any modification thereof. In special cases this time limit may be reduced subject to the consent of the said authorities.

4. Neither Contracting Party shall allow its designated airline or airlines, either in conjunction with any other airline or airlines or separately, to abuse market power in a way which has or is likely or intended to have the effect of severely weakening a competitor or excluding a competitor from a route.

5. Neither Contracting Party shall provide or permit state subsidy or support for or to its designated airline or airlines in such a way that would adversely affect the fair and equal opportunity of the airlines of the other Contracting Party to compete in providing international air transportation.

6. State subsidy or support means the provision of support on a discriminatory basis to a designated airline, directly or indirectly, by the state or by a public or private body designated or controlled by the state. Without limitation, it may



include the setting-off of operational losses; the provision of capital, non-refundable grants or loans on privileged terms; the granting of financial advantages by forgoing profits or the recovery of sums due; the forgoing of a normal return on public funds used; tax exemptions; compensation for financial burdens imposed by the public authorities; or discriminatory access to airport facilities, fuel or other reasonable facilities necessary for the normal operation of air services.

7. Where a Contracting Party provides state subsidy or support to a designated airline in respect of services operated under this Agreement, it shall require that airline to identify the subsidy or support clearly and separately in its accounts.

8. If one Contracting Party has substantiated concerns that its designated airlines are being subjected to discrimination or unfair practices, or that a subsidy or support being considered or provided by the other Contracting Party would adversely affect or is adversely affecting the fair and equal opportunity of the airlines of the first Contracting Party to compete in providing international air transportation, it shall have the right to suspend the exercise of the rights specified in Article 2 of the present agreement by the airline designated by the other Contracting Party, or to revoke the operating authorization, or to impose such conditions as it may deem necessary on the exercise of these rights.

II. To replace ARTICLE 15 as the following:

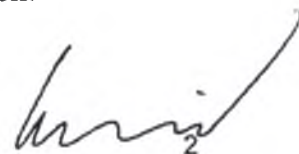
**ARTICLE 15**  
**COMMERCIAL REPRESENTATION AND ACTIVITIES**

1. The airlines designated by each Contracting Party shall be allowed:

a) To establish in the territory of the other Contracting Party offices for the promotion of air transportation and sale of air tickets as well as, in accordance with the legislation of such other Contracting Party, other facilities required for the provision of air transportation;

b) To bring in and maintain in the territory of the other Contracting Party – in accordance with the legislation of such other Contracting Party relating to entry, residence and employment – managerial, sales, technical, operational and other specialist staff required for the provision of air transportation; and

c) In the territory of the other Contracting Party to engage directly and, at the airlines discretion, through its agents in the sale of air transportation.



2. The competent authorities of each Contracting Party will take all necessary steps to ensure that the representation of the airlines designated by the other Contracting Party may exercise their activities in an orderly manner.

3. The airlines designated by each Contracting Party shall have the right to sell, in the territory of the other Contracting Party, air transportation and any person shall be free to purchase such transportation in the currency of that territory or in freely convertible currencies of other countries in accordance with the foreign exchange regulations in force.

4. Each designated airline shall have the right to provide their own ground handling services in the territory of the other Contracting Party (self-handling) or otherwise to contract these services out, in full or in part, at its option, with any of the suppliers authorized for the provision of such services. Where or as long as the laws and regulations applicable to ground handling in the territory of one Contracting Party prevent or limit either the freedom to contract these services out or self-handling, 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. Self-handling means a situation in which an airport user directly provides for himself one or more categories of groundhandling services and concludes no contract with a third party for the provision of such services; for the purpose of this definition, among themselves airport users shall not be deemed to be third parties where:

- one holds a majority holding in the other; or
- a single body has a majority holding in each.

