

RECORD OF DISCUSSIONS

1. A delegation jointly representing Denmark, Norway and Sweden (Scandinavian delegation) treated as individual Contracting Parties, and a delegation representing the Republic of South Africa, met in Pretoria on 1 and 2 March 2016, to review the Air Services Agreements (ASAs) between their respective countries.
2. The talks were held in a friendly and cordial atmosphere. A list of the delegations are attached as Annex A.
3. The Scandinavian delegation proposed the insertion of an EU/EEA designation clause in the three ASAs and explained the legal obligations of the Scandinavian countries. The delegation of South Africa responded that it was not in a position to accept such a clause, and indicated that it was waiting for the African Union to formally enter into negotiations directly with the EU with regard to a Horizontal Agreement.
4. As regards the Scandinavian delegation's proposal for an alternative Scandinavian designation clause, the delegation of South Africa expressed that it was prepared to consider accommodating the flexibility for Scandinavian carriers contained in such a clause. However, it stated that time was needed for further internal consultations and undertook to submit written comments to the Scandinavian proposal within a period of 6 months.
5. The delegations agreed on new Articles on Cooperative Marketing Arrangements, Tariffs, and Aviation Safety as per Annexes B, C and D, respectively. These articles will be confirmed in connection with the conclusion of new ASAs between South Africa and the Scandinavian countries. It was agreed that these articles will be administratively applied on a provisional basis with immediate effect to the extent possible under national law.
6. Notwithstanding the MOU signed on the 11th of September 2001, the delegations agreed upon new capacity entitlements attached as initialed Annex E. This amendment is subject to government approval as appropriate and will enter into force as provided for in Article 18 of the respective ASAs. Pending the entry into force of this amendment, the delegations agreed that the provision will be administratively applied on a provisional basis with immediate effect to the extent possible under national law.
7. The Scandinavian delegation proposed the inclusion of fifth freedom traffic rights on intermediate points into the ASAs. The delegation of South Africa proposed that requests for fifth freedom traffic rights on intermediate points be considered on a case-by-case basis by the Contracting Parties.



8. The Scandinavian delegation informed the delegation of South Africa that text will be proposed to exempt the Norwegian islands Svalbard and Jan Mayen from the geographical scope of the ASA between Norway and South Africa.

Done in Pretoria on 2 March 2016

For the delegation of South Africa



Ms. Bella Makhale

Assistant Director: Bilateral Affairs,

Air Transport Directorate,

Department of Transport

For the Scandinavian delegation



Mr. Niels Remmer

Director, Danish Transport and Construction

Agency

Delegation of South Africa

Ms. Bella Makhale:

Head of Delegation

Assistant Director: Bilateral Affairs,

Air Transport Directorate,

Department of Transport (DOT)

Ms. Thandi Maswanganye:

Deputy Director: Bilateral Affairs,

Air Transport Directorate,

DOT

Ms. Vhulondo Ramulongo:

Administrative Assistant,

Air Transport Directorate,

DOT

Mr. Darren Hay:

Manager-International Affairs,

South African Airways

Mr. Sam Ndlovu

Manager – Network Planning and Aero Political Affairs

South African Airways



NC

Delegation of Scandinavia

Mr. Niels Remmer:
Head of Delegation,
Director,
Danish Transport and Construction Agency,
Denmark

Mr. Andreas Højgaard Kavalaris:
Head of Section,
Danish Transport and Construction Agency,
Denmark

Ms. Ann-Kristin Hanssen:
Senior Adviser,
Ministry of Transport and Communications,
Norway

Mr. Lars Österberg:
Director,
Ministry of Enterprise and Innovation,
Sweden

Ms. Susanne Aristegui Adolphi:
Senior Adviser,
Swedish Transport Agency,
Sweden



AR

COOPERATIVE MARKETING ARRANGEMENTS

1. In operating or holding out the authorized services on the agreed routes, any designated airline of one Contracting Party may enter into co-operative marketing arrangements like code-sharing, with-

- an airline or airlines of the other Contracting Party;
- an airline or airlines of a third country, provided that such third country authorizes or allows comparable arrangements between the airlines of the other Contracting Party and other airlines on services to, from and via such third country.

provided that all airlines in such arrangements-

- hold the appropriate authorizations;
- hold the underlying traffic rights;
- meet the requirements normally applied to such arrangements; and
- in respect of any ticket sold by them, make it clear to the purchaser at the point of sale with which airline or airlines the purchaser is entering into a contractual relationship.

2. Each code-sharing service operated by the designated airlines of either Contracting Party will count as one (1) frequency, whereas, the code-sharing services of the marketing carrier will not be counted as a frequency.

3. In addition to the provisions of the Annex to the Agreement, the designated airline(s) of each Contracting Party may, when operating services as the marketing carrier through marketing arrangements with an airline or airlines of the other Contracting Party, may serve besides the points mentioned in the Annex, any points within the territory of the other Contracting Party.

4. All code-share arrangements shall have the prior approval of the appropriate Aeronautical Authorities before implementation.



TARIFFS

1. Tariffs for international air transport operated pursuant to this Agreement shall not be required to be filed with the aeronautical authorities of either Contracting Party.

2. Without limiting the application of general competition and consumer law in each Contracting Party, intervention by the Contracting Parties may be initiated to:

- a) prevent unreasonably discriminatory tariffs or practices;
- b) protect consumers from tariffs that are unreasonably high or unreasonably restrictive due either to the abuse of a dominant position or to concerted practices among air carriers; and
- c) protect airlines from tariffs that are artificially low because of direct or indirect governmental subsidy or support.



AVIATION SAFETY

1. Each Contracting Party may request consultations at any time concerning safety standards in any area relating to aircrew, 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 such area that are at least equal to the minimum standards established at that time pursuant to the Convention, the first Contracting Party shall notify the other Contracting Party of those findings and 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 4 of this Agreement.
3. Notwithstanding the obligations mentioned in Article 33 of the Convention, it is agreed that any aircraft operated by the airline or 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 (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:
 - (a) serious concerns that an aircraft or the operation of an aircraft does not comply with the minimum standards established at that time pursuant to the Convention, or



AR

- (b) serious concerns that there is a lack of effective maintenance and administration of safety standards established at that time 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 certificate or licenses 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 above the minimum standards established pursuant to the Convention.

5. In the event that access for the purpose of undertaking a ramp inspection of an aircraft operated by the airline or airlines of one Contracting Party in accordance with paragraph 3 above is denied by the representative of that airline or airlines, the other Contracting Party shall be free to infer that serious concerns of the type referred to in paragraph 4 above arise and draw the conclusions referred in that paragraph.

6. 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, consultation or otherwise, that immediate action is essential to the safety of an airline operation.

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

| 

AR

CAPACITY ENTITLEMENTS

Passenger/Cargo services: Unless otherwise agreed by the Aeronautical Authorities of the Contracting Parties; the designated airlines of each of the Contracting Parties may operate up to 7 weekly frequencies in total per week.

Cargo-only services: Unless otherwise agreed by the Aeronautical Authorities of the Contracting Parties; the designated airlines of each of the Contracting Parties may operate up to 7 weekly frequencies in total per week.

