

**RECORD OF DISCUSSIONS BETWEEN  
THE AERONAUTICAL AUTHORITIES OF  
THE SCANDINAVIAN COUNTRIES AND JAPAN**

Delegations of the aeronautical authorities of the Scandinavian countries and Japan met in Stockholm on 15 and 16 September 2008 in order to discuss the aviation relationship between the Scandinavian countries and Japan. The meeting was held in a friendly and cordial manner.

The lists of both delegations are attached hereto as Appendices A and B.

During the course of discussions, the delegations wished to record as follows:

1. Route schedule

1.1 The existing Schedules to the Air Services Agreements signed in 1953 between Japan and Denmark, between Japan and Norway and between Japan and Sweden, (hereinafter referred to as "the Agreements") shall be amended as set out in Appendix C.

1.2 The new Schedule would come into effect when confirmed by an exchange of diplomatic notes in accordance with Article 15 of the Agreements.

1.3 Both delegations shared the view that the designated airline(s) of each side should be authorized to operate the agreed services in accordance with the new Schedule set out in Appendix C, on a provisional basis to the extent possible under national law, until the exchange of diplomatic notes.

2. Capacity Arrangements

2.1 Both delegations shared the view that the capacity arrangements for the operations of the designated airline(s) of each side set out in paragraph 1. of Agreed Minutes signed on 26 March 1992, paragraphs of Agreed Minutes signed on 19 January 1993, paragraph I. 1. of Agreed Minutes signed on 14 December 1995, paragraph I. 1. of Agreed Minutes signed on 1 September 1998, paragraph II. of Agreed Minutes signed on 13 April 1999 (AM1999) and paragraph II. of Agreed Minutes signed on 15 February 2000 should be replaced, to the extent applicable, by the following:

- (1) The designated airline(s) of Japan may operate passenger and/or all-cargo services, utilizing any type of aircraft, up to fifteen (15) frequencies per week on the specified route.
- (2) The designated airline(s) of Scandinavia may operate passenger and/or all-cargo services, utilizing any type of aircraft, up to fifteen (15) frequencies per week on the specified routes, under the condition that up to seven (7) frequencies per week may be operated between Tokyo (Narita Airport) and points in Scandinavia.
- (3) Notwithstanding paragraph (1) above, after the commencement of operational use of the 2500m second runway of Narita Airport, which is scheduled in March 2010, the designated airline(s) of Japan may operate passenger and/or all-cargo services, utilizing any type of aircraft, up to eighteen (18) frequencies per week in total, on the specified routes.
- (4) Notwithstanding paragraph (2) above, after the commencement of operational use of the 2500m second runway of Narita Airport, which is scheduled in March 2010, the designated airline(s) of the Scandinavian countries may operate passenger and/or all-cargo services, utilizing any type of aircraft, up to eighteen (18) frequencies per week on the specified routes, under the following conditions that:
  - (a) up to ten (10) frequencies per week in total may be operated between Tokyo (Narita Airport) and points in Scandinavia such as Copenhagen, Oslo and/or Stockholm; and
  - (b) up to seven (7) frequencies per week may be operated per city-pair.
- (5) With regard to the slots at Narita Airport, the Japanese delegation stated that in addition to fourteen (14) slots per week currently allocated to the Scandinavian side, six (6) more slots per week of its 2500m second runway, would be made available for the designated airline(s) of the Scandinavian countries at the commencement of operational use of its 2500m second runway, in which case up to twenty (20) slots per week in total may be used by the designated airline(s) of Scandinavian side.
- (6) In addition to subparagraphs (1) through (4) above, the designated

airline(s) of both sides may operate all-cargo services, utilizing any type of aircraft, up to six (6) frequencies per week on Route I (B) and (D) and Route II (B) and (D), under the conditions that:

- the designated airline(s) of Japan may not serve Fukuoka, Tokyo and points beyond Scandinavia on Route I (B); and
- The designated airline(s) of Scandinavian countries may not serve Tokyo and points beyond Japan on Route II (B).

2.2 For the purpose of the above mentioned capacity entitlements, a frequency means a round trip.

### 3. Code sharing on the specified routes

3.1 Both delegations shared the view that the current arrangements with regard to code sharing for the designated airline(s) of each side, referred to in paragraph III. of AM1999 should be replaced, to the extent applicable, by the following:

(1) The designated airline(s) of each side which has(have) appropriate authorities to provide the agreed services may enter into code sharing arrangements on the specified routes, subject to approval of the aeronautical authorities concerned, with:

- the designated airline(s) of the same country;
- the designated airline(s) of the other country; and
- any airline(s) of third countries

on the following conditions:

(a) The airline(s) with which the designated airline(s) may enter into code sharing arrangements has(have) appropriate authorities to exercise traffic rights over the segments concerned; and

(b) The designated airline(s) may not exercise fifth freedom traffic rights with the exception of its or their own stopover traffic on the code sharing operations as a marketing airline(s) on any segment to and from a point in the other country.

3.2 For the purpose of calculating the capacity used in such code sharing services, the capacity to be used should be counted as the capacity of the designated airline(s) operating the aircraft. Code sharing services on the specified routes are not counted against the capacity entitlement of the marketing airline(s).

#### 4. Code sharing on the domestic segments

4.1 Both delegations shared the view that the code sharing on the domestic segments for the designated airline(s) of each side may be operated as follows:

- (1) The designated airline(s) of Japan may enter into code sharing arrangements as (a) marketing airline(s) on the connecting domestic segments between entry point(s) in a Scandinavian country and any other point(s) in the same Scandinavian country with any airline(s) of the Scandinavian countries, with unlimited frequencies on unlimited number of segments, subject to the approval of the respective aeronautical authorities.
- (2) The designated airline(s) of Scandinavian countries may enter into code sharing arrangements as (a) marketing airline(s) on the connecting domestic segments between entry point(s) except Tokyo and any other point(s) in Japan with any airline(s) of Japan, with unlimited frequencies on unlimited number of segments, subject to the approval of the respective aeronautical authorities.
- (3) The designated airline(s) of Scandinavian countries may enter into code sharing arrangements as (a) marketing airline(s) on the connecting domestic segments between Tokyo and any other point(s) in Japan subject to the approval of the respective aeronautical authorities under the following conditions:
  - (a) up to three segments to and from Narita Airport; and
  - (b) one (1) frequency of international services may connect with one (1) frequency of code sharing operations for each segment to and from Narita Airport.

4.2 The designated airline(s) of each side should not exercise cabotage

rights in the other country using the code sharing arrangements except for its or their own stopover traffic.

## 5. Aviation Safety

5.1 Noting the significance of ensuring aviation safety in the bilateral aviation relationship, both delegations confirmed the following:

- (1) Either side may request consultations concerning the safety standards maintained by the other side relating to aeronautical facilities, aircrews, aircraft and operation of aircraft. Such consultations should take place within 30 days of the request.
- (2) If, following such consultations, one side finds that safety standards in the area referred to in sub-paragraph (1) that meet the minimum standards established at that time in accordance with the Convention on International Civil Aviation (hereinafter referred to as "the Convention") other than the differences notified to the International Civil Aviation Organization in accordance with Article 38 of the Convention are not effectively maintained and administered by the other side, the former side will notify such findings and the steps considered necessary to conform with these minimum standards to the latter side, and the latter side should take appropriate corrective action.
- (3) Each side reserves the right to suspend or vary the operating authorization of an airline(s) designated by the other side in the event the other side does not take appropriate corrective action within a time period decided by both sides.
- (4) It is a common recognition that any aircraft operated by an airline of one side on services to or from the territory of the other side may, while within the territory of the other side except during the flight, be made the subject of an examination by the authorized representatives of the other side, 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 Record of Discussions called "ramp inspection"), provided this does not lead to unreasonable delay.
- (5) 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 at that time pursuant to the Convention; or
- serious concerns that there is a lack of effective maintenance and administration of safety standards established at that time pursuant to the Convention;

the side carrying out the inspection(s) should, 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.

- (6) In the event that access for the purpose of undertaking a ramp inspection of an aircraft operated by an airline of one side in accordance with sub-paragraph (4) above is denied by a representative of that airline, the other side should be free to infer that serious concerns of the type referred to in sub-paragraph (5) above arise and draw the conclusions referred to in that sub-paragraph.
- (7) Each side reserves the right to suspend or vary the operating authorization of an airline(s) of the other side immediately in the event the former side concludes, whether as a result of a ramp inspection, a series of ramp inspections, a denial of access for ramp inspection, conclusion or otherwise, that immediate action is essential to the safety of an airline operation.
- (8) Any action by one side in accordance with sub-paragraphs (3) or (7) above should be discontinued once the basis for taking that action ceases to exist.
- (9) Where Scandinavian countries have designated an airline whose regulatory control is exercised and maintained by another EC Member State, the rights of the Japanese side mentioned in this paragraph will be reserved equally in respect of the adoption, exercise or maintenance of safety standards by that EC Member State and in respect of the operating authorisation of that airline.

## 6. Aviation Security

6.1 Noting the significance of ensuring aviation security in the bilateral aviation relationship, both delegations confirmed the following:

- (1) In accordance with the rights and obligations under international law, both sides reaffirm their obligation to each other to protect the security of civil aviation against acts of unlawful interference. Without limiting the generality of their rights and obligations under international law, both sides should in particular act in conformity with the provisions of "the Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on September 14, 1963", "the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970", "the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 23, 1971", "the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on February 24, 1988", and any other Convention and protocol on aviation security to which both countries become Parties.
- (2) Upon request, both sides should provide each other with all necessary assistance to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, of their passengers and crew, of airports and air navigation facilities, and address any other threat to the security of civil aviation.
- (3) Both sides should, in their mutual relations, act in conformity with aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention; they should require that operators of aircraft of their registry, operators of aircraft who have their principal place of business or permanent residence in the territory of each country and the operators of airports in the territory of each country act in conformity with such aviation security provisions.
- (4) Each side confirmed its intention to observe the security provisions required by the other side for entry into and departure from, or while within the territory of that other side and to take adequate measures to inspect carry-on items, as well as cargo and aircraft stores, prior to and during boarding or loading. Each side should also give sympathetic consideration to any request from the other side for reasonable special

security measures to meet a particular threat.

- (5) When an incident or threat of an incident of unlawful seizure of aircraft or other unlawful acts against the safety of passengers, crew, aircraft, airport or air navigation facilities occur, both sides should assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat.
- (6) When one side has reasonable grounds to believe that the other side has departed from the aviation security provisions of this Record of Discussions, the aeronautical authorities of that side may request immediate consultations with the aeronautical authorities of the other side. Failure to reach a satisfactory resolution within 15 days from the start of consultations should constitute grounds to withhold, revoke, limit, or impose conditions on the operating authorization of the designated airline(s) of that side. When required by an emergency, either side may take interim action prior to the expiry of 15 days.
- (7) Any action taken in accordance with sub-paragraph (6) above should be discontinued upon compliance by the other side with the provisions of this Record of Discussions.

## 7. Designation, authorisation and revocation

7.1 Both delegations confirmed that notwithstanding provisions of paragraph 1. of Article 7 of the Agreement between Japan and Denmark/Sweden for Air Services, the aeronautical authorities of Japan would not exercise the rights mentioned in 1. of Article 7 of these Agreements, where:

- (1) an airline is established, under the Treaty establishing the European Community (hereinafter referred to as "EC"), in the territory of Denmark/Sweden and has a valid operating license from an EC Member State in accordance with EC Law; and
- (2) regulatory control of the airline is exercised and maintained by the EC Member State responsible for issuing its air operator's certificate, and the relevant aeronautical authority is clearly identified in the designation; and



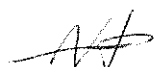
- (3) the airline has its principal place of business in the territory of the EC Member State from which it has received the valid operating license; and
- (4) the airline is owned directly or through majority ownership and is effectively controlled by EC Member States or States of the European Free Trade Association and/or by nationals of such States.

7.2 Notwithstanding paragraph 7.1. above, the aeronautical authorities of Japan may exercise the rights mentioned in paragraph 1. of Article 7 of the Agreement between Japan and Denmark/Sweden for Air Services, where:

- (1) by exercising traffic rights under the Agreement between Japan and Denmark/Sweden for Air Services on a route that includes a point in another EC Member State, including the operation of a service which is marketed as, or otherwise constitutes a through service, the airline would in effect be circumventing restrictions on traffic rights imposed by an agreement between Japan and that other EC Member State; or
- (2) the airline holds an air operator's certificate issued by another EC Member State and there is no bilateral air services agreement between Japan and that Member State and traffic rights to that EC Member State have been denied to an airline designated by Japan.

7.3 It was the common understanding that in cases where the aeronautical authorities of Japan find that an airline which is designated by Denmark/Sweden and whose regulatory control is exercised and maintained by another EC Member State, does not comply with the relevant safety standards, the aeronautical authorities of Denmark/Sweden will use their best efforts, where necessary, to urge that EC Member State to address the situation and, where necessary, to ensure that the airline concerned complies with the said standards.

7.4 The Scandinavian delegation stated that Norway is part of the single European aviation market through the Agreement on the European Economic Area (EEA) and thus should be equally treated in terms of the designation clause. In this sense, the Scandinavian delegation requested that Norway also should be included in the subparagraphs 7.1 through 7.3, even though Norway is not an EC Member State. Since the Japanese delegation was not in a position at present to accept extension of the EC designation clause to non-EC



Member States, this issue would be discussed at a later stage. In the meantime, the concerned Norwegian Ministry will write a letter to its Japanese counterpart on this issue with a hope that this would ultimately lead to the acceptance by the Japanese side to extend EC designation clause to Norway.

## 8. Tariff

8.1 Both delegations confirmed that in implementing Article 11 of the Agreements with regard to the tariffs:

- (1) The aeronautical authorities of neither side would require the designated airline(s) to consult other designated airline(s) about the tariffs which they charge or propose to charge for agreed services.
- (2) The aeronautical authorities of neither side would take unilateral action to prevent the inauguration of proposed tariffs or the continuation of effective tariffs for one-way or round-trip carriage on the specified routes originating in the territory of the other side .
- (3) The aeronautical authorities of either side may require filing of tariffs charged or proposed to be charged for the agreed service to or from the territory of that side by the designated airline(s) of either side. Filing by the designated airline(s) may be required no longer than thirty (30) days before the proposed date of effectiveness.

8.2 The Scandinavian delegation requested that the following text should be introduced in this ROD:

*"the tariffs to be charged by the designated airline(s) of Japan for carriage wholly within EEA should be subject to EC and EEA law."*

The Japanese delegation responded that it is not acceptable, as the tariffs for the agreed services should be dealt with through the bilateral arrangements based on the Agreements.

## 9. Others

9.1 The Japanese delegation asked the Scandinavian delegation if the

designated airline(s) of Scandinavian countries had a plan to reopen the services to and from Kansai Airport or to inaugurate services to and from Chubu Airport. The Scandinavian delegation stated that its designated airline has intention to conduct market research concerning the possibilities to establish new routes to other destinations than Tokyo, such as Nagoya and Osaka and confirmed that it will encourage them to do so.

9.2 The Scandinavian delegation stated that its designated airline would be interested in services to and from Haneda Airport, as from 2010 in order to better serve the Japan-Scandinavia market. The Japanese delegation took note of the statement.

9.3 The Japanese delegation explained that it would be difficult for Narita Airport to accommodate A380 type of aircraft due to physical and operational reasons. The Scandinavian delegation, stating that the designated airline(s) of Scandinavian countries do not have a plan to introduce A380, understood the explanation above.


9.4 The Scandinavian delegation proposed that the EU standard clause on taxation of aviation fuel be included into this Record of Discussions. The Japanese delegation responded that such an inclusion would not be acceptable, as it would be against the basic principle of taxation on international air transport. The Scandinavian side took note of it.

9.5 The Scandinavian delegation stated that the arrangements confirmed in paragraphs 2 through 8 are subject to Scandinavian governments' approval as appropriate and that they will be provisionally applicable to the extent possible under their national law, pending such approval.

Signed in Stockholm on 16 September 2008

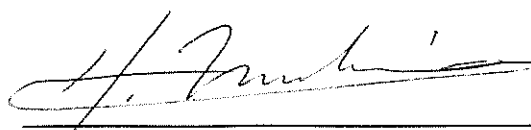
for the aeronautical authorities of  
the Scandinavian countries

for the aeronautical authorities of  
Japan



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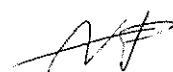
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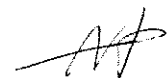
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Schedule

I. Routes to be served by the designated airline or airlines of Japan

(A) Tokyo – Osaka – Fukuoka – Okinawa – points on the mainland of China and/or on Taiwan – Hong Kong or Manila – points in Cambodia, Laos, Myanmar and/or Viet Nam – Bangkok – Yangon – Colombo – points in India and Bangladesh and Pakistan – points in the Middle and Near East – Cairo – Athens – Rome – Geneva, Zurich or Madrid – Frankfurt am Main – Paris, Brussels or Amsterdam – points in Scandinavia and points beyond, in both directions.

(B) Fukuoka – Osaka – Tokyo – points in the North Pacific and Canada – Frankfurt am Main and/or another point in Europe – points in Scandinavia and points beyond, in both directions.

(C) Points in Japan – Moscow – Amsterdam and/or Frankfurt am Main and/or London and/or Paris – points in Scandinavia and points beyond, in both directions.

(D) Osaka and/or Nagoya – Macau – a point in India – Almaty or Tashkent - a point in the Middle and Near East – Frankfurt am Main – two points in Scandinavia, in both directions.

(E) Points in Japan – intermediate points – points in Scandinavia – points beyond, in both directions.

Note1: On Route (C), the designated airline or airlines of Japan may exercise traffic rights between any point out of Amsterdam, Frankfurt am Main, London and Paris, and points in Scandinavia only for its or their own stopover passengers.

Note2: On Route (D),

(1) the designated airline or airlines of Japan may only operate all-cargo services; and

(2) the designated airline or airlines of Japan may not exercise fifth

freedom traffic rights between two points in Scandinavia and any intermediate point.

Note3: On Route (E), the designated airline or airlines of Japan may not exercise fifth freedom traffic rights on any segment to and from points in Scandinavia.

The agreed services provided by the designated airline or airlines of Japan shall begin at a point in the territory of Japan, but other points on the route may at the option of the designated airline or airlines be omitted on any or all flights.

II. Routes to be operated in both directions by the designated airline or airlines of Denmark/Norway/Sweden

(A) Points in Scandinavia – points in Europe – points in the Near and the Middle East – points in Pakistan – points in India – points in Sri Lanka – points in Myanmar – Bangkok – Hong Kong or Manila – Tokyo and points beyond, in both directions.

(B) Points in Scandinavia – Frankfurt am Main – points in Alaska and the Aleutian Islands – Tokyo – Osaka and points beyond, in both directions.

(C) Points in Scandinavia – Frankfurt am Main – Moscow – one point in China - Tokyo and/or Osaka and/or Nagoya, in both directions.

(D) A point in Scandinavia – Frankfurt am Main- a point in the Near and Middle East – Almaty or Tashkent - a point in India – Macau – Osaka, in both directions.

(E) Points in Scandinavia – intermediate points – points in Japan – points beyond, in both directions.

Note1: On Route (C),

(1) the designated airline or airlines of Denmark/Norway/Sweden may exercise traffic rights between Frankfurt am Main and Tokyo, between Frankfurt

am Main and Osaka and between Frankfurt am Main and Nagoya only for its or their own stopover passengers; and

(2) the designated airline or airlines of Denmark/Norway/Sweden may serve "one point in China" only for all-cargo services without exercising fifth freedom traffic rights between "one point in China" and points in Japan.

Note2: On Route (D),

(1) the designated airline or airlines of Denmark/Norway/Sweden may only operate all-cargo services; and

(2) the designated airline or airlines of Denmark/Norway/Sweden may not exercise fifth freedom traffic rights between Osaka and any intermediate points.

Note3: On Route (E), the designated airline or airlines of Denmark/Norway/Sweden may not exercise fifth freedom traffic rights on any segment to and from points in Japan.

The agreed services provided by the designated airline or airlines of Denmark/Norway/Sweden shall begin at a point in Scandinavia, but other points on the route may at the option of the designated airline or airlines be omitted on any or all flights.

III. The term "Scandinavia" in this Schedule means Denmark, Norway, Sweden and Danish territorial possessions.

