

## AGREED MINUTES

The Aeronautical Authorities of the Russian Federation and the Republic of Poland met in Moscow on 5<sup>th</sup> August 2011 to discuss matters related to the Agreement between the Government of the Russian Federation and the Government of the Republic of Poland on air services, done at Kaliningrad on 26<sup>th</sup> July 2002 (ASA).

The list of the delegations is attached hereto as Appendix 1.

The discussions were conducted in an open and friendly atmosphere. The delegations discussed the following matters:

### 1. Amendments to the ASA

The Polish delegation has submitted the draft Protocol between the Government of the Russian Federation and the Government of the Republic of Poland amending the Agreement between the Government of the Russian Federation and the Government of the Republic of Poland on air services, done at Kaliningrad on 26<sup>th</sup> July 2002.

The Russian delegation took note of the amendments to ASA in order to bring it into conformity with the European Union legislation. The draft Protocol containing proposed amendments is attached hereto as Appendix 2.

The Polish delegation welcomed the statement of the Russian side that the final decision of the Government of the Russian Federation on the European Union designation clause agreed between the Russian Federation and Finland will be announced during the EU – Russia Aviation Summit on 12 – 13 October 2011 in Saint Petersburg.

Both delegations confirmed that agreed amendments shall be implemented in accordance with respective ASA provisions in Russian and Polish languages in which ASA is done.

### 2. Scheduled services between Russian Federation and Poland

The Polish delegation welcomed the designation of new airlines notified by the Russian side in accordance with the provisions of Article 4 of ASA.

The Polish side proposed new point in the territory of the Russian Federation – Krasnodar (KRR) – to be added for scheduled operations by airline designated by the Republic of Poland in accordance with the provisions of the Annex to ASA. The Russian side agreed to positively consider this request starting from IATA Summer 2012 season according to the provisions of Article 3 point 4 of the ASA.

The Polish side informed the Russian counterpart about the revised plans of operations for the upcoming years of the airline designated by the Republic of Poland:

2013	Yekaterinburg	- 4 frequencies per week
	Samara	- 4 frequencies per week
2014	Rostov	- 4 frequencies per week
2015	Sochi	- 4 frequencies per week



Nizhniy Novgorod - 4 frequencies per week

Both delegations agreed to encourage their respective designated airlines to cooperate on particular routes where desirable and feasible.

The representative of a carrier designated by the Government of the Republic of Poland informed about the readiness to cooperate with its Russian counterparts in particular on the basis of code – share.

The Russian side requested the Polish side to grant the administrative permission for scheduled operations on the Moscow – Cracow v.v. route starting from IATA Winter 2011/12 season for Aeroflot Russian Airlines before the official designation. The Polish side welcomed the possibility of direct flights between Moscow and Cracow of a Russian airline in accordance with Article 3 point 4 of the ASA. The Polish side will inform the Russian side in two weeks from the date of signature of these Agreed Minutes about the legal requirements of such permission.

### 3. Scheduled services beyond Russian Federation and the issue of overflights

The Polish delegation proposed to determine in accordance with the Annex of the ASA as two points beyond the territory of the Russian Federation – Tokyo and Beijing – for the scheduled operations of the airline designated by the Republic of Poland. The Russian side accepted this proposal.

In this respect, the Polish side informed that the airline designated by the Republic of Poland has plans to start non stop scheduled services on the route Warsaw – Beijing v.v. from March 2012 with 3 frequencies per week and on the route Warsaw – Tokyo v.v. from the 2012 IATA summer season with 3 frequencies per week. In this respect it was agreed that each of the designated airlines of both sides will be entitled to operate 1,5 frequency on the route Warsaw – Moscow – Beijing v.v. and 1,5 frequency on the route Warsaw – Moscow – Tokyo v.v. Unused frequencies can be leased from the airline of the other side. The airline designated by the Republic of Poland may omit point in Moscow in accordance with the provisions of the Annex of the ASA. The Russian delegation informed that operation of the above mentioned overflights is subject to Air Traffic Control (ATC) handling capability.

The Polish delegation made clear that due to particular restrictions of operations on the Japanese market, it might be necessary to add additional point in Japan for scheduled operations after the 2012 IATA summer.

The Polish delegation informed about the interest of the airline designated by the Republic of Poland in the increase of the number of frequencies on the abovementioned routes as from the 2013 IATA summer season. The following scheme concerning the possible increase of the number of frequencies in particular years and new destinations planned to be operated by the airline designated by the Republic of Poland was presented:

2013	Beijing	- 5 frequencies per week
	Tokyo	- 5 frequencies per week
	Bangkok	- 4 frequencies per week
2014	Beijing	- 7 frequencies per week
	Tokyo	- 7 frequencies per week
	Bangkok	- 4 frequencies per week

2015	Shanghai	- 4 frequencies per week
	Beijing	- 7 frequencies per week
	Tokyo	- 7 frequencies per week
	Bangkok	- 4 frequencies per week
	Shanghai	- 4 frequencies per week
	Seoul	- 4 frequencies per week
	Shenzhen	- 4 frequencies per week
	Delhi	- 3 frequencies per week

It is understood by both delegations that the actual performance of the above planned services would require close cooperation of respective Aeronautical Authorities. The appropriate arrangements in that respect shall be undertaken in due time.

#### 4. Miscellaneous

The Russian delegation expressed its interest in the ownership structure and the future plans concerning the possible privatization of the LOT Polish Airlines. The representative of LOT Polish Airlines informed the delegations about the current ownership structure and its plans of possible privatization.

The Russian side raised the issue of changed rules concerning the VAT for airlines operating at Polish airports. The Polish side provided necessary explanations about this issue.

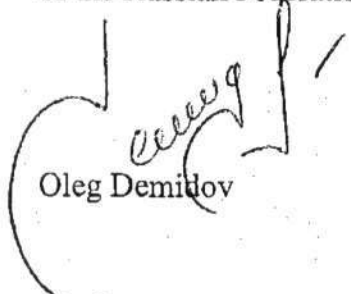
The Russian side expressed its concern with the implementation of the EU ETS on aircraft operators from third countries. The Russian side believes that such unilateral actions contradict the ICAO Assembly Resolution which urges Parties involved to engage in negotiations and consultations to reach an 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.

#### 5. Next meeting


The two delegations agreed to hold the next meeting of the Aeronautical Authorities of Russian Federation and the Republic of Poland in February 2012.

Done at Moscow on 5<sup>th</sup> August 2011 in two original copies in English language.

For the Aeronautical Authorities  
of the Russian Federation

  
Oleg Demidov

For the Aeronautical Authorities  
of the Republic of Poland

  
Zbigniew Maczka

**Delegation of the Russian Federation**

Mr. Oleg Demidov	Deputy Director, Department of State Policy in Civil Aviation, Ministry of Transport, Head of the Delegation
Ms. Natalia Prostit	Chief – expert Air Services Division Department of the State Policy in Civil Aviation, Ministry of Transport
Ms. Ekaterina Ryabtseva	Chief – expert Department International Cooperation, Ministry of Transport
Mr. Sergey Semenow	Ministry of Foreign Affairs

**Observers:**

Mr. Kamil Feyzrakhmanov	“Polet Airlines”
Ms. Irina Zvereva	Airport “Domodedovo”
Mr. Vladimir Krakhmalev	“Aeroflot – Russian Airlines”
Ms. Anna Varshavskay	“Novoport”
Mr. Yury Mikhin	“VIM AVIA”
Ms. Nadejda Kuzmina	“Yakutia”



### Delegation of the Republic of Poland

Mr. Zbigniew Mączka Vice President for Air Transport Affairs, Civil Aviation Office,  
Head of the Delegation

Mrs. Sylwia Ciszewska Director, Air Transport Department, Civil Aviation Office

Ms. Elżbieta Leksowska International Agreements Division, Air Transport Department,  
Civil Aviation Office

Mr. Paweł Moniak International Agreements Division, Air Transport  
Department, Civil Aviation Office

Mr. Jan Sawicki Embassy of the Republic of Poland in Russian  
Federation

#### Observers:

Mr. Michał Jaszczyk LOT Polish Airlines

Ms. Elżbieta Wiszniewska LOT Polish Airlines



DRAFT

PROTOCOL

between

the Government of the Russian Federation and the Government of the Republic of Poland amending the Agreement between the Government of the Russian Federation and the Government of the Republic of Poland on air services, done at Kaliningrad on 26<sup>th</sup> July 2002

The Government of the Russian Federation and the Government of the Republic of Poland amending the Agreement between the Government of the Russian Federation and the Government of the Republic of Poland on air services, done at Kaliningrad on 26<sup>th</sup> July 2002 (hereinafter referred to as "the Agreement")

have agreed as follows:

Article 1

1. To include into Article 1 of the Agreement the following definitions:

g) "Air Operator's Certificate" – document issued to an airline by the aeronautical authorities of a Contracting Party which affirm that the airline in question has the professional ability and organization to secure the safe operation of aircraft for the aviation activities specified in the certificate:

h) "European Union Member State" – a State that is now or in the future a Member State of the European Union;

i) "establishment in the territory of the Russian Federation" -  
.....

j) "establishment in the territory of the Republic of Poland" – implies the effective and real exercise of air transport activity through stable arrangements.

*The legal form of such establishment, whether a branch or a subsidiary with legal personality, should not be the determining factor in this respect.*

2. To delete first sentence of paragraph 4 of Article 3 of the Agreement.

3. To amend paragraph 4 of Article 4 of the Agreement as follows:

*"4. Each Contracting Party shall have the right to refuse the operating authorization referred to in paragraph 2 of the 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 this Agreement, in any case where the said Contracting Party is not satisfied that:*

*a) in the case of an airline designated by the Russian Federation:*

- i. it is established in the territory of the Russian Federation and has a valid Air Operator Certificate in accordance with the laws and regulations applicable in the Russian Federation; and*
- ii. effective regulatory control of the airline is exercised and maintained by the State responsible for issuing its Air Operator's Certificate and the relevant aeronautical authority is clearly identified in the designation;*

*b) in the case of an airline designated by the Republic of Poland:*

- i. it is established in the territory of the Republic of Poland and has a valid Operating Licence and Air Operator Certificate in accordance with the laws and regulations applicable in the Republic of Poland; and*
- ii. effective regulatory control of the airline is exercised and maintained by the State responsible for issuing its Air Operator's Certificate and the relevant aeronautical authority is clearly identified in the designation."*

4. To amend paragraph 1 of Article 5 of the Agreement 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 this 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 fulfils the conditions set in Article 4 paragraph 4 of this Agreement; or*
- b) in case of a failure by that airline to comply with the laws or the regulations of the Contracting Party granting these rights ; or*
- c) in case the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement; or*
- d) in case the airline is already authorized to operate under a bilateral agreement between the Russian Federation and another European Union Member State and the Russian Federation can demonstrate that, by exercising traffic rights under this Agreement on a route that includes a point in that other European Union Member State, the airline would be circumventing restrictions on traffic rights imposed by the bilateral agreement between the Government of the Russian Federation and the Government of that other European Union Member State; or*
- e) in case the designated airline holds an Air Operators Certificate issued by an European Union Member State with which the Russian Federation does not have a bilateral air services agreement and that Member State has denied traffic rights to the airline designated by the Russian Federation; or*
- f) in case the airline is already designated to operate under a bilateral agreement between the Russian Federation and another European Union Member State and is not established in the Republic of Poland.”*

5. To replace Article 10 of the Agreement 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 interest of users, reasonable profit, class of service and when it is deemed suitable, the tariffs of other airlines operating over whole or part of the routes specified in the Annex to this Agreement.*
- 2. The tariffs referred to in this Article may be developed independently by the designated airline.*
- 3. Where the aeronautical authorities of one or either of the Contracting Parties proposed to intervene in a tariff, the primary objectives of such intervention shall be:*

*AMC*



- 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, where evidence exist as to an intent of eliminating competition.*

4. *The aeronautical authorities of either Contracting Party may require tariffs for an agreed service to be submitted for purposes mentioned in paragraph 3 of this Article. The aeronautical authorities may require the information to be submitted within thirty (30) days."*

6. To include into the Agreement Article 14 bis as follows:

*"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 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 5 of this 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 (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*
  - 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 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. *In the event that access for the purpose of undertaking a ramp inspection of an aircraft operated by or on behalf of the airline or airlines of one Contracting Party in accordance with paragraph 3 of this Article is denied by a 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 of this Article 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, 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.*
7. *Any action by one Contracting Party in accordance with paragraphs 2 or 6 of this Article shall be discontinued once the basis for the taking of that action ceases to exist."*

7. To delete point C of the Annex to the Agreement.

*MHC*

Article 2

The present Protocol, which constitutes the integral part of the Agreement, shall enter into force thirty (30) days after receipt of the last notification through diplomatic notes by the Contracting Parties that it has fulfilled the necessary procedures in accordance with its laws and regulations for the entry into force of the present Protocol, and remains in force as long as the Agreement remains in force.

Done at ..... on ..... 20..... in duplicate in Russian and Polish languages, each text being equally authentic.

For the Government  
of the Russian Federation

For the Government  
of the Republic of Poland

A handwritten signature in black ink, consisting of stylized initials and a long horizontal stroke, located in the bottom right corner of the page.