

AGREED MINUTES

1. Delegations of the Grand-Duchy of Luxembourg and of the aeronautical authorities of the Russian Federation met in Luxembourg from 22 to 23 June 2011 with the aim of
 - a. aligning the Air Transport Agreement, signed between the Russian Federation and the Grand-Duchy of Luxembourg on 7 May 1997, with current EU requirements, and
 - b. drafting a new memorandum of understanding (M.O.U.) that consolidates into one single document the agreed minutes and exchanges of letters made since the signature of the aforementioned Air Transport Agreement and having an impact on aviation activities between the two countries.
2. The consultations were conducted in a cordial and friendly atmosphere.
3. The delegation list is attached hereto.
4. With reference to point 1a, the delegation of Luxembourg referred to its obligation to include the EU standard clauses into the bilateral Air Transport Agreement. The delegation of the Russian Federation informed on the most recent developments in the relations between the Russian Federation, and the European Union and its Member States. The delegation of the Russian Federation explained that it could not discuss the amendment proposals presented by the delegation of Luxembourg at this stage, as it intends to formalise its Agreement on that matter with the Republic of Finland. The delegation of the Russian Federation informed that pending the approval by the respective Governments of the Agreement between the Russian Federation and the Republic of Finland it was not yet in a position to accept to include EU clauses in bilateral agreements with other EU Member States. The proposed amendments presented by the delegation of Luxembourg are attached in Annex 1.
5. With reference to point 1b, the text of the Memorandum of Understanding between the delegation of the Grand-Duchy of Luxembourg and the delegation of the Russian Federation is attached in Annex 2.
6. Upon request of the Russian delegation, the Luxembourg delegation confirms that its designated airline has started an in-depth exploration of using an airport within the territory of the Russian Federation for relocating certain technical stops from current point(s) in the CIS starting from the IATA Summer Schedule 2012.

7. Under the Agenda item "3. Any Other Business", the delegation of the Russian Federation made the following statement concerning the extension ETS to the airlines of third countries:

"The Russian side expressed its concern with the implementation of 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 EU ETS on international aviation and reserves its right to impose adequate in case Russian carriers will be included into EU ETS without being at first agreed between relevant authorities."

8. Both delegations agree to hold the next meeting in Russia. The place and the date shall be agreed at a later stage.

Done in Luxembourg in duplicate in the English language on June 23rd 2011

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 Sergey Vasiliev
Deputy Director of International Relations
Federal Air Transport Agency

Mr Andrey Shumilin
Director. Network and Fleet development
Air Bridge Cargo

Delegation of the Grand-Duchy of Luxembourg

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

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

Mrs Isabelle Welter
Conseiller de direction adjoint
Directorate of Civil Aviation
Ministry for Sustainable Development and Infrastructure

Mr Henning zur Hausen
Sr Vice-President
Legal Affairs & Compliance
Cargolux Airlines International S.A.

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

- i) **Article 3.4** of the Air Transport Agreement signed on May 7, 1997, shall be deleted.
- ii) **Article 4** of the ATA signed on May 7, 1997 shall be replaced by the following:

"Article 4
Designation of Airlines

1. Each Contracting Party shall have the right to designate in writing to the other contracting party one or more airline(s) for the purpose of operating the agreed services on the specified routes.
2. On receipt of such notification the other contracting party shall, without delay, grant to each designated airline the appropriate operating authorization.
3. When an airline has been so designated and authorized, it may begin to operate the agreed services for which it is designated. (...)
4. Each Contracting Party shall have the right to refuse the operating authorization referred to in paragraph 2 of the present 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 present 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 legislation 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 Grand-Duchy of Luxembourg,
 - i. it is established in the territory of Luxembourg and has a valid Operating Licence and Air Operator Certificate in accordance with the legislation applicable in Luxembourg; 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."

iii) **Article 5.1.** shall be amended as follows:

"Article 5

Revocation, Suspension and Limitation of Authorization

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 present 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 present Agreement; or
 - b) in case of a failure by that airline to comply with the laws or the regulations in force 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 present 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 the present 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.
 - 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 Grand-Duchy of Luxembourg."

Article 9.2. of the Air Services Agreement signed on 7 May 1997 shall be deleted and Article 9 shall read as follows:

"Article 9
Operation of Agreed Services

1. The designated airlines of the Contracting Parties shall have fair and equal opportunity to operate the agreed services on the specified routes between their respective state territories.
2. The agreed services provided by the designated airlines of the Contracting Parties shall be closely related to the requirements of the public for transportation on the specified routes, and each designated airline shall have as its primary objective the provision, at a reasonable load factor, of capacity adequate to carry the current and reasonably anticipated requirements for the carriage of passengers, cargo and mail."

iv) Article 10 of the ATA signed on 7 May 1997 shall be replaced by the following:

"Article 10
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, 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 Routes schedule annexed to the present 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:
 - (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;

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- (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.

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 30 days

- v) A **new article** on aviation safety shall be inserted into the ATA:

"Article 14bis
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 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 (revocation, suspension and variation of operating authorisations) of the present 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.

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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) above 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) 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, a series of ramp inspections, a denial of access for ramp inspection, consultation as specified in this Article, 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) above shall be discontinued once the basis for the taking of that action ceases to exist."

Memorandum of Understanding
between the Civil Aviation Authorities of
the Grand-Duchy of Luxembourg and
the Russian Federation

Delegations of the Grand-Duchy of Luxembourg and of the aeronautical authorities of the Russian Federation (hereinafter referred to as the Luxembourg delegation and the Russian delegation) met in Luxembourg from 22 to 23 June 2011 with the aim of discussing matters relating to further development of aviation relations between the two countries.

The consultations were conducted in a friendly and cordial atmosphere and, among other matters, included discussions on the following points:

- Route schedule, including frequencies and overflights
- Wet Lease
- commercial arrangements
- 5th freedom operations

The provisions of the present Memorandum of Understanding shall clarify, supplement and supersede certain provisions of the Agreed Minutes signed between the contracting parties on 30 November 1994 and the exchange of letters of 17 January 2008 / 5 June 2009 referring to commercial agreements, of 23 October 2009 / 2 November 2009 referring to wet-lease operations, and the letter from the Luxembourg authority to the Russian aeronautical authority dated 7 October 2005 referring to intermediate point landings in Helsinki and Budapest.

1. Route Schedule

With reference to the Annex of the Air Transport Agreement signed between Luxembourg and Russia on 7 May 1997 including the notes to the Annex ("ATA"), the aeronautical authorities of the contracting parties agree to specify the route schedule as follows:

Routes to be operated by the designated airline(s) of the Russian Federation in both directions with first, second, third and fourth freedom rights, using or omitting intermediate points as per notes a) and b) to the ATA Annex:

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Point of origin	Intermediate point(s)	Points in Luxembourg	Routing	Points beyond
Points in the Russian Federation	Any point	Luxembourg	any	Any point

Routes to be operated by the designated airline(s) of Grand-Duchy of Luxembourg in both directions with first, second, third and fourth freedom rights, using or omitting intermediate points as per note b) to the ATA Annex :

	Point of origin	Intermediate point(s)	Points in the Russian Federation	Routing	Points beyond
1	Luxembourg	Any Point	Points in the Russian Federation	TransPolar and TransSiberian routes	Points in Japan, Peoples' Republic of China, Hong Kong, and Republic of Korea
2	Luxembourg	Any Point	Points in the Russian Federation	TransAsian and Asian Routes	Japan, Republic of Korea, Peoples' Republic of China, Taipei (or alternate international airports), Hong Kong, Vietnam, Cambodia, Malaysia, Singapore, Bangladesh, Thailand

- The Luxembourg designated airline(s) are authorized to operate from two points in the Asia-Pacific Region to North America using the Trans-East Route and vice versa.

2. Frequencies

The total number of weekly frequencies for the designated carriers of each contracting party shall not exceed 35.

The Russian delegation informed the Luxembourg delegation that flights over Black Sea FIR are subject to a separate procedure as published in the AIP of the Russian Federation and are therefore not included in the above number of frequencies.

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3. Wet-lease operations

The contracting parties agree that the agreed services operated by designated airlines of both sides may be operated using wet-leased aircraft, provided that these flights are operated under flight numbers of the designated airline.

4. Commercial Arrangements

Regarding routes used by the designated airlines of the Grand-Duchy of Luxembourg as specified in point 1 of the above table, the contracting parties reaffirm the current arrangement that is based on

- Note f) of the Annex to the ATA
- Point 7.1. of the Agreed Minutes of 30 November 1994
- the exchange of letters between the aeronautical authorities of both contracting parties of 17 January 2008 / 05 June 2009

5. 5th freedom operations

For the IATA Winter Schedule 2011-2012 and the Summer Schedule 2012, (if not started, prolonged for the next two consecutive IATA seasons, with further prolongation possible as specified below) the civil aviation authority of Luxembourg grants to designated carriers of the Russian Federation the right to operate five frequencies per week using 5th Freedom rights as follows:

Points in the Russian Federation - Luxembourg – Any points beyond v.v.

An extension of this right may be granted by the civil aviation authority of Luxembourg subject to its review of the general commercial impact of such operations.

The provisions of this Memorandum of Understanding shall come into effect as from the date of signature.

Done in Luxembourg in duplicate in the English language on June 23rd 2011

For the Civil Aviation
Authority of
the Grand Duchy of Luxembourg


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