

MEMORANDUM OF CONSULTATIONS

Delegations representing the United States of America and the aeronautical authorities of the Russian Federation met in Moscow on February 13-14, 2013, to discuss civil aviation services between the two countries.

The talks were cordial and constructive, reflecting the mutual respect and understanding of the two delegations. Both delegations welcomed the expansion of opportunities with respect to overflights and code-sharing for U.S. and Russian air carriers. Delegation lists are attached at Attachment A.

The two delegations agreed, ad referendum, on a Protocol with attached Annexes to replace the Annexes to the 1994 Air Transport Agreement between the Government of the United States of America and the Government of the Russian Federation. The initialed Protocol and Annexes follow at Attachment B.

EU ETS

Both delegations discussed the issue of aviation emissions and ongoing high level group discussions on the matter taking place at ICAO. The two delegations intend to remain in close contact and work together to find a satisfactory way forward in that process.

Visa facilitation

The Russian delegation stated that visa facilitation procedures could significantly improve air travel between the two States and proposed that both sides work closely with their respective authorities to promote further visa facilitation between Russia and the United States.

TRANSCOM

The Russian delegation raised the issue of participation of a Russian airline with its U.S. airline partner in the Civil Reserve Air Fleet. A Russian government inquiry into the matter has not received a response. The U.S. delegation undertook to look into the matter.

Agreed Principles

The U.S. delegation requested information on the implementation of the "Agreed principles of the modernization of the existing system of utilization of the Transsiberian routes" with respect to the EU Member States and how

the implementation would affect third country airlines that have an interest in operating flights using the TSR route system. The Russian delegation underlined that at present due to the EU ETS the "Agreed principles" are not being applied to the EU Member States. After the principles are implemented for the EU Member States, the conditions for access to the TSR will be discussed with other countries.

5th freedom

The Russian delegation informed the U.S. delegation of the intention of a Russian airline to start fifth freedom operations between Shannon and Miami on its services between Miami and Moscow.

Code Shares

The Russian delegation expressed its strong support for cooperation between US and Russian airlines under code share arrangements. The U.S. delegation undertook to share this information with U.S. air carriers.

Further liberalization

The U.S. delegation reiterated its interest in removing footnote 2 to the U.S. route in Section 2 of Annex 1. The Russian delegation expressed an interest in eliminating the frequency restrictions in Section 4 of Annex 1. The delegations discussed the U.S. interest in further increasing the overflight frequencies provided for in Section 2(B) of Annex IV. The delegations were unable to reach agreement on these issues. They look forward to making progress on these issues at a meeting scheduled to take place in late August 2013.

The delegations intend to recommend to their respective governments that they take the actions required to bring the Protocol and Annexes into force at the earliest date possible. In the interim, their respective aeronautical authorities intend to implement the provisions of the Annexes on the basis of comity and reciprocity as of the date of signature of this Memorandum.

Signed in Moscow on February 14, 2013.

For the Russian Delegation

For the U.S. Delegation

Oleg O. Demidov

Krishna R. Urs

Russian Delegation

Oleg O. Demidov	Head of Delegation Deputy Director Department of State Policy in Civil Aviation Ministry of Transport of the Russian Federation
Paula K. Malinina	Head of Air Services Division Department of State Policy in Civil Aviation Ministry of Transport of the Russian Federation
Darya A. Kondrashova	Chief expert of Air Services Division Department of State Policy in Civil Aviation Ministry of Transport of the Russian Federation
Mikhail L. Parnev	Director Department of International Relations Federal Air Navigation Authority
Sergey E. Vasiliev	Deputy Director Department of International Relations Federal Air Transport Agency

Industry representatives

Lyudmila Kuzmenkova	Airline "Aeroflot"
Alexander Delezha	Airline "Transaero"
Denis Savchenko	Airline "Transaero"
Svetlana Piven	Airline "S7"
Igor Chernishov	Airline "S7"
Nadezhda Kuzmina	Airline "Yakflot"
Asya Madyarova	Airline "UTair"
Andrey Shumilin	Airline "AirBridgeCargo"
Natalya Nazarova	Airline "AirBridgeCargo"
Alexander Kudryavtsev	Airline "AirBridgeCargo"
Katya Grimes	Representative for U.S.A. Flight Unit 224
Dmitry Novicky	Flight Unit 224
Kamil Feizrakhmanov	Airline "Polet"
Irina Zvereva	Airport "Domodedovo"
Alexey Korsunov	Airline "Oren Air"
Igor Knyazhevsky	Airport "Tolmachevo"
Anna Varshavskaya	"Novoport – Russian airports"

United States Delegation

Krishna Urs	Head of Delegation Deputy Assistant Secretary of State for Transportation Affairs U.S. Department of State
Mary Street	Office of International Aviation U.S. Department of Transportation
Kristin Westphal	Office of Aviation Negotiations U.S. Department of State
Elizabeth Kiingi	Office of the Legal Adviser U.S. Department of State
Elie Nasr	Federal Aviation Administration U.S. Embassy Moscow
Aamod Omprakash	Economic Section U.S. Embassy Moscow

Industry representatives

Annalei Avancena	United Airlines
Cecilia Bethke	Airlines for America
Robert Wirick	American Airlines
Christopher Walker	Delta Air Lines
David Short	FedEx Express
Kevin Montgomery	Polar Air Cargo
Russ Pommer	Atlas Air
Rosalind K. Ellingsworth	Independent Pilots Association
Jacobus Heeremans	Kalitta Air

**PROTOCOL
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE RUSSIAN FEDERATION
TO AMEND THE JANUARY 14, 1994 AIR TRANSPORT
AGREEMENT
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE RUSSIAN FEDERATION**

The Government of the United States of America and the Government of the Russian Federation, hereinafter referred to as "the Parties";

Proceeding from the Air Transport Agreement between the Government of the United States of America and the Government of the Russian Federation, signed at Moscow on January 14, 1994, hereinafter referred to as "the Agreement";

Striving to further develop relations and cooperation between the two countries in the area of civil aviation; and

Desiring to amend the Agreement to replace the Annexes thereto;

Have agreed as follows:

Article I

The Annexes of this Protocol shall be integral parts of the Agreement, and shall govern scheduled air services (Annex I), charter air services (Annex II), commercial opportunities (Annex III), scheduled overflights (Annex IV), cooperative marketing

arrangements (Annex V) and special provisions for services to and via Alaska (Annex VI).

Article 2

This Protocol shall enter into force upon signature.

IN WITNESS WHEREOF the undersigned, being duly authorized by their Governments, have signed the present Protocol.

DONE at _____ this ___ day of _____, in duplicate, in the English and Russian languages, each text being equally authentic.

**FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:**

**FOR THE GOVERNMENT OF THE
RUSSIAN FEDERATION:**

ANNEX I

Scheduled Air Services

Section 1

A. Notwithstanding the provisions of the first sentence of paragraph 1 of Article 3 of the Agreement, the United States of America shall have the right to designate up to six combination (passenger/cargo) airlines and three all-cargo carriers, and the Russian Federation shall have the right to designate up to nine combination or all-cargo airlines, to operate services on the routes specified in Section 2 of this Annex.

B. Not more than three U.S. combination and two U.S. all-cargo and not more than three Russian combination and two Russian all-cargo airlines may operate between any city pair on the specified routes.

Section 2

Airlines designated under this Annex shall, in accordance with the terms of their designation, and subject to the provisions of Section 1 of Annex IV of the Agreement, be entitled to perform scheduled international air transportation: (1) between points on the following routes, and (2) between points on such routes and any points in third countries through points in the territory of the Party which has designated the airlines.

A. Routes for airlines designated by the Government of the United States of America: From a point or points in the United States of America via intermediate points^{1,2} to Moscow, St. Petersburg, Magadan, Khabarovsk, Vladivostok, Petropavlovsk-Kamchatski, Yuzhno-Sakhalinsk and Nizhniy Novgorod, and to an unlimited number of points in the Russian Federation and beyond points for marketing services on a code-share only basis without

¹ Without traffic rights between points in Latvia, Lithuania, Estonia, Belarus, Moldova, Ukraine, Georgia, Armenia, Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan and mentioned points in the Russian Federation;

² Without traffic rights between any points in Europe and points in the Russian Federation unless the Parties agree otherwise.

traffic rights, and beyond to China (including Hong Kong), the Republic of Korea, Singapore, Taiwan and the Philippines.

B. Routes for the airline or airlines designated by the Government of the Russian Federation: From a point or points in the Russian Federation via intermediate points to Atlanta, Bangor, Boston, New York, Washington, Chicago, Dallas/Fort Worth, Anchorage, Seattle, Portland (Oregon), San Francisco, Los Angeles, Orlando, Honolulu, Miami, Columbus (Ohio), Houston, Saipan, Toledo and Huntsville and to an unlimited number of points in the United States of America and beyond points for marketing services on a code-share only basis without traffic rights, and beyond to Sao Paulo (Brazil), Bogota (Colombia), Quito (Ecuador) and twelve additional points in the Western Hemisphere, Southern Hemisphere, Asia and Australia to be named by the Russian Federation.

Section 3

Each designated airline may, on any or all flights and its option,

- A. operate flights in either or both directions;
- B. combine different flight numbers within one aircraft operation;
- C. serve points on the routes in any combination and in any order, which may include serving intermediate points as beyond points and beyond points as intermediate points ;
- D. omit stops at any point or points;
- E. serve a number of points in the territory of the other Party by one aircraft operation, provided that it excludes cabotage;
- F. transfer traffic (including its own stopover traffic) from any of its aircraft to any of its other aircraft at any point on the routes;
- G. operate combination and all-cargo services to any third-country point not specified in Section 2 of this Annex, without traffic rights between the territory of the other Party and such unspecified point;

without directional or geographic limitation and without loss of any right to carry traffic otherwise permissible under the Agreement; provided that the service operates via a point or points in the territory of the Party designating the airline.

Section 4

A. The U.S. airlines designated for combination service may operate up to 63 round-trip frequencies per week between points in the United States of America and points in the Russian Federation. U.S. airlines designated for all-cargo service may operate up to 23 round-trip frequencies per week, between points in the United States of America and points in the Russian Federation.

B. Russian designated airlines may operate up to 86 round-trip frequencies per week between points in the Russian Federation and points in the United States of America.

C. The frequencies mentioned above may be increased in accordance with Article 13 of the Agreement. Extra-section flights operated by designated airlines on the above-specified routes of one Party shall not be counted as a frequency, but must be approved in advance by the aeronautical authorities of the other Party.

D. The designated airlines of one Party while operating services in accordance with this Annex in the territory of the other Party may utilize any type of subsonic aircraft with a capacity of fewer than 500 seats that is in accordance with the laws and regulations of the other Party. Each Party may request the assistance of the other Party, on behalf of its airline or airlines, concerning restrictions that may be imposed by state or local governments or authorities. In response to such a request, the other Party shall bring the views of the requesting Party to the attention of the relevant governmental unit or authority and urge that those views be given appropriate consideration.

Section 5

On any segment or segments of the routes above, a designated airline may perform international air transportation without any limitation as to change, at any point on the route, in type or number of aircraft operated,

provided that in the outbound direction the transportation beyond such point is a continuation of the transportation from the territory of the Party that has designated the airline and, in the inbound direction, the transportation to the territory of the Party that has designated the airline is a continuation of the transportation beyond such point.

Section 6

Notwithstanding any other provision of the Agreement, airlines of both Parties shall be permitted, without restriction, to employ in connection with international air transportation any surface transportation company which has appropriate permission from the respective authorities to engage in surface transportation of cargo to or from any points in the territories of the Parties or in third countries, including transport to and from all airports with customs facilities, and including, where applicable, the right to transport cargo in bond under applicable law and regulations. Such cargo, whether moving by surface or by air, shall have, pursuant to relevant nondiscriminatory procedures and regulations, access to airport customs processing and facilities. Designated airlines may elect to perform their own surface transportation or to provide it through arrangements with other surface carriers, including surface transportation operated by other airlines and indirect providers of cargo transportation pursuant to the condition that any surface carrier shall have the appropriate permission to engage in surface transportation of cargo. Such intermodal cargo services may be offered at a single through price for the air and surface transportation combined, provided that shippers are not misled as to the facts concerning such transportation.

Section 7

An airline of one Party authorized to operate scheduled service and an airline of the other Party may establish joint ventures to the extent consistent with this Agreement and other applicable laws of the Parties.

ANNEX II

Charter Air Services

Section 1

A. Airlines of one Party, subject to the provisions of this Annex, may carry international charter traffic of passengers (and their accompanying baggage) and/or cargo (including, but not limited to, freight forwarder, split and combination (passenger/cargo) charters) between any point or points in the territory of the one Party and any point or points in the territory of the other Party, and, consistent with Article 2 of the Agreement, across the territory of the other Party without landing as well as with stops for non-traffic purposes. In addition, airlines of both Parties exercising rights under this Annex to operate flights between the territories of the Parties shall be accorded the rights available to designated airlines under the Agreement.

B. In the performance of services covered by this Annex, airlines of one Party shall also have the right:

- (1) to make stopovers at any points whether within or outside of the territory of either Party;
- (2) to carry transit traffic through the other Party's territory; and
- (3) to combine on the same aircraft traffic originating in one Party's territory with traffic that originated in the other Party's territory.

Section 2

A. Subject to required approval of routings and points in compliance with entry, transit, customs and immigration laws and regulations, and in accordance with the safety and national security requirements of the receiving Party, decisions on charter applications shall be made as expeditiously as possible, but in any event within 8 working days of receipt of the application. Applications filed on short notice shall receive sympathetic consideration, in the shortest possible time.

B. Charter flights shall be operated in accordance with the charter rules of the country in which the charter traffic originates. If a Party applies different rules, regulations, terms, conditions or limitations to one or more of its airlines, or to airlines of different countries, each airline shall be subject to the least restrictive of such criteria. However, nothing in this subsection shall limit the rights of one Party to require the airline or airlines of the other Party to adhere to requirements relating to national security, flight safety or protection of passenger funds and passenger cancellation and refund rights.

Section 3

The airlines of one Party while operating services in accordance with this Annex in the territory of the other Party may utilize any type of subsonic aircraft with a capacity of fewer than 500 seats that is in accordance with the laws and regulations of the other Party. Each Party may request the assistance of the other Party, on behalf of its airline or airlines, concerning restrictions that may be imposed by state or local governments or authorities. In response to such a request, the other Party shall bring the views of the requesting Party to the attention of the relevant governmental unit or authority and urge that those views be given appropriate consideration.

Section 4

The Parties shall provide the necessary air traffic services and weather services within their respective Flight Information Regions so that airlines and other civil aircraft operators of either Party may operate flights in accordance with the Agreement.

ANNEX III

Commercial Opportunities

Section 1

A. Prior to such time as the Parties agree that designated airlines of the Parties may exercise fully all rights specified in paragraph 3 of Article 8 of the Agreement, the designated airlines of one Party shall have the right to select agents authorized in accordance with national laws and regulations for ground handling and fuel supply services in the territory of the other Party; provided that pending such agreement, designated airlines of one Party may exercise in the territory of the other Party all rights specified in paragraph 3 of Article 8 of the Agreement to the maximum extent permitted by the law of such other Party, and in any event to the maximum extent permitted to any other airline of any nationality other than the national airlines of such other Party.

B. The Parties agree that the availability of ground handling and fuel services to the airlines of both Parties shall be on a non-discriminatory basis. Each Party may request the assistance of the other Party, on behalf of its airline or airlines, concerning regulations which may be imposed by state or local governments or authorities. In response to such a request, the other Party shall bring the views of the requesting Party to the attention of the relevant governmental unit or authority and urge that those views be given appropriate consideration.

Section 2

A. Prior to such time as the Parties agree that U.S. designated airlines are permitted under Russian law to exercise fully all rights specified in Paragraphs 4-7 of Article 8 of the Agreement, the provisions of this Section shall apply in lieu of those paragraphs, provided that, pending such agreement, U.S. designated airlines may exercise all such rights in the Russian Federation to the maximum extent permitted by Russian law, and in any event to the maximum extent permitted to any other airline of any nationality other than the national airlines of the Russian Federation.

B. Notwithstanding the provisions of paragraph 1 of Article 8 of the Agreement, the airlines of one Party designated for scheduled services may establish offices in the territory of the other Party only at the cities specified on the routes set forth in Section 2 of Annex I of the Agreement.

C. The airlines of one Party designated in accordance with Annex I of the Agreement and pursuant to the terms of their designation shall be permitted to sell freely passenger and cargo air transportation in the territory of other Party on their own transportation documents at their own offices and through travel agents of that Party, as well as to appoint agents at their discretion, subject to generally applicable law of that Party.

Section 3

The provisions of this Annex shall be applicable to cargo as well as passenger transportation.

ANNEX IV

Scheduled Overflights

Section 1

Notwithstanding the provisions of Article 2 of the Agreement, the right of the airlines of one Party to fly across the territory of the other Party; the right of airlines of one Party to make stops in the territory of the other Party for non-traffic purposes; and the air transportation rights granted in the Agreement shall be exercised only in accordance with the international Air Traffic Services (ATS) routings for aircraft and the points for crossing national boundaries established by each Party within its territory.

Section 2

A. Until March 29, 2014, airlines of the United States of America may overfly and stop for non-traffic purposes on 76 flights per week in total between points in the United States of America and/or Europe and points in the Indian subcontinent on ATS routings approved for international services; not more than 42 of these flights shall use Crosspolar ATS routings approved for international services.

B. Until October 26, 2013, airlines of the United States of America when operating all-cargo flights may overfly and stop for non-traffic purposes on 109 flights per week in total between points in Europe and points in China (including Hong Kong), Philippines, Kazakhstan, India, Republic of Korea and Japan on ATS routings for international services. Such flights shall have entered or will depart the air space of the Russian Federation at points located west of GOPTO, but excluding it.

C. Until March 29, 2014, airlines of the United States of America may overfly and stop for non-traffic purposes on the Transeast and/or Crosspolar ATS routings networks approved for international services on 1073 flights per week in total between points in the United States of America and points in the Pacific region, the Far East and Asia.

D. Until March 29, 2014, airlines of the United States of America may overfly and stop for non-traffic purposes on 56 flights per week in total (28 flights eastbound and 28 flights westbound) between the United States and points in Bahrain, Iraq, Kuwait, Oman, Qatar and the United Arab Emirates on ATS routings approved for international services.

E. The provisions of paragraphs A-D of this Section shall be subject to the condition that traffic handling capability on these ATS routings is adequate and in accordance with the conditions published in the AIP of the Russian Federation.

Section 3

The airlines of one Party while operating services in accordance with this Annex may utilize any type of subsonic aircraft with a capacity of fewer than 500 seats that is in accordance with the laws and regulations of the other Party.

Section 4

The Parties shall provide the necessary air traffic services and weather services within their respective Flight Information Regions so that airlines and other civil aircraft operators of either Party may operate flights in accordance with the Agreement.

Section 5

The appropriate U.S. authorities shall make available to Russian airlines and other civil aircraft operators all U.S. airspace entry and exit points that are available to any non-U.S. airline. Subject to appropriate U.S. internal procedures, the U.S. authorities shall provide access to published common ATS routings to/from each entry and exit point for each destination authorized for scheduled services pursuant to the Agreement, or to the optimal ATS routing where no common ATS routing is published. Russian airlines and other civil aircraft operators shall provide two weeks' advance notification of the specific entry point and exit point, and one or more alternate entry points and one or more alternate exit points, and ATS routing to be used for each destination to the Federal Aviation Administration (FAA) Office of International Aviation, Washington, D.C. Entry

and exit points and ATS routings may be changed by the Russian airlines and other civil aircraft operators at any time with at least two weeks notice to FAA. The U.S. authorities reserve the right to modify the ATS routing for security reasons, but shall attempt to keep the routing as close to optimum as possible.

Section 6

This Annex shall expire on March 29, 2014, unless otherwise agreed prior to that date. The Parties agree to consult not later than six months in advance of the expiration date to determine whether the provisions of this Annex should be continued or modified. This Section does not modify any other provision Agreement regarding consultations or termination.

ANNEX V

Cooperative Marketing Arrangements

In operating or holding out the authorized services under this Agreement, any airline of one Party may enter into cooperative marketing arrangements¹ such as blocked-space, code-sharing, or leasing arrangements with:

- a) an airline or airlines of either Party and
- b) an airline or airlines of a third country;

provided that all participants in such arrangements (i) hold the appropriate authority and (ii) meet the requirements normally applied to such arrangements.

¹ Code-sharing via Germany shall be allowed as soon as the current restrictions on third-country code-sharing between Russia and Germany are eliminated.

ANNEX VI

Special Provisions For Services To And Via Alaska

Section 1

Scheduled Service

A. Code-Share Services For Airlines Designated by the Government of the Russian Federation:

The Government of the Russian Federation shall have the right to designate any number of airlines, which shall be entitled, in conjunction with flights operated to or via a point in Alaska, to hold out their services on services operated by airlines of either Party between any point or points in the territory of the Russian Federation and any point or points in the territory of the United States of America, subject to the following provisions:

1. All airlines engaged in code-share operations must have the appropriate authority.
2. All code-share arrangements must meet the requirements normally applied to such arrangements.
3. Code-share operations under subsection A of this Section shall not be counted against frequency limits set forth in Section 4 of Annex I of the Agreement applicable to operations by airlines designated by the Parties for any of the airlines involved.
4. Airlines designated solely to exercise the rights provided for in subsection A of this Section shall not be counted against the limits on designation set forth in Section 1 of Annex I of the Agreement applicable to the Parties.

B. Own-Aircraft Services by Airlines Designated by the Government of the Russian Federation:

1. The Government of the Russian Federation shall have the right to designate any number of airlines to operate any number of frequencies on routes between any point or points in the Russian Federation and any point or points in the United States of America, provided that the operation serves a point in Alaska.
2. Frequencies operated under paragraph 1 of subsection B of this Section shall not be counted against limits on frequencies applicable to operations by airlines designated by the Government of the Russian Federation set forth in subsection B of Section 4 of Annex I of the Agreement. Airlines designated solely

to exercise rights provided for in paragraph 1 of this subsection shall not be counted against the limit on designations applicable to the Government of the Russian Federation set forth in Section 1 of Annex I of the Agreement.

C Own-Aircraft Services by Airlines Designated by the Government of the United States of America:

In addition to the route rights provided in Annex I, Section 2A, airlines designated by the Government of the United States of America shall be entitled to perform scheduled international air transportation between any point or points in Alaska and Anadyr, Provideniya, and Lavrentiya, subject to Russian Government internal regulations applicable for utilization of these airports, which will be applied on a non-discriminatory basis to international air services.

Section 2

Charter Service

The Government of the Russian Federation shall be entitled to designate any number of airlines to operate any number of charter services between Alaska and the Russian Far East.