

RECORD OF DISCUSSIONS
BETWEEN THE GOVERNMENT OF ICELAND
AND THE REPUBLIC OF KENYA

Delegations representing the government of the ICELAND and the REPUBLIC OF KENYA (hereinafter referred to as the “Delegations”) met in Aqaba, JORDAN on December 4, 2019 for the purpose of reviewing the existing Air Services Agreement (hereinafter referred to as the “ASA”) and the establishment of scheduled air services between the two countries.

The consultations were held in a cordial and friendly atmosphere and the following common understandings were reached: The list of delegation is hereby attached as Appendix I.

With reference to the Memorandum of Understanding between the Republic of Kenya and Iceland signed at ICAN 2013 held at Inkosi Albert International Convention Centre, Durban, South Africa between 9 – 13 December, 2013, the contracting Parties agreed to the following amendments to the MoU;

Article 6 of the MoU-The Icelandic Obligation as a Member State of the European Economic Area(EEA)

1st paragraph.

The two Delegations agreed to delete the last two sentences in the paragraph beginning with: “It further explained,....“ and “Furthermore,“

2nd paragraph

Both Delegations agreed to amend the 2nd sentence to read as follows: Considering that the Government of Kenya has completed its examination of this issue it will now be possible to incorporate the following the EEA designation clause in the ASA in the near future;

(a) in the case of an airline designated by Iceland:

- (i) it is established in the territory of Iceland in accordance with the Agreement on the European Economic Area, and has a valid Operating Licence in accordance with national law adopted in accordance with the Agreement on the European Economic Area; and
- (ii) effective regulatory control of the airline is exercised and maintained by Member State of the European Economic Area responsible for issuing its Air Operator's Certificate, and the relevant aeronautical authority is clearly identified in the designation; and
- (iii) it is owned and shall continue to be owned directly or through majority ownership by Member States of the European Economic Area and/or nationals of Member States of the European Economic Area and shall at all times be effectively controlled by such states and/or nationals.

(b) in the case of an airline designated by the Republic of Kenya:

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- i. it is established in the territory of the Republic of Kenya and has a valid Operating Licence in accordance with the applicable law of the Republic of Kenya; and
- ii. effective regulatory control of the airline is exercised and maintained by the Republic of Kenya and it is responsible for issuing its Air Operator Certificate.
- iii. the airline is owned, directly or through majority ownership, and is effectively controlled by the Republic of Kenya and/or by nationals of the Republic of Kenya.

The designated airlines are qualified to meet the conditions prescribed under the laws and regulations normally and reasonably applied to the operation of international air services by the Contracting Party considering the application or applications.

When an airline has been so designated and authorised it may begin to operate the agreed services, provided that the airline complies with the applicable provisions of this Agreement.

New Article 8 on Wet Leasing

Both Delegations agreed to include the following article on wet lease in the MoU;

“Wet-Lease

Both sides intend to allow any airline designated by the Government of Iceland or the Government of Kenya to operate international air services on the specified routes with aircraft and crews leased from

- an airline or airlines of the same side,
- an airline or airlines of the other side, or
- an airline or airlines of third countries,

provided that all parties involved hold the required authorisations and meet the requirements normally applied by each side according to the laws and regulations applicable to such arrangements. Such arrangements will not be equivalent to giving the lessor airline access to traffic rights not otherwise available to that airline.

The Delegation of Iceland is not proposing any other amendments to the Memorandum of Understanding, and the ASA will continue to be applied on a provisional basis in accordance with Article 1 of the MoU. Both delegations agreed to review the Air Services Agreement between the two countries at the earliest possible date acceptable to both Parties.

For the Delegation of the Republic of Kenya

For the Delegation of Iceland

Nicholas Bodo

Benedikt Ásgeirsson

THE DELEGATION OF THE REPUBLIC OF KENYA

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|----|--|---|
| 1. | Mr. Bodo Nicholas Otieno | Ag. Director, Air Transport
State Department of Transport
Head of Delegation |
| 2. | Maj Gen. Otieno Joff Makowenga (KAF rtd) | Ambassador
Embassy of the Republic of Kenya-Cairo |
| 3. | Ms. Rugut Angelah Cherotich | Principal Air Transport Officer
State Department of Transport |
| 4. | Ms. Mbugua Racheal Nyambura | Senior State Counsel
Office of Attorney General and Department of Justice |
| 5. | Ms. Dorcas Marwa | Foreign Service Officer
Ministry of Foreign Affairs |
| 6. | Mr. Nicholas Muhoya | Manager, Air Transport
Kenya Civil Aviation Authority |
| 7. | Mr. James Ndungu | Senior Air Transport Officer
Kenya Civil Aviation Authority |
| 8. | Ms. Mwathane Joy Igandu | Legal Counsel
Kenya Airports Authority |




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| 9. | Mr. Yagomba William | Manager Government and Aviation
Industry Affairs

African Express Airways |
| 10. | Mr. Michael Mutahi | Chief Operations Officer

Astral Aviation Ltd. |
| 11. | Mr. Gitonga Isaac
Mwangi | Manager Government and Industry Affairs

Kenya Airways PLC |
| 12. | Mr. Makau Maitha | Network Optimization Manager3Kenya
Airways PLC |
| 13. | Mr. Boniface Makongo | Director, Competition & Consumer
Protection

Competition Authority of Kenya |
| 14. | Gen. (Rtd.) Charles
Mwanzia | Board Member

Kenya Civil Aviation Authority |

THE ICELANDIC DELEGATION

Benedikt Ásgeirsson

Head of Delegation

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