

Memorandum of Consultations

1. Delegations of the United States of America and the Republic of Kenya met in Aqaba, Jordan on December 4, 2019, under the auspices of the twelfth ICAO International Civil Aviation Negotiation Event. Discussions were held in a friendly and constructive atmosphere, and a list of the two delegations is attached (**Attachment A**).
2. The delegations concluded negotiations on the text of an Agreement Amending the Air Transport Agreement between the Government of the United States of America and the Government of the Republic of Kenya, done at Washington, on June 18, 2008 (the "Agreement to Amend") and the heads of delegation initialed the text (**Attachment B**).
3. The delegations further expressed the intent of their respective aeronautical authorities to apply the terms of the Agreement to Amend on the basis of comity and reciprocity (i.e., on an administrative basis), from the date of signature of this Memorandum of Consultations, pending the entry into force of the Agreement to Amend.

For the United States Delegation:



Date: 4 DECEMBER 2019

For the Kenyan Delegation:



Date: 4th December, 2019

Attachment A

DELEGATION OF THE UNITED STATES OF AMERICA

Aaron P. Forsberg (head of delegation)

Director,
Office of Aviation Negotiations,
U.S. Department of State

Benjamin Taylor

Assistant Director,
Office of International Aviation,
U.S. Department of Transportation

Eugene Alford

International Transportation Specialist
International Trade Administration
U.S. Department of Commerce

Paul I. Fishbein

International Aviation Officer,
Office of Aviation Negotiations,
U.S. Department of State

Jesse Tampio

Attorney-Adviser,
Office of the Legal Adviser,
U.S. Department of State

Tricia R. Kubrin

Air Services Negotiator,
Office of International Aviation,
U.S. Department of Transportation

Benjamin Shipe

Attorney,
Office of the Assistant General Counsel for
International Law
U.S. Department of Transportation



DELEGATION OF KENYA

Mr. Bodo Nicholas Otieno (head of delegation)	Acting Director, Air Transport State Department of Transport
Maj Gen. Otieno Joff Makowenga (KAF rtd)	Ambassador Embassy of the Republic of Kenya - Cairo
Ms. Rugut Angelah Cherotich	Principal Air Transport Officer State Department of Transport
Ms. Mbugua Racheal Nyambura	Senior State Counsel Office of Attorney General and Department of Justice
Ms. Dorcas Marwa	Foreign Service Officer Ministry of Foreign Affairs
Mr. Nicholas Muhoya	Manager, Air Transport Kenya Civil Aviation Authority
Mr. James Ndungu	Senior Air Transport Officer Kenya Civil Aviation Authority
Ms. Mwathane Joy Igandu	Legal Counsel Kenya Airports Authority
Mr. Yagomba William	Manager, Government and Aviation Industry Affairs African Express Airways
Mr. Michael Mutahi	Chief Operations Officer Astral Aviation Ltd.
Mr. Gitonga Isaac Mwangi	Manager, Government and Industry Affairs Kenya Airways PLC
Mr. Makau Maitha	Network Optimization Manager Kenya Airways PLC
Mr. Boniface Makongo	Director, Competition & Consumer Protection Competition Authority of Kenya
Gen. (Rtd.) Charles Mwanzia	Board Member Kenya Civil Aviation Authority



**AGREEMENT AMENDING THE
AIR TRANSPORT AGREEMENT
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF KENYA**

The Government of the United States of America and the Government of the Republic of Kenya (hereinafter, the “Parties”);

Desiring to modernize and strengthen their bilateral aviation relationship and to expand all-cargo international air transport opportunities in order to facilitate increased and more efficient commerce and trade;

Have agreed to amend the Air Transport Agreement between the Government of the United States of America and the Government of the Republic of Kenya, signed at Washington June 18, 2008 (the “Agreement”), as follows:

Article 1

Amendments to Article 2 of the Agreement (“Grant of Rights”)

In Article 2 of the Agreement:

1. Paragraph 1, subparagraph (c) shall be deleted and replaced with the following:

(c) the right to perform international air transportation between points on the following routes:

- (i) for airlines of the United States, from points behind the United States via the United States and intermediate points to any point or points in Kenya and beyond; and for all-cargo service, between Kenya and any point or points;
- (ii) for airlines of Kenya, from points behind Kenya via Kenya and intermediate points to any point or points in the United States and beyond; and for all-cargo service, between the United States and any point or points; and

2. Paragraph 2 shall be amended by deleting the final clause and replacing it with the following:



without directional or geographic limitation and without loss of any right to carry traffic otherwise permissible under this Agreement, provided that, with the exception of all-cargo services, the transportation is part of a service that serves a point in the homeland of the airline.

3. Paragraph 3 shall be deleted and replaced with the following:

3. On any segment or segments of the routes above, any airline of a Party 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, with the exception of all-cargo services, in the outbound direction, the transportation beyond such point is a continuation of the transportation from the homeland of the airline and, in the inbound direction, the transportation to the homeland of the airline is a continuation of the transportation from beyond such point.

Article 2

Entry into Force

This agreement shall enter into force on the date of the later note in an exchange of diplomatic notes between the Parties confirming the completion of their respective internal procedures for entry into force.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this agreement.

DONE at _____, this _____ day of _____, 20 __, in two originals, in the English language.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE REPUBLIC OF KENYA: