

Our ref  
Hau №

9-2856

Date  
Дата

09.08.11

**Mr. Andreas Schmidinger**  
**Head of Unit III.6b- Transport and Telecommunication**  
**Federal Ministry for European and**  
**International Affairs**  
Vienna

Dear Mr. Andreas Schmidinger,

With reference to point 4.7 "Entry into effect" of Memorandum of Understanding signed November 30, 2010 I have the honor You to inform that Russian Aeronautical Authorities have accomplished all necessary procedures required to bring the abovementioned agreement into force.

Yours sincerely,



Vladimir N. Tashin  
Director  
Department of State Policy in Civil Aviation

Mr. Vladimir Tasun  
Director Department of State Policy in Civil Aviation  
Ministry of Transport of the Russian Federation  
1 Ulitsa Rozhdestvenka, Building 1  
Moscow 109012, Russia  
Fax: +7 (495) 626 90 38  
E-Mail: mail@mintrans.ru

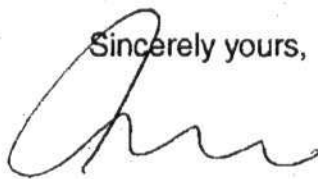
Vienna, August 8, 2011

No. BMeiA-RU.3.19.28/0010-III.6/2011

Dear Mr. Tasun,

The Austrian Federal Ministry for European and International Affairs has the honour to inform, in accordance with point 4.7 "Entry into effect" of the Memorandum of Understanding, signed in Salzburg on November 30, 2010, and referring to your letter no. 9.2876 of July 1, 2011, that the internal requirements for the entry into effect of the Memorandum have been fulfilled.

Sincerely yours,



Ges. Dr. Anton Kozusnik

Head of Department III.6  
(Environment, Transport and Telecommunication)

## MEMORANDUM OF UNDERSTANDING

1. Delegations representing the Aeronautical Authorities of the Republic of Austria and of the Russian Federation met in Salzburg on 29 and 30 November 2010 to review and update the present regulatory bilateral framework pursuant to the Air Transport Agreement between the Federal Government of the Republic of Austria and the Government of the Russian Federation signed at 8 November 1993 (referred to hereafter as the ATA). Lists of the two delegations are attached as Appendix 1.

2. The negotiations were held in a cordial and friendly atmosphere, and both delegations expressed their desire to further promote their aeronautical relations in a spirit of cooperation and complete understanding for their mutual benefits.

### 3. EU – Russia relations

The Austrian delegation informed the Russian delegation about details of the infringement procedure that has been introduced by the European Commission. As a final consequence this procedure could force the Austrian Government to cancel the ATA.

The Russian side referred to the consultations between the European Commission and the Ministry of Transport of the Russian Federation on 16 – 19 November 2010 in Moscow and stated that the issue of “designated air carriers of both countries/EU designation” would be resolved in the framework of the EU – Russian Federation consultations during the year 2011. The Russian Federation intends to address its part of the issue through transforming the term “designated air carriers of both countries”.

4. Both delegations reached the following understanding:

#### 4. 1. Updating of the ATA

The Austrian side suggested amending Article 1 (Definition), Article 3 (Traffic Rights), Article 4 (Necessary Authorization), Article 5 (Revocation or Suspension of Rights), Article 10 (Capacity Provisions), Article 11 (Transport Tariffs), Article 16a (Security); to insert a new Article 16b (Aviation Safety) as attached in Appendix 2.

As an interim solution the Austrian side submitted two additional proposals referring to Article 4 and 5 of the ATA as attached as Appendix 3 and 4 as an alternative text.

The Russian side indicated that they were not ready to accept a change of the designation clause at present. Possibly the version as attached in Appendix 3 (referring to principle place of business) could form the basis of a solution.



#### 4.2. Agreed principles of the Modernization of the existing system of the utilization of the Transsiberian routes

The Austrian delegation referred to the "Agreed Principles of the Modernization of the existing system of the utilization of the Transsiberian routes" as discussed in November 2007 on the occasion of the EU-Russia summit. The Austrian delegation noted that the agreement had been approved by the EU Council in May 2007 and called for the application of the conditions of the Agreement as of the conclusion of this round of consultations.


The Russian delegation stated that this is not an issue of bilateral consultations between the Russian and the Austrian Aeronautical Authorities and that the issue had been referred to the Ministry of Economic Development of the Russian Federation and that it was not in a position to add any additional comments.

#### 4.3. Code Sharing

Both delegations agreed on the following wording:

Any designated airline may enter into commercial and/or co-operative marketing arrangements including, but not limited to, blocked-space or codesharing arrangements, with any other airline, including an airline of a third country, provided that:

- a) the operating airline in such arrangements holds the appropriate operating authorisation and traffic rights;
- b) both, the operating and marketing airlines hold the appropriate route rights<sup>1</sup>;
- c) no service is operated by an airline of one country for the carriage of passengers between a point in the territory of the other country and a point in a third country, or between two points in the territory of the other country, and no such passengers are carried, unless that airline itself has traffic rights between those two points;
- d) in respect of each ticket sold, the purchaser is informed at the point of sale which airline will operate each flight forming part of the service;
- e) the activities mentioned are carried out in accordance with the laws and regulations applicable in each country, including those governing competition;
- f) the relevant airline has secured any necessary approvals from its own authorities, for the purposes of ensuring that the codesharing arrangement is consistent with bilateral arrangements with any relevant third country; and
- g) codesharing agreements will be subject to approval by aeronautical authorities of both sides.



<sup>1</sup> Route rights do not require designation and/or traffic rights as per the route Annex for the marketing carrier.

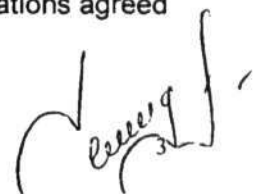
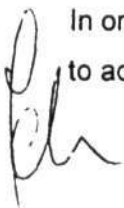
Codesharing flights along Transsiberian, Transasian and Transpolar route networks are subject to commercial agreement between Russian and Austrian designated airlines.

#### 4.4. Capacity:

Both delegations confirmed the following capacity regime:

- a) The designated airlines of each Contracting Party may operate up to 28 passenger/combination weekly frequencies on the route Vienna-Moscow v.v..
- b) The designated airlines of each Contracting Party may operate up to 7 passenger/combination weekly frequencies on the route Vienna-St. Petersburg v.v..
- c) The designated airlines of each Contracting Party may operate up to 7 passenger/combination weekly frequencies on the route between Salzburg-Moscow v.v. and up to 7 passenger/combination weekly frequencies on the route between Innsbruck-Moscow v.v..
- d) The designated airlines of each Contracting Party may operate up to 7 passenger/combination weekly frequencies on the route between Salzburg-Saint Petersburg v.v. and up to 7 passenger/combination weekly frequencies on the route between Innsbruck-Saint Petersburg v.v..
- e) The airlines designated by Austria may operate up to 7 passenger/combination weekly frequencies from any points in Austria to Krasnodar, Rostov-on-Don, Yekaterinburg, Sochi, Nizhniy Novgorod, each.
- f) The airlines designated by the Russian Federation may operate up to 7 passenger/combination weekly frequencies from any points in Russia (excluding Moscow and Saint-Petersburg) to Vienna, each.
- g) The airlines designated by the Russian Federation may operate up to 7 passenger/combination weekly frequencies from any points in Russia (excluding routes Moscow – Salzburg vv., Moscow – Innsbruck v.v., Saint-Petersburg-Salzburg v.v. and Saint-Petersburg-Innsbruck v.v.) to Salzburg, Innsbruck, Klagenfurt, Graz, Linz, each.

In order to provide flexibility for airlines during seasonal peak periods both delegations agreed to accept the issue of shifting the provided frequencies between week days.



Both sides confirmed that after the economic crises traffic was growing again above average on certain routes. In order to meet future demand the Austrian side requested to introduce double designation on all specified routes outlined in the Annex to the bilateral ATA and the following increase of traffic rights:

- up to 7 passenger/combination weekly frequencies for designated airlines of both sides on the route between Vienna and Moscow v.v. and
- up to 14 passenger/combination weekly frequencies for designated airlines of both sides on the route between Vienna and Saint Petersburg v.v. and
- up to 7 passenger/combination weekly frequencies for designated airlines of both sides on the route between Vienna and Krasnodar v.v.

The Russian side has taken these requests under consideration and will inform the Austrian side of its decision.

The current designation system remains unchanged.

#### 4.5. Charter Services

Both delegations agreed that the charter services should not jeopardize scheduled services on the agreed routes. All charter services shall be operated in compliance with national legislation of both Parties.


With regard to the permission for airlines operating non-scheduled flights from the territory of the other party that was granted under point 8 of the MoU of 2009, the Russian side informed the Austrian side that the entitlement of 24 frequencies for the Austrian side is in contradiction with the Russian AIP; therefore, such applications will not be granted by the Russian side. As a consequence, it was agreed that this provision will be terminated.

The permission for airlines operating non-scheduled and additional scheduled flights (in excess of the established entitlement) on routes where scheduled services are established shall be granted on a basis of a coordinated program with the respective designated carrier(s) of the other side. Both sides confirmed reciprocal treatment of such applications.

The provisions of this chapter shall become effective immediately.

#### 4.6. Transsiberian overflights

Both sides agreed to increase the number of frequencies for both sides to/from Beijing and to/from Tokyo and to/from Nagoya by two round trip services per week, each.



This provision shall become effective immediately.

#### 4.7. Miscellaneous

The Russian delegation referred to the unsatisfying situation with regard to slots at Innsbruck airport. The Austrian delegation stated that in Austria airport slots/airport capacity are/is allocated in compliance with the existing national rules and international standards on slot allocation and can not be covered by bilateral arrangements between the aeronautical authorities.

#### Entry into effect :

This Memorandum of Understanding will enter into effect and shall supersede the relevant provisions in the previous arrangements on the date of the later note in an exchange of notes between the aeronautical authorities of Austria and the Russian Federation notifying each other of the completion of their respective internal requirements.

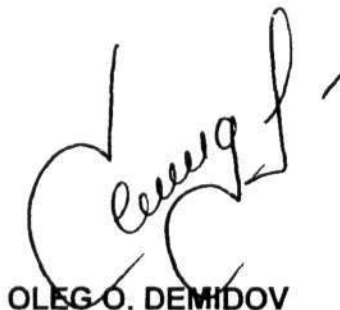
Both sides confirm to hold the next round of consultation during the second half of 2011 in Saint Petersburg.

Done in Salzburg, on 30 November 2010



ANDREAS SCHMIDINGER

**Minister Plenipotentiary  
Federal Ministry for European and  
International Affairs  
Head of the delegation of  
the Republic of Austria**



OLEG O. DEMIDOV

**Deputy Director  
Department of State Policy in Civil Aviation  
Ministry of Transport of the Russian  
Federation,  
Head of the delegation**

**I. To add at ARTICLE 1 (DEFINITION) the following two paragraphs:**

- j. references in the Agreement to nationals of Austria shall be understood as referring to nationals of the European Union Member States ;
- k. references in the Agreement to airline(s) of Austria shall be understood as referring to airline(s) designated by Austria.

**II. To replace ARTICLE 3 with the following:**

**ARTICLE 3  
TRAFFIC RIGHTS**

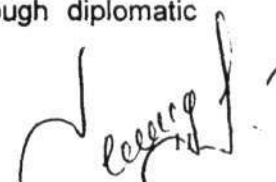
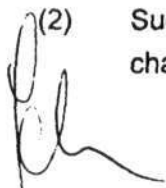
The airlines designated by each Contracting Party shall enjoy while operating an agreed service on a specified route the following rights:

- a) to fly across the territory of the other Contracting Party without landing;
- b) to make stops in the territory of the other Contracting Party for non-traffic purposes at the points set out in the Annex to the present Agreement;
- c) to make stops in the territory of the other Contracting Party at the points specified for that route in the Annex to the present Agreement for the purpose of taking on and/or putting down international traffic in passengers, cargo and mail.

**III. To replace ARTICLE 4 with the following:**

**ARTICLE 4  
NECESSARY AUTHORIZATIONS**

- (1) Each Contracting Party shall have the right to designate in writing to the other Contracting Party an airline or airlines for the purpose of operating the agreed services on the specified routes and to withdraw the designation of any airline or to substitute another airline for one previously designated.
- (2) Such designation shall be effected by virtue of written note through diplomatic channels.





(3) The aeronautical authorities of one Contracting Party may require the airline designated by the other Contracting Party to prove that it is qualified to fulfill the conditions prescribed under the laws and regulations applied to the operation of international air services by the said authorities in conformity with the provisions of the Convention.

(4) On receipt of such designation the aeronautical authority of the other Contracting Party shall grant the appropriate authorization and permissions with minimum procedural delay, provided:

(a) In the case of an airline designated by the Austrian Federal Government:

- (i) it is established in the territory of the Republic of Austria under the EU Treaties establishing the European Union and has a valid Operating Licence in accordance with the law of the European Union;
- (ii) effective regulatory control of the airline is exercised and maintained by the European Union Member State responsible for issuing its Air Operator's Certificate and the relevant aeronautical authority is clearly identified in the designation; and
- (iii) the airline is owned directly or through majority ownership and it is effectively controlled by Member States of the European Union or States of the European Free Trade Association and/or by nationals of such states.

(b) 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 Operating Licence in accordance with the applicable law of the Russian Federation;
- (ii) The Russian Federation exercises and maintains effective regulatory control of the airline and is responsible for issuing its Air Operator's Certificate; and
- (iii) the airline is owned directly or through majority ownership and it is effectively controlled by the Russian Federation and/or by its nationals.



12

**IV. To replace ARTICLE 5 with the following:**

**ARTICLE 5  
REVOCATION OR SUSPENSION OF RIGHTS**

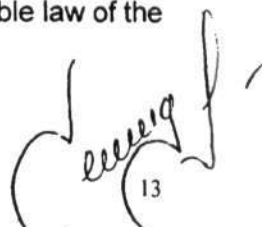
(1) Either Contracting Party may revoke, suspend or limit the operating authorization or technical permissions of an airline designated by the other Contracting Party where:

(a) *In the case of an airline designated by the Austrian Federal Government:*

- (i) it is not established in the territory of the Republic of Austria under the EU Treaties establishing the European Union or does not have a valid Operating Licence in accordance with the law of the European Union; or
- (ii) effective regulatory control of the airline is not exercised or not maintained by the European Union Member State responsible for issuing its Air Operator's Certificate or the relevant aeronautical authority is not clearly identified in the designation; or
- (iii) the airline is not owned directly or through majority ownership and it is not effectively controlled by Member States of the European Union or States of the European Free Trade Association and/or by nationals of such states, or
- (iv) the air carrier is already authorised to operate under a bilateral agreement between the Russian Federation and another Member State and that by exercising traffic rights under this Agreement on a route that includes a point in that other Member State, including the operation of a service which is marketed as, or otherwise constitutes a through service not permissible, it would be circumventing restrictions on traffic rights imposed by the other agreement, or
- (v) the air carrier designated holds an Air Operators Certificate issued by a 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 Russian Federation.

(b) *In the case of an airline designated by the Government of the Russian Federation:*

- (i) it is not established in the territory of the Russian Federation or does not have a valid Operating Licence in accordance with the applicable law of the Russian Federation;



13

- (ii) effective regulatory control of the airline is not exercised or not maintained by the Russian Federation or the Russian Federation is not responsible for issuing its Air Operator's Certificate; or
  - (iii) the airline is not owned directly or through majority ownership and it is not effectively controlled by the Russian Federation and/or by its nationals.
- (2) When an airline has been so designated and authorised in accordance with this Article, it may at any time begin to operate the agreed services, in accordance with the provisions of the present Agreement.

**V. To replace ARTICLE 10 with the following:**

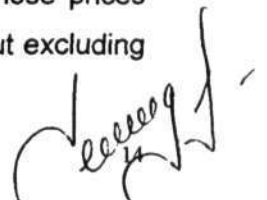
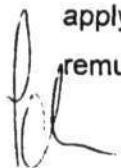
**ARTICLE 10  
CAPACITY PROVISIONS**

- (1) There shall be a fair and equal opportunity for the designated airlines of the Contracting Parties to operate the agreed services on the specified route.
- (2) In operating the agreed services the designated airline(s) of each Contracting Party shall take into account the interests of the designated airline(s) of the other Contracting Party so as not to affect unduly the services provided by the latter on the whole or part of the same route.
- (3) Airlines designated by a Contracting Party may be required to submit their flight schedules for approval to the aeronautical authorities of the other Contracting Party at least sixty (60) days before the proposed date of their introduction. The same procedure shall apply to any modification thereof. In special cases this time limit may be reduced subject to the consent of the said authorities.

**VI. To replace ARTICLE 11 with the following:**

**ARTICLE 11  
TRANSPORT TARIFFS**

1. For the purposes of these arrangements, the term "tariff" means the prices to be paid for the carriage of passengers, baggage and freight and the conditions under which those prices apply, including prices and conditions for agency and other auxiliary services, but excluding remuneration or conditions for the carriage of mail.



2. Each Contracting Party shall allow tariffs for air services to be established by each designated airline based upon commercial considerations in the market place. Neither Contracting Party shall require their airlines to consult other airlines about the tariffs they charge or propose to charge for services covered by these arrangements.

3. Each Contracting Party may require notification or filing of any tariff to be charged by its own designated airline or airlines. Neither Contracting Party shall require notification or filing of any tariff to be charged by the designated airline or airlines of the other Contracting Party. Tariffs may remain in effect unless subsequently disapproved under paragraphs 5 or 6 below.

4. Intervention by the Contracting Parties shall be limited to:

(a) the protection of consumers from tariffs that are excessive due to the abuse of market power;

(b) the prevention of tariffs whose application constitutes anti-competitive behaviour which has or is likely to have or is explicitly intended to have the effect of preventing, restricting or distorting competition or excluding a competitor from the route.

5. Each Contracting Party may unilaterally disallow any tariff filed or charged by one of its own designated airlines. However, such intervention shall be made only if it appears to the aeronautical authority of that Contracting Party that a tariff charged or proposed to be charged meets either of the criteria set out in paragraph 4 above.

6. Neither Contracting Party shall take unilateral action to prevent the coming into effect or continuation of a tariff charged or proposed to be charged by an airline of the other Contracting Party. If one Contracting Party believes that any such tariff is inconsistent with the considerations set out in paragraph 4 above, it may request consultations and notify the other Contracting Party of the reasons for its dissatisfaction. These consultations shall be held not later than 14 days after receipt of the request. Without a mutual agreement the tariff shall take effect or continue in effect.

7. Notwithstanding the paragraphs above, the tariffs to be charged by the designated airline(s) of the Russian Federation for carriage wholly within the European Union shall be subject to European Union law.



15

**VIII. To insert ARTICLE 16a as the following:**

**ARTICLE 16a  
SAFETY**

1. Each Contracting Party may request consultations at any time concerning safety standards in any area relating to aircrew, 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 4 (revocation, suspension and variation of operating authorisations) 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 above 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 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) above shall be discontinued once the basis for the taking of that action ceases to exist.

8. Where the Republic of Austria has designated an airline whose regulatory control is exercised and maintained by an European Union Member State, the rights of the other Contracting Party under this Article shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other European Union Member State and in respect of the operating authorisation of that airline.

**VIII. To replace ARTICLE 16 as the following:**

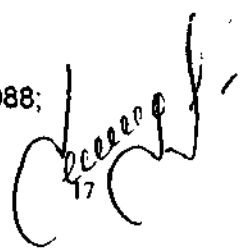
**ARTICLE 16b**

**SECURITY**

1. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement.

2. The Contracting Parties shall in particular act in conformity with the provisions of:

- a) The Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963;
- b) The Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;
- c) The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971;
- d) The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988;



and any other multilateral agreement governing aviation security binding upon both Contracting Parties.

3. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention to the extent that such security provisions are applicable to the Contracting Parties; they shall require that operators of aircraft of their registry or who have their principal place of business or permanent residence in the territory of the Contracting Parties or, in the case of the Republic of Austria, operators of aircraft which are established in its territory under the EU Treaties and have valid Operating Licences in accordance with the law of the European Union, and the operators of airports in their territory act in conformity with such aviation security provisions.

4. The Contracting Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, their passengers and crew, airports and air navigation facilities, and any other threat to the security of civil aviation.

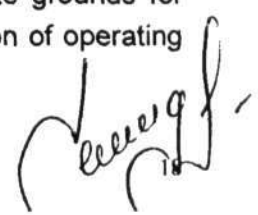
5. Each Contracting Party agrees that its operators of aircraft shall be required to observe, for entry into, departure from or while within the territory of the other Contracting Party, aviation security provisions in conformity with the law in force in the country, including, in the case of the Austrian Republic, the law of the European Union.

6. Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading.

7. Each Contracting Party shall also give sympathetic consideration to any request from the other Contracting Party for reasonable special security measures to meet a particular threat.

8. When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of such aircraft, their passengers and crew, airports or air navigation facilities occurs, the Contracting Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

9. When a Contracting Party has reasonable grounds to believe that the other Contracting Party has departed from the aviation security provisions of this Article, the aeronautical authorities of that Contracting Party may request immediate consultations with the aeronautical authorities of the other Contracting Party. Failure to reach a satisfactory agreement within one (1) month of the date of such request shall constitute grounds for application of Article 4 of this Agreement (revocation, suspension and variation of operating



authorisations). If required by a serious emergency, either Contracting Party may take interim action prior to the expiry of a month period.

A handwritten signature in black ink, appearing to be a stylized 'P' followed by a cursive flourish.A handwritten signature in black ink, appearing to be 'C. Cheng' followed by a flourish.



## Designation, authorisation and revocation

1. Both delegations shared the common understanding that notwithstanding provisions of paragraph x of Article x of the Agreement, the aeronautical authorities of the Russian Federation would not exercise the rights mentioned in paragraph x of Article x of the Agreement, where:
  - (1) an airline is established, under the Treaty establishing the European Union (hereinafter referred to as "EU"), in the territory of Austria and has a valid operating licence from an EU Member State in accordance with EU Law; and
  - (2) regulatory control of the airline is exercised and maintained by the EU Member State responsible for issuing its air operator's certificate, and the relevant aeronautical authority is clearly identified in the designation; and
  - (3) the airline has its principal place of business in the territory of the EU Member State from which it has received the valid operating licence; and
  - (4) the airline is owned directly or through majority ownership and is effectively controlled by EU Member States or States of the European Free Trade Association and/or by nationals of such States.
2. Notwithstanding the paragraph x above, the aeronautical authorities of the Russian Federation may exercise the rights mentioned in paragraph x of Article x of the Agreement where:
  - (1) by exercising traffic rights under the Agreement on a route that includes a point in another EU Member State, including the operation of a service which is marked as, or otherwise constitutes a through service, the airline would in effect be circumventing restrictions on traffic rights imposed by an agreement between the Russian Federation and that other EU Member State; or
  - (2) the airline holds an air operator's certificate issued by another EU Member State and there is no bilateral air services agreement between the Russian Federation and that EU Member State and traffic rights to that EU Member State have been denied to an airline designated by the Russian Federation.



**ARTICLE 4  
DESIGNATION**

4. [.....]

- a) in the case of an airline designated by the Russian Federation, substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals.
  
- b) In the case of an airline designated by the Republic of Austria,
  - 1. it is established in the territory of Austria and has a valid Operating Licence in accordance with the legislation applicable in Austria; and
  - 2. effective 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.

**ARTICLE 5  
REVOCATION OR SUSPENSION OF RIGHTS**

1. [.....]

- a) in any case where it is not satisfied that the airline fulfills the conditions set in Article 4 paragraph 4 above; 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 this present Agreement; or
- d) in case the airline is already authorised to operate under a bilateral agreement between the Russian Federation and another EU Member State and that by exercising traffic rights under this Agreement on a route that includes a point in that other Member State, including the operation of a service which is marketed as, or otherwise constitutes a through service not permissible, it would be circumventing restrictions on traffic rights imposed by the other agreement; or
- e) in case the airline designated holds an Air Operators Certificate issued by an EU 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 Russian Federation.



21