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30/9/2021  
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REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FIFTH SESSION

THE DEPARTMENTAL COMMITTEE ON  
TRANSPORT, PUBLIC WORKS AND HOUSING

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
DATE: 30 SEP 2021	
DAY: <u>Thursday</u>	
TABLED BY:	<u>Hon. David Pkosi</u>
CLERK-AT THE-TABLE:	<u>James Gikome</u>

REPORT-

ON CONSIDERATION OF RATIFICATION OF THE  
BILATERAL AIR SERVICES AGREEMENT BETWEEN THE GOVERNMENT OF  
THE REPUBLIC OF KENYA AND THE GOVERNMENT OF THE RUSSIAN  
FEDERATION

Tabled on 30/9/2021 by  
Hon David Pkosi  
- J. Gikome.

DIRECTORATE OF DEPARTMENTAL COMMITTEES  
CLERK'S CHAMBERS - NATIONAL ASSEMBLY  
PARLIAMENT BUILDINGS  
NAIROBI

SEPTEMBER, 2021

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- (ii) Signed list of Members of Parliament who attended the sitting which considered and adopted the report
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- (iv) Explanatory Memorandum on Bilateral Air Services Agreement between Kenya and Russia
- (v) The Bilateral Air Services Agreement between Kenya and Russia

## EXECUTIVE SUMMARY

On 19<sup>th</sup> March 2020, the Cabinet approved a Cabinet Memorandum on the Ratification of the Bilateral Air Services Agreement between Kenya and Russia. The Agreement was negotiated and initialled on 22<sup>nd</sup> October 2015 in Antalya, Turkey. A protocol was signed on the same day to provisionally operationalize the Agreement pending ratification and formal signing in accordance with Treaty Making and Ratification Act, 2012.

Pursuant to section 8 of the Treaty Making and Ratification Act, 2012 the Agreement was laid before the National Assembly on 2<sup>nd</sup> June 2020 and subsequently committed to the Departmental Committee on Transport Public Works and Housing for consideration and report to the House. Once ratified, the Agreement shall become part of our Kenyan laws as provided for in Article 2(6) of the Constitution which provides that "*any treaty or convention ratified by Kenya shall form part of the Law of Kenya under this Constitution*".

The Agreement allows multiple designation of airlines and a restrictive route schedule which allows the designated airlines to operate between the two capital cities and other points to be agreed upon by aeronautical authorities. It also allows codeshare and other commercial arrangements between the designated airlines and any other third airlines which have authorization to do so.

Pursuant to Article 118 (1) (b) of the Constitution on Public Participation and section 8(3) of the Treaty Making and Ratification Act of 2012, the Committee placed advertisements in two local dailies, on the 8<sup>th</sup> of April 2021, requesting for submissions of memoranda on the subject matter. There was no response.

The Committee held a meeting with the Principal Secretary in the State Department for Transport, the Director General for Kenya Civil Aviation Authority, the Managing Director for Kenya Airports Authority and other officials from the Ministry. The Ministry's delegation was in full support of the Agreement, citing immense economic and social benefits to the country.

The report concludes by recommending that the National Assembly approves the ratification of the Agreement as it is in Kenya's national interest.

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the necessary support extended to it in the execution of its mandate.

On behalf of the Committee, it is therefore my pleasant duty and privilege, to lay this Report on the Ratification of the Bilateral Air Services Agreement between Kenya and Russia for consideration and approval by the House Pursuant to Section 8(4) of the Treaty Making and Ratification Act, 2012 and Standing Order 199.

**HON. DAVID L. PKOSING, C.B.S., M.P.**  
**Chairperson - Departmental Committee on Transport Public Works and Housing**

## 1.0 PREFACE

### Mandate of the Committee

1. The Departmental Committee on Transport, Public Works and Housing is mandated, pursuant to the Standing Order 216 (5), to;
  - a) *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
  - b) *study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*
  - c) *study and review all legislation referred to it;*
  - d) *study, access and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
  - e) *investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
  - f) *to vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
  - g) *examine treaties, agreements and conventions;*
  - h) *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
  - i) *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
  - j) *consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
  - k) *Examine any questions raised by Members on a matter within its mandate.*
2. Further, the Second Schedule to the Standing Orders mandates the Committee to consider matters relating to the following subjects: -
  - a) Transport;
  - b) Roads;
  - c) Public works;
  - d) Construction and maintenance of roads, rails and buildings;
  - e) Air and seaports; and
  - f) Housing.
3. In executing this mandate, the Committee oversights various State Departments, namely:
  - a) The State Department of Transport;
  - b) The State Department of Infrastructure;
  - c) The State Department of Housing and Urban Development;
  - d) The State Department of Public Works; and
  - e) The State Department of Shipping and Maritime Affairs.

## Membership of the Committee

4. The Departmental Committee on Transport, Public Works & Housing was constituted by the House on Thursday 14<sup>th</sup> December 2017. It was further re-constituted by the House on 15<sup>th</sup> July 2020 and currently comprises of the following Members: -

### Chairperson

Hon. David Pkosing, C.B.S., M.P.  
Pokot South Constituency  
Jubilee Party

### Vice-Chairperson

Hon. Gathoni Wamuchomba, H.S.C., M.P.  
Kiambu County  
Jubilee Party

Hon. Abdul Rahim Dawood, M.P.  
North Imenti Constituency  
**Jubilee Party**

Hon. David Njuguna Kiaraho, M.P.  
Ol Kalou Constituency  
**Jubilee Party**

Hon. Johnson Manya Naicca, M.P.  
Mumias West Constituency  
**Orange Democratic Movement Party**

Hon. Omar Mwinyi Shimbwa, M.P.  
Changamwe Constituency  
**Orange Democratic Movement Party**

Hon. Peris Tobiko, C.B.S., M.P.  
Kajiado East Constituency  
**Jubilee Party**

Hon. Samuel Arama, M.P.  
Nakuru Town West  
**Jubilee Party**

Hon. Ahmed Abdisalan Ibrahim, M.P.  
Wajir North Constituency  
**Orange Democratic Movement Party**

Hon. Ahmed Bashane Gaal, M.P.  
Tarbaj Constituency  
**Peoples Democratic Party**

Hon. Ali Wario Guyo, M.P.  
Garsen Constituency  
**Orange Democratic Movement Party**

Hon. Dominic Kipkoech Koskei, M.P.  
Soitik Constituency  
**Jubilee Party**

Hon. George Aladwa Omwere, M.P.  
Makadara Constituency  
**Orange Democratic Movement Party**

Hon. Gideon Mutemi Mulyungi, M.P.  
Mwingi Central Constituency  
**Wiper Democratic Party**

Hon. Kulow Maalim Hassan, M.P.  
Banisa Constituency  
**Economic Freedom Party (EFP)**

Hon. Mercy Wanjiku Gakuya, M.P.  
Kasarani Constituency  
**Jubilee Party**

Hon. Janet Wanyama Nangabo, M.P.  
Trans-Nzoia County  
**Jubilee Party**

Hon. Shadrack John Mose, M.P.  
Kitutu Masaba Constituency  
**Jubilee Party**

Hon. Tom Mboya Odege, M.P.  
Nyatike Constituency  
**Orange Democratic Movement Party**

## Committee Secretariat

5. The Committee is serviced by the following members of the secretariat:-

Ms. Chelagat Tungo Aaron  
**First Clerk Assistant**  
Head of Secretariat

Mr. Ahmed Salim Abdalla  
**Second Clerk Assistant**

Mr. Ronald Walala  
**Legal Counsel I**

Mr. Abdinasir Moge Yusuf  
**Fiscal Analyst I**

Mr. Eric Kariuki  
**Research Officer III**

Ms. Zainabu Wario  
**Serjeant-at-Arms**

Mr. Yeziel Jilo  
**Serjeant-at-Arms**

Mr. Yaqub Ahmed  
**Media Relations Officer**

Mr. Collins Mahamba  
**Audio Recording Officer**

## 2.0 INTRODUCTION

6. An Air Service Agreement also known as an Air Transport Agreement is an agreement which two States sign to allow for international commercial air transport services between their territories. These Agreements are negotiated by a team comprising representatives from the Ministry of Foreign Affairs, Office of the Attorney General and Department of Justice, Kenya Civil Aviation Authority, Kenya Airports Authority, Kenya Tourism Board and Kenya Airways.
7. The Agreement was negotiated and initialled on 22<sup>nd</sup> October 2015 in Antalya, Turkey. A protocol was signed on the same day to provisionally operationalize the Agreement pending ratification and formal signing in accordance with Treaty Making and Ratification Act, 2012.
8. The existing Bilateral Air Service Agreement was signed between Kenya and the Union of Soviet Socialist Republics (USSR) on 17<sup>th</sup> February 1983. The Bilateral Air Services Agreement with the Russian Federation initialled on 22<sup>nd</sup> October 2015 therefore replaces the existing Agreement and is necessary following break up of USSR, change in laws and regulatory regimes, liberation and globalization which have affected the way air traffic is undertaken and regulated.
9. The Agreement is modelled on the ICAO template and are aimed at enabling designated airlines of either States to operate scheduled services between their territories without any restrictions.
10. The Agreement was negotiated in line with the Integrated National Transport Policy which indicates that Kenya is keen to liberalize its Agreements on the basis of the Yamoussoukro Decision for States within Africa and reciprocity and equal opportunity for other States to ensure connectivity and enhance trade.
11. Kenya Airways nor any other Kenyan carrier have not indicated immediate plans to operate direct flights to Russia, but can extend their network through codeshare partnerships with other aircrafts. With the Agreement in place, airlines from Russia may commence scheduled flights which would have appositive impact on both tourism and trade.
12. The Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works and the Kenya Civil Aviation Authority will monitor and review the implementation of the Agreement.

### a. Bilateral Air Services Agreement Common Articles

13. **Definition of terms** – this article provides for the definition of terms such as “aeronautical authority” which depends on the prevailing administrative structures and arrangements in place in each Party.
14. **Grant of rights** – provision sets out both the traffic and non-traffic rights the Parties grant to each other and is to be read in conjunction with a schedule or annex that sets out the routes, rights and any applicable conditions, e.g., the right to make a stop on a route.



15. **Principles governing operations of agreed services** – this article provides for principles on fair and equal opportunities, interests of the designated airlines and conditions of the carriage of passengers and cargo.
16. **Designation and authorization of airlines** – the provision gives a Party State the right to designate in writing to another Party airline to operate the agreed services in accordance with the Agreement and fulfil conditions as prescribed by law.
17. **Revocation, suspension and limitation of authorization** – gives the parties the right to withhold, revoke and limit an authorisation granted due to failure by either party to have substantial ownership and effective control over the designated airline or citizens of that State Party of if they fail to comply with the conditions prescribed under the present Agreement.
18. **Approval of schedule** – the purpose of the provision is to ensure each Party submits information within the set time frame (45 days before starting the operations) in form of a timetable of the intended services for approval by the aeronautical authority of the other Party.
19. **Application of laws and regulations** – this provides for compliance with the State Party's laws on operation and navigation of aircraft and the admission, transit and departure of passengers, crew, cargo and mail. It also provides for compliance with those laws and regulations related to customs, immigration, currency, health and quarantine of the other Party.
20. **Recognition of certificates and licences** – the article provides for recognition of certificates and licences and the privileges or conditions associated therewith. The provision also reserves the right to refuse to recognize any certificates or licenses issued by the other Party to the first Party's nationals.
21. **Exemption from customs and other duties** – The purpose of the provision is to exempt international aviation operations from various customs duties and other taxes on fuel, spare parts, supplies and equipment that would normally be applied to a foreign aircraft when operating in another jurisdiction. Charges corresponding to the services, storage and customs clearance will be charged in accordance with customs regulations.
22. **Direct transit** – this provides for handling of passengers, baggage and cargo in direct transit across the State of the Party. Baggage and cargo in direct transit shall be exempt from the imposition of customs duties, taxes and charges.
23. **Aviation security** – the provision emphasizes mutual assistance in the prevention of unlawful seizure or other such acts, request for special security measures and whenever there is an unlawful act or the threat of one. The clause does not limit the contractual freedom of Parties to expand or limit its scope or to use a different approach.
24. **Aviation Safety** – this provides for consultation between parties on safety standards to be maintained by the parties relating to facilities, aircrew, aircraft and the operation of aircraft.
25. **User charges** – provides the non-discrimination principle governing user charges which provides that charges on a foreign aircraft shall be not be higher than those that would be imposed on its own aircraft in similar international operations. It also provides for adequate consultations between the charging authorities and airlines before increasing or introducing new charges.

26. **Tariffs** – the tariffs are established by each designated airline based on commercial consideration in the market place and other relevant factors including case of operations.
27. **Provision of statistics** – the provision requires each party's aeronautical authority to provide, upon request, statements of statistics for the purpose of reviewing the operation of the agreed services.
28. **Commercial activities** – the provision gives either Party the permission to establish offices in the other's territory for the purpose of promotions and sale of the air transportation services.
29. **Transfer of earnings** – the purpose of the provision is to provide for each Party the right to of free transfer of excess receipts over expenditure from carriage of passengers, baggage, cargo, mail and other activities related to air transport permitted under domestic law.
30. **Consultation** – it provides that in the spirit of close cooperation, the aeronautical authorities of the Parties shall, at any time, consult each other with a view to ensuring the correct implementation of, interpretation of and compliance with the provisions of the present Agreement and its Annex, or to consider modifications and amendments.
31. **Settlement of disputes** – it provides that the most desirable way of settlement of disputes is through negotiations. Where that process fails to produce an agreement, or the Parties fail to reach a settlement of the dispute, then alternatives provided include settlement through diplomatic channels and arbitration.
32. **Modifications and amendments** – this article provides that any amendments shall come into force once contracting parties confirm an exchange of diplomatic notes.
33. **Multilateral Conventions** – it provides that in case the Parties become parties of international conventions or agreements on air services, the present Agreement shall be modified in order to ensure its conformity with the provisions of such conventions and agreements after consultations between the Parties in accordance with the Article 18 of the Agreement.
34. **Registration of Agreement and amendments** – the article requires the contracting Parties to submit the Agreement and any subsequent amendments thereto to the International Civil Aviation Organisation (ICAO).
35. **Termination of the Agreement** – either Party may at any time notify the other Party through a diplomatic note of its decision to terminate the present Agreement and such notice shall be communicated simultaneously to ICAO. In a situation where the Party receiving the notice of termination does not acknowledge receipt, then receipt is deemed to have taken place 14 days after the receipt of the notice by ICAO.
36. **Entry into force** – an entry into force provision provides an anticipated ratification process in which parties allow for constitutional formalities thus enabling the Agreement to enter into force. The present Agreement shall enter into force 30 days after both Parties have notified each other, through diplomatic channels, that they have fulfilled all their internal procedures for its entry into force.

**b. Object and subject matter of the Agreement**

37. The key objective of the instrument is to approve Bilateral Air Services Agreement between Kenya and Russia to enable Kenyan air operators such as Kenya Airways provide scheduled air services and expand their existing route network. In addition, the Russian carriers access the Kenyan market.

**c. Constitutional Implications**

38. In accordance with the Constitution of Kenya and the Treaty Making and Ratification Act, once the Agreement is signed and ratified it shall form part of the Laws of Kenya. The Agreement is consistent with the Kenyan laws.

**d. National Interest (advancement of economic prosperity of Kenya)**

39. Currently, no airline from either Contracting Party operates scheduled air services between the two countries. Kenya Airways has no immediate plans to start direct flights to Russia. However, the airline plans to grow its virtual network to Russia through code-share and partnerships with other airlines. It is in the interest of the country to ratify this agreement establishing the legal framework for carriers from either Party to start scheduled operations.

**e. Obligations imposed on Kenya by the Amendment of the Agreement**

40. There is no additional obligation that will be imposed on Kenya by the ratification of the agreement.

**f. Requirements for implementation of the Agreement**

41. The instruments of the ratification of the Agreement shall be deposited with International Civil Aviation Organization for registration.

**g. Policy and legislative considerations**

42. The Agreement is based on a standard template issued by the International Civil Aviation Organization (ICAO) and contain standard Articles on Grant of Rights; Designation; Authorization; Application of National Laws; Recognition of Certificates and Licenses; Aviation Safety and Security; Customs Duties and other Charges; amongst others.

43. In order to operationalize an Agreement, it is the practice for the delegations representing the concerned States to sign a Memorandum of Understanding (MoU) that gives force to the Agreement as it awaits the formal signing by the Cabinet Secretaries or Ministers in charge of Civil Aviation. In other instances, the Agreements contain clauses that require the signing of the Agreement prior to entry into force.

**h. Financial implication**

44. The ratification of the Agreement will be incorporated into existing institutional frameworks that the State Department for Transport has made provisions for. No budgetary changes envisaged.

**i. Ministerial responsibility**

45. The Cabinet Secretary exercises powers conferred by Section 52(f) of the Civil Aviation Act (No. 21 of 2013) as well as Executive Order No. 1 of 2020. Further, the Cabinet Secretary enforces the provisions of the Bilateral Air Service Agreement as well as reviewing the existing agreements in line with Medium Term Expenditure Plan.

**j. Implication on matters relating to Counties**

46. There is no a matter concerning Counties as the Civil Aviation falls under National Government as provided for in Section 18 of the Fourth Schedule of the Constitution.

### **3.0 SUMMARY OF THE PROCESS LEADING TO THE ADOPTION OF THE AGREEMENT**

#### **a. The date of Signature**

47. The Bilateral Air Services Agreement between Kenya and the Russian Federation was negotiated and initialled on 22<sup>nd</sup> October 2015. The Bilateral Air Services Agreement between Kenya and the Russian Federation was negotiated and initialled on 22<sup>nd</sup> October 2015. A Protocol was signed on the same day to provisionally operationalize the Agreement pending ratification and formal signing in accordance with Treaty Making and Ratification Act, 2012. The Agreement was approved by the Cabinet on 19<sup>th</sup> March 2020.
48. The Agreement provides for multiple designations of airlines, unlimited number of frequencies, no restriction on aircraft capacity and an open and liberal route schedule. Exercise of the 5<sup>th</sup> freedom Traffic rights is subject to approval by the respective aeronautical authorities.

#### **b. The number of States that are party to the Agreement**

49. The Agreement is on a bilateral basis between Kenya and the Russian Federation.

#### **c. The views of the public on the ratification of the Agreement**

50. The Agreement was negotiated by a team comprising representatives from the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works; Ministry of Foreign Affairs, Office of the Attorney General and Department of Justice; Kenya Civil Aviation Authority; Kenya Airports Authority; and a representative of the Kenya Association of Air Operators namely Kenya Airways and other local carriers.

#### **d. Whether the Agreement sought to be ratified permits reservations and any recommendations on reservations and declarations**

51. The Agreement does not allow for reservations. However, they it can be amended through mutual agreement by the Contracting Parties. There are no recommendations for reservations of the Agreement.

#### **e. The proposed text of any reservations that should be entered when ratifying the Agreement in order to protect or advance national interests or ensure conformity with the Constitution**

52. The Agreement does not require any reservations.

#### **f. Whether expenditure of public funds will be incurred in implementing the Agreement and an estimate, where possible, of the expenditure**

53. The implementation of the Agreement has minimal implication on public funds as it is limited to approval and enforcement of the airline schedules.

#### 4.0 CONSIDERATION OF THE AGREEMENT

54. The Bilateral Air Services Agreement between Kenya and the Russian Federation was negotiated and initialled on 22<sup>nd</sup> October 2015 in Antalya, Turkey. A protocol was signed on the same day to provisionally operationalize the Agreement pending ratification and formal signing in accordance with Treaty Making and Ratification Act, 2012. On 19<sup>th</sup> March 2020, the Cabinet approved a Cabinet Memorandum on ratification of the Agreement.
55. Pursuant to section 8 of the Treaty Making and Ratification Act, 2012 the Agreement was laid before the National Assembly on 2<sup>nd</sup> June 2020 and subsequently committed to the Departmental Committee on Transport Public Works and Housing for consideration and report to the House.
56. Pursuant to Article 118 (1) (b) of the Constitution and section 8(3) of the Treaty Making and Ratification Act of 2012, the Committee placed advertisements in two local dailies on the 8<sup>th</sup> of April 2021, requesting for submissions of memoranda on the Agreement. There was no response.
57. On 1<sup>st</sup> July 2021, the Departmental Committee on Transport, Public Works and Housing held a meeting with the Principal Secretary in the State Department for Transport, the Director General for Kenya Civil Aviation Authority, the Managing Director for Kenya Airports Authority and other officials from the Ministry. The Ministry's delegation was in full support of the Agreement, citing immense benefits. These include:
- a) **Enhanced trade and commerce** – Kenya exports to Russia were US\$75.25 Million during 2020, according to the United Nations COMTRADE database on international trade. Kenya exports coffee, tea, meat, spices, edible fruits/vegetables, nuts, cut flowers, live trees, spices and nut food preparations amongst others.
  - b) **Expanded market access by local airline carriers** – Russia location is pivotal to access the Commonwealth of Independent States (CIS) and Eastern Europe. Mutual partnerships will enable wider access to touristic markets hitherto unknown to Kenya, availing Brand Kenya to much wider demographics
  - c) **Direct flights** – Will result in reduced cost of air travel also avoiding the need to transit through other cities will adds to convenience to passengers.
  - d) **Code share opportunities** – Expanded demographic movements between the two States will enable co-share opportunities and result in enhanced tourism and cultural exchanges.
  - e) **Enhanced education opportunities** for Kenyan youths endeavouring to join Russian educational institutions.
  - f) **Enhanced trade ties** – In October 2019 during discussions between the Prime Minister of Russia and the President of Kenya, a desire was expressed towards enhancing trade ties between the two States. Kenya prospects to benefit from Russia in various sectors, including medicine, blue economy, aeronautical and space engineering.
58. The Ministry further submitted that Kenyan imports from Russia were valued at US\$356.89 million during the year 2020. In order to improve the balance of payments

between Kenya and Russia, it is important that the two States enter into an Agreement that facilitates socio-economic transfer of goods, services and works. Kenya stands to gain more from the ratification of the Kenya-Russia BASA as opposed to having no framework at all.

59. The Ministry noted that air transport is an important enabler to achieving economic growth and development. Air transport facilitates integration into the global economy and provides vital connectivity on a national, regional, and international scale. It helps generate trade, promote tourism, and create employment opportunities – thus the basis for Bilateral Air Service Agreement between States.
60. During its sitting on 14<sup>th</sup> August 2021, the Committee observed that the Agreement as presented was in accordance with Section 8 (1) of the Treaty Making and Ratification Act 2012 and concluded its consideration by recommending that the National Assembly approves the ratification of the Agreement as it is in Kenya's national interest.

## 5.0 COMMITTEE OBSERVATIONS

61. The Constitution in Article 2 (6) provides for the entrenchment of this Agreement into the laws of Kenya.
62. The Agreement provides for multiple designations of airlines, unlimited number of frequencies, no restriction on aircraft capacity and an open and liberal route schedule. Exercise of the 5<sup>th</sup> freedom Traffic rights shall be subject to approval by the respective aeronautical authorities.
63. The Agreement is modelled on the ICAO template and are aimed at enabling designated airlines of either States to operate scheduled services between their territories without any restrictions.
64. Upon ratification, Kenya will immensely benefit due to enhanced trade ties and commerce, expanded market access, reduced costs of air travel, enhanced education opportunities, economic and cultural exchange programs, among others.
65. The Agreement as presented satisfies the requirements of the Treaty Making and Ratification Act, 2012 as provided for in section 7 and section 8 of the Act.
66. The Agreement is in Kenya's best interest.

**6.0 COMMITTEE RECOMMENDATION**

67. The Committee recommends that the House **approves** the ratification of the Bilateral Air Services Agreement between the Government of the Republic of Kenya and the Government of the Russian Federation.

Signed ..... 

**Hon. David L. Pkosing, C.B.S., M.P.**

**Chairperson**

**DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS &  
HOUSING**

Date ..... 30/9/2021 .....



# Minutes

of Committee sittings on proceedings

**MINUTES OF THE FOURTY FOURTH (44<sup>TH</sup>) SITTING OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS & HOUSING HELD ON SATURDAY, 14<sup>TH</sup> AUGUST 2021 AT 9.30 A.M. AT MASHUA ROOM, SERENA HOTEL MOMBASA**

**MEMBERS PRESENT**

1. Hon. David L. Pkosing, M.P. - Chairperson
2. Hon. David Njuguna Kiaraho, M.P.
3. Hon. Omar Mwinyi Shimbwa, M.P.
4. Hon. Peris Pesi Tobiko, M.P.
5. Hon. Samuel Arama, M.P.
6. Hon. Ali Wario Guyo, M.P.
7. Hon. Dominic Koskei, M.P.
8. Hon. Gideon Mulyungi, M.P.
9. Hon. Janet Nangabo, M.P.
10. Hon. Shadrack John Mose, M.P.
11. Hon. Tom Mboya Odege, M.P.

**MEMBERS ABSENT WITH APOLOGY**

12. Hon. Gathoni Wamuchomba, M.P. - Vice Chairperson
13. Hon. Abdul Rahim Dawood, M.P.
14. Hon. Johnson Many Naicca, M.P.
15. Hon. Ahmed Abdisalan Ibrahim, M.P.
16. Hon. Ahmed Bashane Gaal, M.P.
17. Hon. George Aladwa Omwera, M.P.
18. Hon. Kulow Maalim Hassan, M.P.
19. Hon. Mercy Wanjiku Gakuya, M.P.

**SECRETARIAT**

- |                        |   |                    |
|------------------------|---|--------------------|
| 1. Mr. Ahmed Salim     | - | Clerk Assistant II |
| 2. Mr. Ronald Walala   | - | Legal Counsel      |
| 3. Mr. Eric Kariuki    | - | Research Officer   |
| 4. Mr. Abdinasir Moge  | - | Fiscal Analyst     |
| 5. Ms. Zainab Wario    | - | Sergeant-at-arm    |
| 6. Mr. Collins Mahamba | - | Audio Officer      |
| 7. Ms. Mercy Mutuku    | - | Legislative Fellow |
| 8. Mr. Boniface Matano | - | Legislative Fellow |
| 9. Ms. Lilian Seurei   | - | Secretary          |

**MIN No. TPWH 253/2021:**

**PRELIMINARIES**

The Chairman called the meeting to order at thirty-five minutes past nine o'clock followed by a word of prayer. The Chairman informed the Honorable Members that the Committee was meeting to adopt the Reports on consideration of the following treaties:

1. Bilateral Air Services between Kenya and Russia;
2. Bilateral Air Services between Kenya and Botswana; and between Kenya and South Africa; and

3. The Acceptance of 2014 and 2018 Amendments to the Maritime Labour Convention, 2006; Acceptance of the International Labour Organization Convention C185 (Amended Convention on Seafarers Identity Documents, 2003); Acceptance of International Labour Organization Convention C188 (Work in Fishing Convention, 2007); Acceding to the International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995; and Ratification of the Cape Town Agreement of 2012 on Safety of Fishing Vessels.

The agenda of the meeting was therefore adopted after being proposed by the Hon. Tom Odege, MP and seconded by the Hon. Omar Mwinyi, MP.

**MIN No. TPWH 254/2021:**                      **CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS**

Minutes of the 43<sup>rd</sup> sitting which was held on 13<sup>th</sup> August 2021 were confirmed as a true record of the proceedings, after having been proposed by the Hon. Shadrack Mose, MP, and seconded by the Hon. Peris Tobiko, MP.

**MIN NO. TPWH 255/2021:**                      **ADOPTION OF THE REPORT ON RATIFICATION OF THE BILATERAL AIR SERVICES BETWEEN KENYA AND RUSSIA**

The Committee resolved to recommend to the House the ratification of the Bilateral Air Services Agreement between Kenya and Russia as the approval is in Kenya's national interest.

**Adoption of the Report**

The Report was adopted after having been proposed by the Hon. Omar Mwinyi, MP, and seconded by the Hon. Janet Nangabo, MP.

**MIN NO. TPWH 256/2021:**                      **ADOPTION OF THE REPORT ON RATIFICATION OF THE 2014 AND 2018 AMENDMENTS TO THE MARITIME LABOUR CONVENTION, 2006; ILO CONVENTION C185 (AMENDED CONVENTION ON SEAFARERS IDENTITY DOCUMENTS, 2003); ILO CONVENTION C188 (WORK IN FISHING CONVENTION, 2007); ACCEDING TO THE INTERNATIONAL CONVENTION ON THE STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR FISHING VESSEL PERSONNEL, 1995; AND THE CAPE TOWN AGREEMENT OF 2012 ON SAFETY OF FISHING VESSELS**

The Committee resolved to recommend to the House the ratification of the following protocols as the approvals are in Kenya's national interest:

1. The Acceptance of 2014 and 2018 Amendments to the Maritime Labour Convention, 2006;

2. Acceptance of the International Labour Organization Convention C185 (Amended Convention on Seafarers Identity Documents, 2003);
3. Acceptance of International Labour Organization Convention C188 (Work in Fishing Convention, 2007);
4. Acceding to the International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995; and
5. Ratification of the Cape Town Agreement of 2012 on Safety of Fishing Vessels

### **Adoption of the Report**

The Report was adopted after having been proposed by the Hon. Dominic Koskei and seconded by Hon. Peris Tobiko.

### **MIN NO. TPWH 257/2021:**

### **ADOPTION OF THE REPORT ON RATIFICATION OF THE BILATERAL AIR SERVICES BETWEEN BOTSWANA; AND BETWEEN KENYA AND SOUTH AFRICA**

The Committee confirmed that the Ministry had complied with the Committee directions which were given on 17<sup>th</sup> November 2020, and the law, and that a new Explanatory Memorandum signed by the Cabinet Secretary on 3<sup>rd</sup> February 2021 was forwarded to and received by the National Assembly vide a Ministry's letter dated 4<sup>th</sup> February 2021 and referenced MOT&I/C/AT/028/7/1 VOL.IV(54).

The Committee therefore resolved to recommend to the House the ratification of the Bilateral Air Services Agreement between Kenya and Botswana and the ratification of the Bilateral Air Services Agreement between Kenya and South Africa, as the approvals are in Kenya's national interest.

### **Adoption of the Report**

The Report was adopted after having been proposed by the Hon. Samuel Arama, MP, and seconded by the Hon. Tom Odege, MP.

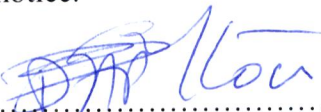
### **MIN No. TPWH 258/2021:**

### **ANY OTHER BUSINESS**

1. The Committee noted the receipt of Responses to Members Questions as received from the National Treasury through a letter dated 30<sup>th</sup> July 2021. The Responses were on Question Numbers 126/2021, 143/2021, 038/2021 and 209/2021. The Committee further noted receipt of responses from the Ministry of Transport dated 28<sup>th</sup> July 2021 on Question Numbers 111/2021, 146/2021, 175/2021, 206/2021, 210/2021 and 195/2021. The Responses to be shared with Table Office for the relevant Members to be informed.
2. In line with its oversight role, the Committee resolved to conduct inspection tours in the Coast Region during the September 2021 recess noting that there were many projects being undertaken by the government which fall under its purview. These include the Changanwe Interchange, Makupa Bridge, the Dongo Kundu Bypass and the Lamu Port. The Committee underscored the need to support the government's *Big 4 Agenda* programs and the *Vision 2030* projects; noting that the visits will boost the government efforts to deliver infrastructural developments in line with the said development blueprints. The Committee further resolved that the entire membership of the Committee should take part in the visits.
3. Members resolved to postpone all Committee activities for at least one week from 14<sup>th</sup> August 2021 or until further notice.

**MIN No. TPWH 259/2021:                      ADJOURNMENT**

There being no other business, the sitting was adjourned at twenty minutes past eleven o'clock.  
Next meeting to be held on notice.

Signed.....  .....

**(Chairperson)**

Date..... 30/9/2021 .....

**MINUTES OF THE THIRTY FIRST (31<sup>ST</sup>) SITTING OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS & HOUSING HELD ON THURSDAY, 1<sup>ST</sup> JULY 2021 AT 10.00 A.M. AT 5<sup>TH</sup> FLOOR, CONTINENTAL HOUSE**

**MEMBERS PRESENT**

1. Hon. David L. Pkosing, M.P. - Chairperson
2. Hon. Abdul Rahim Dawood, M.P. - *virtually*
3. Hon. David Njuguna Kiaraho, M.P. - *virtually*
4. Hon. Johnson Many Nacca, M.P. - *virtually*
5. Hon. Omar Mwinyi Shimbwa, M.P. - *virtually*
6. Hon. Samuel Arama, M.P. - *virtually*
7. Hon. Ahmed Bashane Gaal, M.P. - *virtually*
8. Hon. Ali Wario Guyo, M.P. - *virtually*
9. Hon. Dominic Koskei, M.P. - *virtually*
10. Hon. Kulow Maalim Hassan, M.P. - *virtually*
11. Hon. Shadrack John Mose, M.P. - *virtually*
12. Hon. Tom Mboya Odege, M.P. - *virtually*

**MEMBERS ABSENT WITH APOLOGY**

13. Hon. Gathoni Wamuchomba, M.P. - Vice Chairperson
14. Hon. Peris Pesi Tobiko, M.P.
15. Hon. Ahmed Abdisalan Ibrahim, M.P.
16. Hon. George Aladwa Omwera, M.P.
17. Hon. Gideon Mulyungi, M.P.
18. Hon. Janet Nangabo, M.P.
19. Hon. Mercy Wanjiku Gakuya, M.P.

**SECRETARIAT**

1. Mr. Ahmed Salim Abdalla - Clerk Assistant II
2. Mr. Ronald Walala - Legal Counsel
3. Ms. Winnie Kulei - Research Officer - *virtually*
4. Mr. Yeziel Jillo - Sergeant-at-arm
5. Mr. Eugene Luteshi - Audio Officer

**IN ATTENDANCE**

1. Mrs. Nancy Karigithu, CBS - PS Shipping and Maritime Affairs (SDSMA)
2. Mr. Wilson Njenga - Secretary, Internal Security (Ministry of Interior)
3. Brig. (Rtd.) L. Naisho - DG, Kenya Coast Guard Services
4. Mr. Alexander Muteshi - Director General, Immigration
5. Ms. Annette Mureithi - Technical Adviser, SDSM
6. Mr. Fredrick Luke Samba - Kenya Maritime Authority
7. Ms. Wilfred Kagimbi - Technical Adviser, SDSM
8. Mr. Ben Enyenze
9. Mr. Solomon Kitungu - Principal Secretary, Transport
10. Mr. Alex Gitari - Ag. Managing Director, KAA
11. Mr. Gilbert Kibe - Director General, KCAA
12. Mr. Nicholas Bodo - Air Transport
13. Mr. J. Koech

**MIN No. TPWH 163/2021:**                      **PRELIMINARIES**

The Chairman called the meeting to order at ten minutes past ten o'clock followed by a word of prayer. The Chairman informed the Honorable Members that the Committee was meeting to consider the following agenda:

1. The Maritime Conventions
2. Bilateral Air Services Agreements between Kenya and Russia; and Kenya and USA
3. The Landlord and Tenant Bill, 2021 (Legal Briefing)

The agenda of the meeting was therefore adopted after being proposed by the Hon. David Kiaraho, MP and seconded by the Hon. Ahmed Bashane, MP.

**MIN No. TPWH 164/2021:**                      **CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS**

Confirmation of minutes of the previous sitting was deferred.

**MIN NO. TPWH 165/2021:**                      **CONSIDERATION OF FIVE MARITIME CONVENTIONS BEFORE THE COMMITTEE**

The Principal Secretary took Members through the five Conventions. In brief, she explained as follows:

**The Acceptance of 2014 and 2018 Amendments to the Maritime Labour Convention, 2006**  
Meant to ensure decent working for workers onboard ships. For protection of seafarers from harassment. Rights to wages, repatriation in case the ship owner goes bankrupt, guidelines to limit bullying. In case of death or other injury, it ensures financial security.

**Acceptance of the International Labour Organization Convention C185 (Amended Convention on Seafarers Identity Documents, 2003)**

Seafarers have to access their place of work from any place where the ship is. Ships also don't wait for seafarers to board as it is in the normal business of bringing in cargo. Travel issues a bit prohibitive at times. This is why IMO came up with this Seafarers Identity Document guidelines to make the prolonged visa application and processing out of place. Seafarers can therefore access airports and other countries without the visa or the cumbersome travel requirements. The Ministry working closely with immigration on this. The Convention came into force in June 2017, and therefore important to ratify it so that our seafarers access the benefits.

**Acceptance of International Labour Organization Convention C188 (Work in Fishing Convention, 2007)**

Whereas in cargo ships you want to create more space for cargo, in fishing, they want to create fishing gears and equipment. People work in long hours, and exposed to unfavorable conditions. This will bring minimum requirements for work, conditions of service, work agreements, repatriation, recruitment, occupational health, medical care and protection in case fishermen are sick or injured or die.

**Acceding to the International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995**

This seeks to make the training standards and certifications the same. We will be able to issue certificates to fishermen, which will be recognized globally and therefore provide more jobs. The aim is to create a large pool of qualified personnel in the country, who we can also export outside.

### **Ratification of the Cape Town Agreement of 2012 on Safety of Fishing Vessels**

This deals with safety from the point of view of construction of the vessel. To create minimum construction requirements. The regulatory bodies will therefore be able to inspect ships arriving in the country.

### **Responding to Members questions, the PS submitted that:**

In case any criminal activity is committed by the seafarers, the law applicable will be the law of the flag. Countries work closely with IMO and there is also information sharing among states on all incidents.

The SID does not work alone. There is Continuous Discharge Book and Certificate (CDC) issued by the country he is coming from. IT is signed by the ship owner that the seafarers is working with When leaving. A seafarer must show the CDC, passport and evidence that he is going to join a vessel.

### **Way Forward:**

Internal Security to submit a written report by 8<sup>th</sup> July 2021 responding to issues raised by Members, among them: -

1. Is the SID replacing visa? If not, which other documents accompany SID?
2. Which other documents protect Seafarers?
3. How the SID looks like in terms of features.
4. Is there interlinkage between the SID database and immigration data base, for Security purposes.

### **MIN NO. TPWH 166/2021:**

### **CONSIDERATION OF THE BILATERAL AIR SERVICES AGREEMENT BETWEEN KENYA AND RUSSIA**

The Principal Secretary for Transport gave an outline of the contents of the agreement between Kenya and Russia. Members wanted to know the statics on the passenger traffic between Kenya and Russia and any other information on the expected economic impact of the agreement. The Ministry submitted that whereas the data was not readily available, it was worth noting that the education sector, merchandise, export and import business, tourism, coffee sector, among others will positively be impacted by the direct flights between the two nations as connection to Russia through other countries may be quite expensive at the moment. It was noted that Russia being a hub in Eastern Europe, it will open our market shares in that region.

### **Way Forward**

The Ministry was asked to forward a brief write-up on the economic advantages of the expected ratification of the agreement between Kenya and Russia.

### **MIN NO. TPWH 167/2021:**

### **CONSIDERATION OF THE BILATERAL AIR SERVICES AGREEMENT BETWEEN KENYA AND USA**

The Committee noted that the revised Explanatory Memorandum on the Bilateral Air Services Agreement Between Kenya and USA was yet to be submitted to the Committee. The Ministry explained that they had forwarded the said memorandum earlier. The Ministry was directed to forwarded the copy to the Clerk of the Committee before scheduling another meeting to consider the same.



**MIN NO. TPWH 168/2021:**

**CONSIDERATION OF THE LANDLORD AND  
TENANTS BILL, 2021**

The Committee noted that the preceding agendas have taken a lot of time and that the legal briefing on the Landlord and Tenant Bill, 2021 be postponed to a later day as shall later be communicated.

**MIN NO. TPWH 169/2021:**

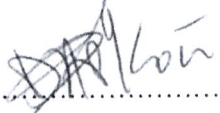
**ANY OTHER BUSINESS**

The Committee resolved to postpone all Committee activities and meetings to the last week of recess to afford the Honorable Members time to attend to their constituents during recess.

**MIN No. TPWH 170/2021:**

**ADJOURNMENT**

There being no other business, the sitting was adjourned at forty-five minutes past noon. Next meeting to be held on notice.

Signed.....

(Chairperson)


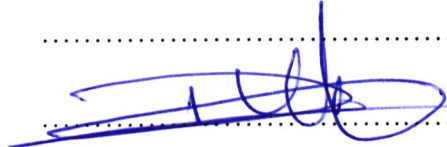
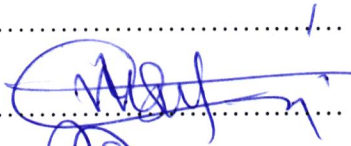
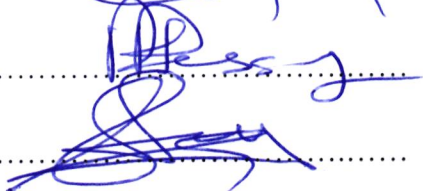

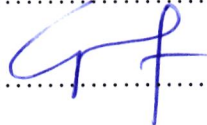
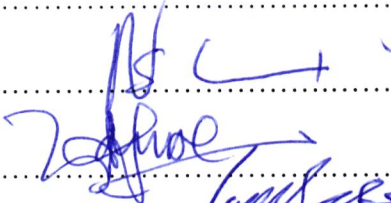

Date.....3/8/2021

# Signed List

of Members of Parliament who attended the  
sitting which considered and adopted the report

**Adoption of the Report**

We, the members of the Departmental Committee on Transport, Public Works and Housing have adopted this Report on the Ratification of the Bilateral Air Services Agreement between Kenya and the Russian Federation for consideration and approval by the House Pursuant to Section 8(4) of the Treaty Making and Ratification Act, 2012 and Standing Order 199.

1. Hon. David Pkosing, CBS-Chairperson ..... 
2. Hon. Gathoni Wamuchomba, HSC-V/Chair .....
3. Hon. Abdul Rahim Dawood .....
4. Hon. David Njuguna Kiaraho ..... 
5. Hon. Johnson Many Naicca ..... 
6. Hon. Omar Mwinyi Shimbwa .....
7. Hon. Peris Pesi Tobiko, CBS ..... 
8. Hon. Samuel Arama .....
9. Hon. Ahmed Abdisalan Ibrahim .....
10. Hon. Ahmed Bashane Gaal .....
11. Hon. Ali Wario Guyo ..... 
12. Hon. Dominic Kipkoech Koskei .....
13. Hon. George Aladwa Omwera .....
14. Hon. Gideon Mutemi Mulyungi ..... 
15. Hon. Kulow Maalim Hassan .....
16. Hon. Mercy Wanjiku Gakuya .....
17. Hon. Janet Wanyama Nangabo ..... 
18. Hon. Shadrack John Mose ..... 
19. Hon. Tom Mboya Odege .....

# **Newspaper Advertisement**

inviting the public to make representations on the  
Bilateral Air Services Agreement between Kenya and Russia

Third wave

## US warns its citizens on travels to Kenya

The US yesterday issued a travel advisory against Kenya over the surge in Covid-19 cases.

This comes less than a week after the United Kingdom slapped Kenya with a similar ban, eliciting a diplomatic row between the two nations.

The US now joins the list of countries that have placed Kenya in their travel 'red list' as a result of a surge in the number of Covid-19 cases. The increase in the cases and fatalities have seen President Uhuru Kenyatta impose a lockdown in one-armed Nairobi, Kiambu, Kakamega, Nakuru and Machakos counties.

The US Centres for Disease Control and Prevention (CDC) issued the Level 4 travel health notice for Kenya due to Covid-19, whose cumulative positive cases have hit 141,365 since the first detection in the country in March 2020.

Levels on the travel advisory scale range from One to Four. Level One calls for exercising of normal precaution while Two calls for increased caution. At Level Three, citizens are asked to reconsider travel, while at Four, they are advised not to travel.

The statement by the US stated that international flights were still operating, though limited. "Internal flights are restricted, and road and rail transportation are limited geographically and by curfew."

US Embassy, Nairobi spokesperson Heather Nouert, acknowledged that Kenya and its citizens had taken many strides to mitigate the spread of Covid-19. "We are monitoring conditions closely and will adjust our travel advice for Kenya when the situation on the ground changes. Our travel advice must take into account changing Covid-19 conditions," said Mr Nouert.

The official said: "Kenya has recently seen a steep increase in Covid-19 cases and the President of Kenya announced additional restrictions on March 28, 2021. This change in our travel advice reflects these developments."

The spokesperson said the Department of State had no higher priority than the safety and security of US citizens abroad. "To that end, our travel advice must be fact-based, accurate, and transparent," [Joel Mbuga]

Economy. Senate tasks Treasury to explain why figure of leased medical equipment has gone up

## Counties to pay Sh1bn more for leasing project

Treasury seeks approval of Parliament on cost variations that will see each county pay Sh153 million up from Sh132 million for the scheme.

By Brian Otieno  
boseni@standardmedia.co.ke

Kenya will shoulder the extra Sh1 billion for the controversial Sh63 billion Medical Leasing Equipment Scheme if Parliament approves Treasury's variations of the cost by the Ministry of Health.

In the proposed annual financial bill, Division of Revenue Bill, DORB, 2020, the 47 counties will now part with Sh63 million each in the next financial year, up from Sh132 million paid presently.

When the project was conceptualised and launched at State House by President Uhuru Kenyatta in 2015, each coun-

ty was paying Sh94 million for the scheme. The project had faced strong opposition from the then Council of Governors (CoG) chairperson Governor Isaac Ruto.

Senators were up in arms when the annual repayment was varied from Sh38 billion to Sh63 billion and counties were deducted as much as Sh200 million in 2018/2019 budget.

The seven-year leasing agreement between the national government and firms from five countries - US, China, The Netherlands, India and Italy - on behalf of the counties has been shrouded in mystery with questions raised over the true cost of the Sh7.2 billion factored in the next budget.

Last year, counties paid Sh6.2 billion even as some counties are yet to get some of the equipment years after the pact was entered.

Appearing before the Senate Finance Committee chaired by



Kirinyaga Senator Charles Kibiru, the Ukur Yatani-led ministry was on the spot as senators demanded to know why Sh1 billion additional payment should be made yet the leased equipment had depreciated in value.

But Yatani, the Treasury Cabinet Secretary argued that it was a contractual obligation that must be honoured.

The matter emerged at a time when Senate is seeking concurrence on the Bill passed by the National Assembly last month.

County governments are expected to get a Sh53.5 billion increase in their equitable share of revenue raised nationally, shooting the figure to Sh370 billion in the next financial year, up from the current Sh316.5 billion.

Part of these funds, Treasury told the committee, were re-allocations from national government ministries, among them agriculture and health.

This was revealed after senators questioned why the bulk of money meant for devolved functions was still being held by the national government.

A committee comprising Senate, Treasury and the Attorney General's office is expected to file a report tomorrow on the way forward as regards the conditional grants.

REPUBLIC OF KENYA

**PARLIAMENTARY SERVICE COMMISSION  
PARLIAMENTARY JOINT SERVICES**

**INVITATION FOR TENDER**

**TENDER NO. PJS/018/2020-2021  
FOR  
SUPPLY, DELIVERY, INSTALLATION AND COMMISSIONING OF OFFICE FURNITURE  
FOR THE MULTI-STORY OFFICE BLOCK:**

The Procuring Entity invites sealed tenders from eligible tenders for the Supply, Delivery, Installation and Commissioning of Office Furniture for the Proposed Multi Storey Office Block.

Interested eligible candidates may obtain further information from the Procurement Office on 4th Floor, Protection House, Nairobi or email through [procurementpjs@parliament.go.ke](mailto:procurementpjs@parliament.go.ke) or [pdg@parliament.go.ke](mailto:pdg@parliament.go.ke). A complete set of the tender document may be downloaded free of charge from the Commission's Website: [www.parliament.go.ke](http://www.parliament.go.ke) or #985 Portal; [www.supplierregistry.go.ke](http://www.supplierregistry.go.ke)

There shall be a pre-bid meeting on **Tuesday, 27<sup>th</sup> April, 2021, 11.00 am** in the 11th Floor Boardroom, Protection House, along Parliament Road, Nairobi.

Duly completed, serialised and paginated tender documents all the pages of the bid document submitted including any addenda, appendices and attachments (original and copy) are to be enclosed in plain sealed envelopes, marked with the **tender number, name and as prescribed under the tender documents and be dropped in the Tender Box at the Reception on 2<sup>nd</sup> Floor, Protection House, Nairobi** or be addressed to:

**Director General, Parliamentary Joint Services,  
Procuring Entity,  
P.O. Box 41843 00100,  
NAIROBI, KENYA**

so as to be received on or before **Monday, 19<sup>th</sup> May, 2021 at 11.00 a.m.**

Tenders will be opened immediately thereafter in the presence of the Candidates who choose to attend or their appointed representatives, at Protection House, 2<sup>nd</sup> Floor Boardroom, Nairobi.

Tenders must be accompanied by a tender Security of **KShs. 8,000,000.00** valid for **210 days** from the date of tender opening, in form of a bank guarantee from reputable bank recognized by the Central Bank of Kenya, payable to Procuring Entity.

Prices quoted should be inclusive of all taxes and delivery costs, and must be in Kenya Shillings and shall remain valid for **180 days** from the closing date of the tender.

Bidders are required to serialise all the pages of the bid document submitted including any addendums, appendices and attachments.

**DIRECTOR GENERAL, PARLIAMENTARY JOINT SERVICES,  
PARLIAMENTARY SERVICE COMMISSION**

REPUBLIC OF KENYA

**THE NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT (FIFTH SESSION)**

**INVITATION FOR PUBLIC PARTICIPATION & SUBMISSION  
OF MEMORANDA**

*(Article 118 (1) (b) of the Constitution and Section 8 of the Treaty Making and Ratification Act, 2012)*

**In the matter of consideration by the National Assembly of:  
Ratification of the Bilateral Air Services Agreement between Kenya and the Russian Federation; and  
Ratification of the Bilateral Air Services Agreement between Kenya and the United States of America**

**SUBMISSION OF MEMORANDA**

Article 118(1) (b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". Further, Section 8 of the Treaty Making and Ratification Act provides for the consideration and ratification of treaties by Parliament, and subsection (3) states that, "the relevant parliamentary committee shall, during its consideration of the Treaty, ensure public participation in the ratification process in accordance with laid down parliamentary procedures".

The main purpose of these agreements is to enable Kenyan air operators provide scheduled air transport services in foreign air service markets, expand their existing route network and also allow foreign carriers access the Kenyan market. Further, where airlines are unable to offer services, the agreements will allow them enter into commercial arrangements such as code share arrangements, which will promote their business growth.

The aforementioned agreements have since been submitted to the National Assembly pursuant to the provisions of Section 8 of the Treaty Making & Ratification Act, 2012 and subsequently committed to the **Departmental Committee on Transport, Public Works and Housing** for examination in line with the provisions of Standing Order 216(5)(a) and report to the House.

Pursuant to Article 118(1) (b) of the Constitution and Section 8 of the Treaty Making & Ratification Act, 2012, the Committee invites members of the public to submit written representations they may have on the said agreements. The documents can be accessed from the parliamentary website at [http://www.parliament.go.ke/the-national-assembly/house-business/paper-laid](http://http://www.parliament.go.ke/the-national-assembly/house-business/paper-laid). The representations may be forwarded to Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke) to be received on or before **Friday, 29<sup>th</sup> April, 2021 at 5:00 pm.**

**MICHAEL R. SIALAL CBS  
CLERK OF THE NATIONAL ASSEMBLY**

## National News

Tragedy Dr Matiang'i called it a rude awakening on the psychosocial challenges some young officers face

## The troubled marriage and tragic deaths of a young police couple

Wakise briefly engaged Pauline in a conversation that turned into an argument and an exchange of bitter words

BY MARY WAMBUI

For six years, police constable Hudson Wakise and his wife constable Pauline Wakasa lived together as any other couple and were blessed with two daughters, currently five and three years old.

The two love birds, who had met in college, graduated together in 2013 and lived under the same roof until their tragic death on Tuesday evening.

In 2019, their marriage started developing cracks.

## VIP protection

Pauline, 29, started complaining to relatives about her husband's alcoholism, infidelity and occasional violence.

Wakise, 33, a General Service Unit officer attached to the Recce unit and at the time of his death seconded to VIP protection at the



Hudson Wakise and Pauline Wakise in happier times. PHOTO: IPOOL

Ministry of Interior, was among the elite officers involved in the rescue of victims during the

Dusit D2 complex attack in January 2019. Picked for his expertise in sharp

shooting and combat, Wakise went into the Dusit complex, saved lives, but suffered a head injury, which some now suspect to have led to a lingering trauma.

"I don't know if he was drinking with his colleagues in the past, but since his involvement in the attack, there was a notable increase in his alcohol consumption. His relationship with his wife also suffered, forcing us to intervene to reconcile them on several occasions," one of Pauline's relatives told Nation on condition of anonymity citing delicate family relations.

The couple lived at the GSU camp in Ruaraka until Sunday, when Pauline decided she needed a break from her marriage.

She rented a one-bedroom house behind Nivas supermarket in Ruaraka, where she moved in with her two daughters, a brother and a househelp.

Her husband helped her to move house using a government vehicle and was seen by neighbours visiting the house on several occasions since his family moved in on Sunday, but never spent a single night there.

Pauline's relatives said they were surprised by her decision

to move out, seeing that it happened just a few days after the family had mediated over a fight between the couple.

"They said they were making arrangements to mediate further to reconcile the two.

Neighbours told Nation that the couple was kind and friendly with everyone for the two days that they had moved into the neighbourhood.

Some of Pauline's friends said they last saw her on Wednesday afternoon in Hurlingham, where she had tea with friends before she was dropped home by a colleague at around 3pm.

In the evening, at around 8pm, the househelp served Pauline dinner.

While she was eating, her husband arrived at the house and briefly engaged her in a conversation that turned into an argument and an exchange of bitter words, with Pauline accusing him of infidelity.

## Jericho pistol

"As a result, the husband went out of the house and shortly returned to the living room where he suddenly pulled out his Jericho pistol and fired several rounds at her chest, killing her instantly. He then turned the fire arm on himself and shot himself below the chin. He also died instantly," stated a police report filed at Ruaraka police station under OB Number 40/6/4/2021.

Neighbours said they heard the first gunshot at around 8:20pm and closed their doors, unsure of what was happening.

The househelp fled with the couple's daughters after witnessing the first gunshot. The children are now under the custody of relatives.

The bodies were found in the living room with Pauline, still dressed in her police uniform, holding a padlock in her hands and Wakise lying dead on the seat in plain clothes.

## 'Brilliant futures'

News of the couple's death was received with shock, with Inter- or Cabinet Secretary Fred Matiang'i turning it as a rude awakening on the psychosocial challenges being faced by some of the country's young officers.

"I am deeply pained by the tragic incident involving PC Hudson Wakise and his wife PC Pauline Wakasa, both young and vibrant police officers with brilliant futures tragically ended in their shocking demise. It's a rude awakening on the psychosocial challenges amongst some of our

## BACKGROUND

Couple went from happily married to having domestic problems

In 2019, their marriage started developing cracks. Pauline, 29, started complaining to relatives about her husband's alcoholism, infidelity and occasional violence. Wakise, 33, a General Service Unit officer attached to the Recce unit, was among the elite officers involved in the rescue of victims during the Dusit D2 complex attack in January 2019. Picked for his expertise in sharp shooting and combat, Wakise went into the Dusit complex, saved lives, but suffered a head injury that some now suspect to have been a lingering trauma from the operation. Dr Matiang'i termed it as a rude awakening on the psychosocial challenges faced by young officers.

young officers that we have no choice but to now pay greater attention to. My sincere condolences to their families and friends," the CS tweeted.

The Inspector-General of Police Hilary Mutumbali also mourned the two officers and sent his condolences to their families.

He said Wakise was on leave from April 1 until Wednesday when he reported to work, but left at 3pm.

"It is alleged that he shot and killed his wife before turning the gun on himself, ending both their lives. Eyewitnesses and police with investigations into the incident that took place outside the GSU camp. Our sincere condolences to the families of the bereaved," the IG said.

Police recovered the officer's pistol, nine spent cartridges and two magazines, one fully loaded with 15 rounds of ammunition and the other with six bullets.

The officers' bodies were taken to Kenyatta University Funeral Home.

Pauline's colleagues at Kilimani Police Station yesterday flocked to her funeral home where they viewed the body alongside a few family members and prayers.

The officers said Pauline was shot seven times on the chest, while Wakise succumbed to two gunshot wounds that he fired from under his chin and exited through his head.

They described Pauline as a hard-working, polite and sociable person.

"Those who knew Wakise described him as a hero. He had just built a six-bedroom mansion in his village in Taita.

An inquest into the matter has been opened.

mwambui@kenyanationmedia.com

## REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT (FIFTH SESSION)

INVITATION FOR PUBLIC PARTICIPATION & SUBMISSION OF MEMORANDA  
(Article 118 (1) (b) of the Constitution and Section 8 of the Treaty Making and Ratification Act, 2012)

in the matter of consideration by the National Assembly of:

Ratification of the Bilateral Air Services Agreement between Kenya and the Russian Federation; and  
Ratification of the Bilateral Air Services Agreement between Kenya and the United States of America

## SUBMISSION OF MEMORANDA

Article 118(1) (b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". Further, Section 8 of the Treaty Making and Ratification Act provides for the consideration and ratification of treaties by Parliament, and subsection (3) states that, "the relevant parliamentary committee shall, during its consideration of the Treaty, ensure public participation in the ratification process in accordance with laid down parliamentary procedures".

The main purpose of these agreements is to enable Kenyan air operators provide scheduled air transport services in foreign air service markets, expand their existing route network and also allow foreign carriers access the Kenyan market. Further, where airlines are unable to offer services, the agreements will allow them enter into commercial arrangements such as code share arrangements, which will promote their business growth.

The aforementioned agreements have since been submitted to the National Assembly pursuant to the provisions of Section 8 of the Treaty Making & Ratification Act, 2012 and subsequently committed to the Departmental Committee on Transport, Public Works and Housing for examination in line with the provisions of Standing Order 216(5)(f) and report to the House.

Pursuant to Article 118(1) (b) of the Constitution and Section 8 of the Treaty Making & Ratification Act, 2012, the Committee invites members of the public to submit written representations they may have on the said agreements. The documents can be accessed from the parliamentary website at <http://www.parliament.go.ke/the-national-assembly/home-business/paper-laid>. The representations may be forwarded to Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke); to be received on or before Friday, 29<sup>th</sup> April, 2021 at 5:00 pm.

MICHAEL R. SIALA, CBS  
CLERK OF THE NATIONAL ASSEMBLY

I don't know if he was drinking in the past, but since his involvement in the attack, there was a notable increase in his alcohol consumption.

Pauline's relative



# **Explanatory Memorandum**

on the Bilateral Air Services Agreement  
between Kenya and Russia



Dem floor  
2  
12/02/21

**MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING,  
URBAN DEVELOPMENT AND PUBLIC WORKS  
STATE DEPARTMENT OF TRANSPORT  
OFFICE OF THE PRINCIPAL SECRETARY**

Telephone: (+254 20) 2729200  
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Email: [ps@transport.go.ke](mailto:ps@transport.go.ke)  
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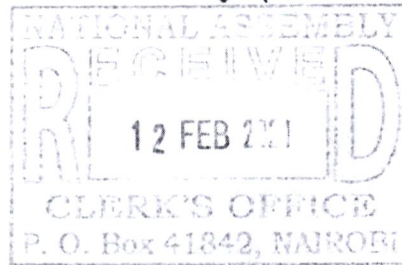
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As deal  
15/2/21

MOT&I/C/AT/028/29 VOL.III/(121)

9<sup>th</sup> February 2021

**Mr. Michael Sialai, CBS**  
Clerk to the National Assembly  
Parliament Building  
NAIROBI



Dear *Michael,*

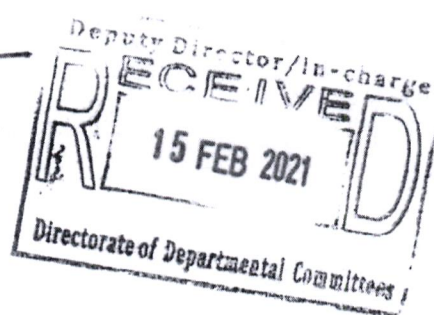
**RATIFICATION OF THE BILATERAL AIR SERVICES AGREEMENT  
BETWEEN KENYA AND RUSSIA**

At the meeting of the Departmental Committee on Transport, Public Works and Housing on Tuesday 17<sup>th</sup> November 2020 on the above, we were directed to restructure the format of the Explanatory Notes to align them to information requirement under the Treaty Making and Ratification Act, 2012 which have done.

In this connection, attached please find the Explanatory Notes duly aligned as required for ratification in line with the Treaty Making and Ratification Act, 2012.

Yours *Sincerely,*

*Solomon Kitungu*  
Solomon Kitungu, CBS  
PRINCIPAL SECRETARY







## **MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING, URBAN DEVELOPMENT AND PUBLIC WORKS**

### **STATE DEPARTMENT FOR TRANSPORT**

#### **EXPLANATORY MEMORANDUM ON THE RATIFICATION OF THE BILATERAL AIR SERVICES AGREEMENT BETWEEN KENYA AND THE RUSSIAN FEDERATION**

##### **a) The Objects and Subject Matter of the Agreement**

The International Civil Aviation Organization (ICAO) is a specialized agency of the United Nations created with the signing in Chicago, on 7 December 1944, of the Convention on International Civil Aviation and is charged with the administration of the principles laid out in the Convention.

The 96 Articles of the Chicago Convention establish the privileges and restrictions of all Contracting States. The Convention accepts the principle that every State has complete and exclusive sovereignty over the airspace above its territory and provides that no scheduled international air service may operate over or into the territory of a Contracting State without its consent.

Bilateral Air Services Agreements between Kenya and various Countries are established to enable Kenyan air operators such as Kenya Airways to provide scheduled air services and expand their existing route network. In addition, the Agreements allow foreign carriers to access the Kenyan market.

The Agreements were negotiated in line with the Integrated National Transport Policy which indicates that Kenya is keen to liberalize new and existing Agreements on the basis of the Yamoussoukro Decision for Countries within Africa and on the basis of fair and equal opportunity and reciprocity for other Countries. The strategic national interests of Kenya are paramount during the negotiations. These Agreements enable airlines to expand their existing route networks by directly operating scheduled services to other markets. In addition, where airlines are unable to offer services the Agreements allow them to enter into Commercial Arrangements such as code share agreements, which allow airlines to grow the demand in other markets by putting their code on other carriers thereby offering seamless connectivity to the traveling public.

**b) Any Constitutional implications**

**(i) Proposed amendment to the Constitution**

There is no proposed amendment to the Constitution.

**(ii) Consistence with the Constitution and promotion of constitutional values and objectives**

The Bilateral Air Services Agreement between Kenya and the Russian Federation is consistent with the Constitution and promotes constitutional values and objectives.

**c) The National Interests which may be affected by the ratification of the Agreements**

Currently, no airline from either Contracting Party operates scheduled air services between the two countries. Kenya Airways has no immediate plans to start direct flights to Russia. However, the airline plans to grow its virtual network to Russia through code-share and partnerships with other airlines.

It is in the interest of the Country to ratify this Agreement establishing the legal framework for carriers from either Party to start scheduled operations.

**d) Obligations imposed on Kenya by the Amendment of the Convention**

There is no additional obligation that will be imposed on Kenya by the ratification of the Agreement.

**e) Requirements for implementation of the Agreements**

The instruments of ratification of the Agreement shall be deposited with International Civil Aviation Organization for registration.

**f) Policy and legislative considerations**

The Agreement is negotiated in line with the Integrated National Transport Policy which indicates that Kenya is keen to liberalize new and existing Agreements on the basis of the Yamoussoukro Decision for Countries within Africa and on the basis of fair and equal opportunity and reciprocity for other Countries.

The Agreement is based on a standard template issued by the International Civil Aviation Organization (ICAO) and contains standard Articles on Grant of Rights; Designation; Authorization; Application of National Laws; Recognition of Certificates and Licenses; Aviation Safety and Security; Customs Duties and other Charges; amongst others.

In order to operationalize an Agreement it is the practice for the delegations representing the concerned States to sign a Memorandum of Understanding (MoU) that gives force to the Agreement as it awaits the formal signing by the aeronautical authorities i.e. Cabinet Secretaries or Ministers in charge of Civil Aviation. In other instances the Agreements contain clauses that require the signing of the Agreement prior to entry into force.

**g) Financial implications**

The ratification of the Agreement will be incorporated into existing institutional frameworks that the State Department for Transport has made provision for.

There are no budgetary changes envisaged in terms of financial implications.

**h) Ministerial responsibility**

The Cabinet Secretary exercises powers conferred by Section 52(f) of the Civil Aviation Act (No. 21 of 2013) as well as the Executive Order No. of 2020.

Further, the Cabinet Secretary enforces the provisions of the Bilateral Air Services Agreements as well as reviewing the existing agreements in line with the Medium Term Expenditure Plan.

**i) Implications on matters relating to counties**

Civil Aviation falls under the National Government functions as provided for in Section 18 of the Fourth schedule of the Constitution which deals with the distribution of functions between the National and County Government therefore it's not a matter concerning counties.

**j) The summary of the process leading to the adoption of the Agreements**

The Bilateral Air Services Agreement between Kenya and the Russian Federation was negotiated and initialed on 22<sup>nd</sup> October 2015. It was operationalized by the signing of a Protocol on the same date. The Agreement was subsequently approved by the Cabinet during the 2<sup>nd</sup> Cabinet Meeting -2020 held on 19<sup>th</sup> March 2020.

The Agreement provides for multiple-designation of airlines, unlimited number of frequencies, no restriction on aircraft capacity and an open and liberal route schedule. Exercise of the 5<sup>th</sup> freedom Traffic rights is subject to approval by the respective aeronautical authorities.

**k) The date of signature**

The Bilateral Air Services Agreement between Kenya and the Russian Federation was negotiated and initialed on 22<sup>nd</sup> October 2015.

**l) The number of States that are party to the Agreements**

The Agreement is on a bilateral basis between Kenya and the Russian Federation.

**m) The views of the public on the ratification of the Agreements**

The Agreement is negotiated by a team comprising representatives from the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works; Ministry of Foreign Affairs; Office of the Attorney General and Department of Justice; Kenya Civil Aviation Authority; Kenya Airports Authority; and a representative of the Kenya Association of Air Operators namely Kenya Airways and other local carriers.

**n) Whether the Agreements sought to be ratified permit reservations and any recommendations on reservations and declarations**

The Agreement does not allow for reservations. However, it can be amended through mutual agreement by the Contracting Parties.

There are no recommendations for reservations of the Agreement.

**o) The proposed text of any reservations that should be entered when ratifying the Agreements in order to protect or advance national interests or ensure conformity with the Constitution**

The Agreement does not require any reservation.

**p) Whether expenditure of public funds will be incurred in implementing the Agreements and an estimate, where possible, of the expenditure.**

The implementation of the Agreement has minimal implication on Public funds as it is limited to approval and enforcement of the airline schedules.



James W. Macharia, EGH  
**CABINET SECRETARY**

Date ..... 3/2/2021 .....

Initial Memorandum  
on the Bilateral Air Services Agreement  
between Kenya and Russia, before being revised

DLPS

Please deal:

11/05/20



MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING,  
URBAN DEVELOPMENT AND PUBLIC WORKS  
STATE DEPARTMENT FOR TRANSPORT  
OFFICE OF THE PRINCIPAL SECRETARY

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NAIROBI

When replying please quote Ref.

MOT&I/C/AT/028/29 VOL. III (116)

4<sup>th</sup> May 2020

Mr. Michael Sialai, EBS  
Clerk of the National Assembly  
Parliamentary Buildings  
NAIROBI

2) Had, take office  
For registering, acknowledgment  
of receipt, Tabung and  
response to committee  
12.5.20

Dear Michael,

**BILATERAL AIR SERVICES AGREEMENT (BASA) BETWEEN KENYA  
AND RUSSIA**

We refer to Section 52 of the Civil Aviation Act (No. 21 of 2013) and Section 8 of the Treaty Making and Ratification Act. The Cabinet approved the signing of Kenya/Russia Bilateral Air Services Agreement during their 2<sup>nd</sup> Meeting 2020 held on 19<sup>th</sup> March 2020.

The Air Services Agreement was negotiated and initialed on 22<sup>nd</sup> October 2015 in Antalya, Turkey. A Protocol was signed on the same day to provisionally operationalize the Agreement pending ratification and formal signing in accordance with Treaty Making and Ratification Act, 2012.

The Agreement allows multiple designation of airlines and a restrictive route schedule which allows the designated airlines to operate between the two capital cities and other points to be agreed upon by aeronautical authorities. It also allows codeshare and other commercial arrangements between the designated airlines and any other third airlines which have authorization to do so.

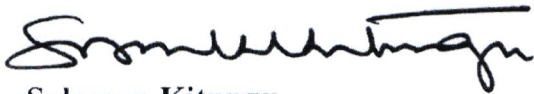
THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 2 <sup>nd</sup> JUN 2020	DAY
TABLED BY: Hon Aden Duale LOM	RECEIVED
CLERK-AT THE TABLE: <i>RW</i>	11 MAY 2020
	CLERK'S OFFICE P.O. Box 41842, NAIROBI

NATIONAL ASSEMBLY  
**RECEIVED**  
11 MAY 2020  
SENIOR DEPUTY CLERK  
LEGISLATIVE & PROCEDURAL SERVICES  
P.O. Box 41842 - 00100, NAIROBI

Kenya Airways has no immediate plans to operate direct flights to Russia but can extend its network through codeshare partnerships with other airlines. No Russian airline is operating scheduled services to Kenya.

In this connection, Explanatory Memorandum on the above Air Services Agreement approved by the Cabinet at its meeting held on 19<sup>th</sup> March 2020 is forwarded herewith.

Yours Sincerely,



**Solomon Kitungu**  
**PRINCIPAL SECRETARY**



## MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING, URBAN DEVELOPMENT AND PUBLIC WORKS

### EXPLANATORY MEMORANDUM TO RATIFICATION OF BILATERAL AIR SERVICES AGREEMENT (BASA) BETWEEN KENYA AND RUSSIA

Name of the Statutory Instrument:	Bilateral Air Services Agreement between Kenya and Russia initialed on 22 <sup>nd</sup> October, 2015
Name of the Parent Act	: Civil Aviation Act (No. 21 of 2013)
Enacted Pursuant to	: Section 52 of the Civil Aviation Act (NO. 21 of 2013)
Name of the Ministry	: Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works
Approved on	: 19 <sup>th</sup> March, 2020

#### 1. Purpose of the Statutory Instrument

The purpose of the instrument is to approve Bilateral Air Services Agreement between Kenya and Russia to enable Kenyan Air Operators such as Kenya Airways to provide scheduled air services between Kenya and Russia and expand their existing route networks. In addition, the agreement allows Russian carriers to access Kenyan market.

#### 2. Legislative Context

The Agreement was negotiated in line with the Integrated National Transport Policy which provides that Kenya is keen to liberalize its Agreements on the basis of Yamoussoukro Decision for States within Africa and reciprocity and equal opportunity for other States to ensure connectivity and enhance trade.

#### 3. Policy Background

The Ministry of Infrastructure, housing, Urban Development and Public Works negotiates and reviews bilateral air services between Kenya and various States to allow air operators such as Kenya Airways provide scheduled air services between Kenya and those States and expand their existing route networks. The agreements are negotiated by a team comprising representatives from this Ministry, Ministry of Foreign Affairs, Office of the Attorney General and Department of Justice, Kenya Civil Aviation Authority, Kenya Airports Authority, Kenya Airways and other Kenyan carriers.



The Kenya/Russia Air Services Agreement was negotiated and initialed on 22<sup>nd</sup> October, 2015 in Antalya, Turkey. A Protocol was signed on the same day to provisionally operationalize the Agreement pending ratification and formal signing in accordance with the Treaty Making and Ratification Act, 2012.

The Agreement allows multiple designation of airlines and a restrictive route schedule. It also allows codeshare and other commercial arrangements between the designated airlines and any other third airline which has authorization to do so.

#### **4. Consultation Outcome**

The Kenya/Russia Agreement was negotiated by a team of representatives from this Ministry, Ministry of Foreign Affairs, Office of the Attorney General and Department of Justice, Kenya Civil Aviation Authority, Kenya Airports Authority, Kenya Airways and other Kenya carriers.

#### **5. Impact**

Kenya Airways nor any other Kenyan Carrier have not indicated immediate plans to operate direct flights to Russia, but can extend their network through codeshare partnerships with other airlines.

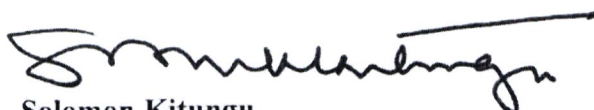
The above Bilateral Air Services Agreement in place, airlines from Russia may commence scheduled flights which would have a positive impact on both tourism and trade.

#### **6. Monitoring and Review**

The Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works and the Kenya Civil Aviation Authority will monitor and review the implementation of the Agreement.

#### **7. Contact**

Mr. Nicholas Bodo, Ag. Director, Air Transport Department, Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works, Telephone Number 020-2729200.



**Solomon Kitungu**  
**PRINCIPAL SECRETARY**

**The** Bilateral Air Services  
**Agreement**  
Between  
**Kenya** and **Russia**

**AIR SERVICES AGREEMENT  
BETWEEN  
THE GOVERNMENT OF THE RUSSIAN FEDERATION AND  
THE GOVERNMENT OF THE REPUBLIC OF KENYA**

**Preamble**

The Government of the Russian Federation and the Government of the Republic of Kenya hereinafter referred to as the Parties;

Taking into consideration the fact that the Russian Federation and the Republic of Kenya are Parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944;

Desiring to conclude an Agreement for the purpose of developing air services on the basis of fair and equal opportunities and reciprocity between the two countries;

Desiring to grant the highest degree of safety and security in air transport and reaffirming their grave concern about acts or threats against the security of aircraft, which put at risk the safety of persons or property, that adversely affect the operation of air transportation, and undermine public confidence in the safety of civil aviation;

Have agreed as follows:

**ARTICLE 1  
Definitions**

Terms used in the present Agreement shall have the following meaning:

- a) "Convention" - the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944 and includes any Annex or amendment thereto adopted under Article 90 of the Convention and any amendment thereto which has entered into force under Article 94 (a) of the Convention, to the extent that such Annex and amendments have become effective for or been ratified by both States;
- b) "Agreement"- the present Agreement, its Annex which forms the integral part of the present Agreement, and any amendment to the present Agreement or the Annex made in accordance with Article 18 (Consultations);
- c) "Aeronautical Authorities"
  - in respect of the Russian Federation, the Ministry of Transport of the Russian Federation, or any person or body authorized to perform any function presently exercised by the said Ministry;

- in respect of the Republic of Kenya, the Cabinet Secretary in charge of civil aviation or any person or body authorized to perform any function presently exercised by the said Cabinet Secretary.
- d) "designated airline" – an airline which has been designated and authorized by each Party to operate agreed services on the specified routes in accordance with Article 4 (Designation and Authorization of Airlines) of the present Agreement;
- e) "tariff" – the prices to be paid for the carriage of passengers, baggage and cargo and the conditions under which those prices apply, including prices and conditions for agency and other auxiliary service, but excluding remuneration and conditions for the carriage of mail;
- f) "air service," "international air service," "airline" and "stop for non-traffic purposes" have the meanings respectively assigned to them in Article 96 of the Convention;
- g) "territory" - in relation to a State has the meaning assigned to it in Article 2 of the Convention;
- h) "capacity" – in relation to an aircraft – the payload of the aircraft available on the route or section of a route;
  - in relation to a specified air service means the capacity of aircraft, used on such service, multiplied by the frequency of the flights, operated by such aircraft over a given period on a route or section of a route.

## ARTICLE 2 Grant of Rights

1. Each Party grants to the other Party the rights specified in the present Agreement for the purpose of establishing agreed air services on the routes specified in the Annex to the present Agreement (hereinafter called "the agreed services" and "the specified routes").
2. Subject to the provisions in the present Agreement and its Annex, the designated airline of each Party, while it operates the agreed services upon the specified routes, shall have the following rights:
  - a) to fly across the territory of the State of the other Party without landing;
  - b) to make stops in the territory of the State of the other Party for non-traffic purposes;
  - c) to make stops in the territory of the State of the other Party to take on board and discharge international traffic passengers, cargo and mail separately or in combination at the points specified for that route making use of the traffic rights agreed between the Aeronautical Authorities and established in the present Agreement and its Annex.

*MR*

3. Nothing in this Article shall be deemed to confer on the designated airline of one Party the right of taking on board passengers, cargo and mail carried for hire or reward, between the points in the territory of the State of the other Party.

### **ARTICLE 3**

#### **Principles Governing Operations of Agreed Services**

1. The designated airlines of the Parties shall have fair and equal opportunities to operate the agreed services on the specified routes between respective territories of their States.
2. While operating the agreed services the designated airlines of one Party shall take into account the interests of the designated airlines of the other Party so as not to affect the services which the latter provides on the whole or any part of the same route.
3. The agreed services provided by the designated airlines of the Parties shall be 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 between respective territories of their States.
4. Conditions of the carriage of passengers and cargo including mail taken on board and discharged in the territory of the State of the other Party and the points in third countries, the granted capacity shall comply with the principle that capacity shall be related to the demands:
  - a) in traffic between the countries of origin and destination;
  - b) in traffic of the area through which the agreed services pass; and
  - c) in transit traffic.

### **ARTICLE 4**

#### **Designation and Authorization of Airlines**

1. Each Party shall have the right to designate or substitute airlines of its States for the purpose of operating the agreed services on the specified routes, according to the present Agreement. Such designation or withdrawal shall be made in writing by the respective Aeronautical Authority through diplomatic channels.
2. On receipt of such designation or substitution thereto, and on the request of the designated airline, in the form and manner prescribed, the Aeronautical Authority of the other Party shall grant the appropriate authorizations and permissions without delay on the procedure, under the conditions that:
  - substantial ownership and effective control of the airline are vested in the Party designating the airline or in its citizens,
  - the airline complies with laws and regulations of the State of the Party granting the rights.

3. The Aeronautical Authority of each Party may require an airline designated by the other Party to satisfy them that it qualified to fulfill the conditions prescribed under the laws and regulations normally and reasonably applied by such authority to the operation of international air services.
4. When the airlines have been so designated and authorized, they begin, at any time, to operate the agreed services, provided that a tariff established in accordance with provisions of Article 14 (Tariffs) of the present Agreement, is in force in respect of the service and that the frequency, schedule and time-tables of the agreed services, in accordance with the provisions of the present Agreement and its Annex, have been approved by the Aeronautical Authority of the Party that has granted the authorization.

#### **ARTICLE 5**

##### **Revocation, Suspension or Limitation of Authorization**

1. The Aeronautical Authority of each Party shall, with respect to an airline designated by the other Party, have the right to revoke the operating authorization, or to suspend the exercise of the rights specified in Article 2 of the present Agreement or to impose the conditions as it may deem necessary on the exercise of these measures, temporarily or permanently if:
  - a) substantial ownership and effective control of the designated airline are not vested in the State of the Party which designated the airline or citizens of the State of that Party;
  - b) that airlines fails to comply with the conditions prescribed under the present Agreement;
  - c) the airline otherwise fails to operate in accordance with laws and regulations of the State of the Party granting the rights.
2. Unless immediate revocation, suspension, or imposition of the conditions mentioned in paragraph 1 of this Article is essential to prevent further infringement of laws or regulations, measures referred to in the said paragraph shall be exercised only after consultations between the Aeronautical Authorities of the States of the Parties. Such consultations shall begin as soon as possible after the request is received.

#### **ARTICLE 6**

##### **Approval of Schedule**

The designated airlines of one Party shall submit the timetable for approval to the Aeronautical Authority of the other Party in compliance with the laws and regulations of such Party at least forty five (45) days before starting the operations.



**ARTICLE 7**  
**Application of Laws and Regulations**

1. Laws and Regulations of the State Party relating to the admission to sojourning or departure from its territory of an aircraft engaged in international air services, or to operation and flight across that territory shall also be applied to the aircraft of the designated airline of the other Party.
2. Laws and Regulations of the State Party relating to the admission to sojourning or departure from its territory of passengers, crew, baggage, cargo and mail, such as regulations relating to entry, clearance, immigration, emigration, custom, police, currency and sanitary measures, will be applied to passengers, crew, baggage, cargo and mail transported on board the aircraft of the designated airline of the other Party upon entry into and departure from and while within the said territory.

**ARTICLE 8**  
**Recognition of Certificates and Licenses**

1. Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one Party, and still in force, shall be recognized as valid by the other Party for the purpose of the agreed services on the specified routes in the Annex.
2. Each Party reserves the right, to refuse to recognize for the purpose of flights above territory of its State or landing such territory, certificates of competency and licenses granted to its own nationals by the other Party or by a third State.

**ARTICLE 9**  
**Exemption from Customs and other Duties**

1. Aircraft operated on the agreed services by the designated airlines of one Party, as well as their regular aircraft equipment, spare parts, supplies of fuel and lubricants, aircraft stores (including food, beverages and tobacco) on board the aircraft shall be exempted from the imposition of customs duties, taxes and other similar payments and fees on arriving in the territory of the States of the other Party provided such equipment, spare parts, supplies and stores remain on board the aircraft up to such time as they are re-exported.
2. There shall also be exempted from the imposition of customs duties, taxes and other similar payments and fees:
  - a) aircraft stores taken on board in the territory of the State of one Party, within limits fixed by the authorities of the said Party, and for use on board the aircraft operated on the agreed services by the designated airlines of the other Party;

- b) equipment and spares parts introduced into the territory of the State of one Party for the technical maintenance or repair of aircraft engaged in operation on agreed services by a designated airlines of the other Party;
  - c) fuel and lubrications, intended for use in the operation of the agreed services by aircraft of the designated airline of one Party, if these aircraft stores are used on the part of the routes within the territory of the State of the other Party where they are taken aboard;
3. It is prohibited to use materials, supplies and spare parts referred to in paragraph 2 of this Article for other purposes than those directly specified in this paragraph. The above mentioned objects may be required to be kept under Customs supervision or control in accordance with laws and regulations of the States of the Parties.
  4. Regular aircraft equipment, the materials, supplies and spare parts retained on board the aircraft operated by designated airlines of one Party on the agreed services, may be unloaded in the territory of the State of the other Party only with the approval of the customs authorities of that Party. In such case they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.
  5. Charges corresponding to the services, storage and customs clearance will be charged in accordance with laws and regulations of the State of the Parties.

#### **ARTICLE 10** **Direct Transit**

Passengers, baggage and cargo in direct transit across the territory of the State of the Party and not leaving the area of the airport reserved for such purpose shall, except in respect of security measures against acts of unlawful interference, as well as transportation of narcotics and psychotropic substance, be subject only to a simplified control. Baggage and cargo in direct transit shall be exempt from the imposition of customs duties, taxes and charges.

#### **ARTICLE 11** **Aviation Security**

1. Consistent with their rights and obligations under international law, the 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 the present Agreement. Without limiting their rights and obligations under international law, the Parties shall in particular act in conformity with the provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention





for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970 and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, and the Protocol for Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988 as well as with any other convention and protocol relating to the security of civil aviation which both Parties adhere to.

2. The 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 threats to security of civil aviation.
3. The Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annex to the Convention to the extent that such security provisions are applicable to both Parties; they shall require that operators of aircraft of their registry or operators of aircraft who have their principal place of business or permanent residence in the territory of their States and the operators of airports in the territory of their States act in conformity with such aviation security provisions. Each Party shall advise the other Party of any difference between its national regulations and practices and the aviation security standards of the Annex. Either Party may request immediate consultations with the other Party at any time to discuss any such differences. Such consultations shall take place within thirty (30) days of that request.
4. Each Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in paragraph 3 above required by the other Party for entry into, departure from or while within the territory of the State of that other Party. Each Party shall ensure that adequate measures are effectively applied within the territory of its State to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Party shall also give positive consideration to any request from the other Party for reasonable special security measures to meet a particular threat.
5. When an incident or threat of an incident of unlawful of civil aircraft or other unlawful acts against the safety of such aircraft, their passengers and crew, airports or air navigation facilities occurs, the Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such an incident or threat thereof.
6. Each Party shall have the right, within sixty (60) days following notice of the other Party, for its aeronautical authorities to conduct an assessment in the territory of the other Party of the security measures being carried out, or planned to be carried out, by aircraft operators in respect of flights arriving from, or departing to territory of the first Party. The administrative arrangements for the conduct of such assessments shall be agreed between the aeronautical authorities and implemented without delay so as to ensure that assessments will be conducted expeditiously. All the evaluations will have to be covered by a specific confidential agreement.

7. When a Party has reasonable grounds to believe that the other Party has departed from the provisions of this Article, the first Party may request consultations. Such consultations shall start within fifteen (15) days of receipt of such a request from either Party. Failure to reach a satisfactory agreement within fifteen (15) days from the start of consultations shall constitute grounds for withholding, revoking, suspending or imposing conditions on the authorizations of the airline designated by the other Party. When justified by an emergency, or to prevent further non-compliance with the provisions of this Article, the first Party may take interim action at any time.

## **ARTICLE 12**

### **Aviation Safety**

1. Each Party may request consultations at any time concerning safety standards in any area relating to aeronautical facilities and services, to air crew, aircraft or their operations adopted by the other Party. Such consultations shall take place within thirty (30) days from the date of request.
2. If, following such consultations, one Party finds that the other Party does not effectively maintain and administer, in the aspects mentioned in paragraph 1 of this Article, safety standards in any such area that are at least equal to the minimum standards established at that time pursuant to the Convention to conform with those minimum International Civil Aviation Organization standards, and that other Party shall take appropriate corrective action within an agreed period. Failure to take appropriate action within the agreed period shall be grounds for the application of Article 5 (Revocation, Suspension or Limitation of Authorization) of the present Agreement.
3. Pursuant to Article 16 of the Convention, it is further agreed that any aircraft, operated by or on behalf of the airline of one Party on services to or from the territory of the State of the other Party may, while within the territory of the State of the other Party, be the subject of an examination (in this Article called "ramp inspection"), without unreasonable delay. This shall be an inspection by the authorized representatives of the other Party, on board and around the aircraft. Notwithstanding the obligations mentioned in Article 33 of the Convention, the purpose of inspection is to verify both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment, in accordance with the established effective norms on the base of the Convention.
4. If any such ramp inspection or series of ramp inspections give 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.

- c) the 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 licenses 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 the designated airline of a Party in accordance with paragraph 3 above is denied by the representative of that airline, the other 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 Party reserves the right to suspend or vary the operating authorization of the airline of the other Party immediately in the case the first Party concludes, whether as a result of a ramp inspection, the denial of an access to a ramp inspection or a series of ramp inspection, confutation or otherwise, that immediate action is essential to the safety of an airline operation.
7. Any action by one 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. With reference to paragraph 2 of this Article, if it is determined that one Party remains in non-compliance with Standards of International Civil Aviation Organization when the agreed time period has lapsed, the Secretary General of International Civil Aviation Organization should be advised thereof. The latter should also be advised of subsequent satisfactory resolution of the situation.

### **ARTICLE 13** **User Charges**

1. Each Party shall use its best efforts to encourage those responsible for the provision of airport, airport environment, air navigation, and aviation security facilities and services to levy charges on the airlines on the basis that they are reasonable, non-discriminatory and equitably apportioned amongst categories of users.
2. Reasonable charges reflect, but do not exceed, the full cost of the competent charging authorities of providing the facilities and services. This may include a reasonable return on asset, after depreciation. Facilities and services for which charges are made should be provided on an efficient and economic basis. For charges to be non-discriminatory, they should be levied on foreign airlines at a rate no higher than the rates imposed on a Party's own airlines operating similar international services.
3. The Parties shall encourage the exchange of such information between the competent charging authorities and airlines as may be necessary to permit a full assessment of the reasonableness of justification for, and apportionment or the charges in accordance with paragraph 1-2 of this Article.

4. Increased or new charges should only follow adequate consultations between the competent charging authorities and airlines. Reasonable notice of any proposals for changes in user charges should be given to users to enable them to express their views before changes are made.

#### **ARTICLE 14**

##### **Tariffs**

1. Tariffs charged for air services operated under this Agreement may be freely established by the airlines.
2. The Aeronautical Authorities of one Party may require tariffs for services originating from its territory to be submitted for the approval of its aeronautical authorities.
3. The Aeronautical Authorities of the Parties may request consultations to discuss matters such as, but not limited to, tariffs which may be unjust, unreasonable, discriminatory, artificially high or artificially low.

#### **ARTICLE 15**

##### **Provision of Statistics**

The aeronautical authority of one Party shall provide the aeronautical authority of the other Party, upon request, periodic or other statements of statistics related to the designated airline, origin, destiny and traffic carried, in a specific period previously agreed, for the purpose of reviewing the capacity provided on the agreed services operated on the specified routes.

#### **ARTICLE 16**

##### **Commercial Activities**

1. To ensure the operations of the agreed services, the designated airline of a Party, shall be allowed to maintain in the territory of the State of the other Party, its office and representation, with the necessary administrative, technical and commercial personnel, in accordance with the laws and regulations of the State of that other Party.
2. The designated airlines of one Party shall be granted the rights of its own sale of air transportation using their own transportation documents in the territory of the State of the other Party, in accordance with laws and regulations of the State of that other Party. Such sale may be executed directly by the representatives of the designated airlines or through authorized agents which have an appropriate license to provide such attendance.
3. For the purpose of providing the ground technical services of its aircraft the designated airlines of each Party may conclude agreements with the enterprises of the other Party which have the required licenses to provide such service in the territory of the State of the other Party.

**ARTICLE 17**  
**Transfer of Earnings**

1. Each Party shall on the basis of reciprocity, grant to the designated airlines of the other Party the right to transfer freely the excess of receipts over expenditure earned by the said airlines in connection with the operation of the international air services.

The said transfer shall be made in any freely convertible hard currency according to the official exchange rate valid for the date of transfer and in accordance with the financial laws and regulations of the State of the Party, from which territory the transfer is made.

2. The provisions of this Article do not affect the issues of taxation that are the subject of other agreement between the Parties.

**ARTICLE 18**  
**Consultation**

1. In a spirit of close co-operation, the aeronautical authorities of the Parties shall, at any time, consult each other with a view to ensuring the correct implementation of, interpretation of and compliance with the provisions of the present Agreement and its Annex, or to consider modifications and amendments.
2. These consultations shall be held through a meeting or correspondence and shall begin within a period of sixty (60) days of the date on which the written request was received, unless otherwise agreed by both Parties or if otherwise stipulated in the present Agreement.

**ARTICLE 19**  
**Settlement of Disputes**

1. If any dispute arises between the Parties relating to interpretation or application of the present Agreement, the Parties shall in the first place try to settle it by negotiation between their Aeronautical Authorities.
2. If the said Aeronautical Authorities fail to reach an agreement, the dispute shall be settled through diplomatic channels.
3. If settlement cannot be reached by the aforementioned methods, the dispute shall, at the request of either Party, be submitted for decision to an Arbitration consisting of three arbitrators, two of whom to be appointed by each Party and the third arbitrator to be appointed by the two so appointed.

4. Each of the Parties shall appoint an arbitrator within a period of sixty (60) days from the date of receipt by either Party from the other Party of a notice through diplomatic channels requesting the dispute to be settled by the Arbitration and the third arbitrator to be appointed within a further sixty (60) days. If either of the Parties fails to appoint an arbitrator within the specified period or if the third arbitrator is not appointed within the specified period the President of the Council of the International Civil Aviation Organization may be requested by either Party to appoint an arbitrator or arbitrators as the case requires. If the President is a national of either Party or if he is otherwise prevented from discharging this function, the Vice-President of the Council of the International Civil Aviation Organization deputizing for him should make the necessary appointments.
5. The third arbitrator appointed under paragraph 3 and 4 of this Article shall be a citizen of a third state and shall act as President of the arbitration.
6. The Arbitration shall reach its decision by a majority of votes. Such decision shall be binding up on the Parties. Each Party shall bear the cost of its own member as well as of its representation in the arbitration proceedings. The cost of the chairman and any other costs shall be borne in equal parts by the Parties. In all other respects the Arbitration shall determine its own procedure.

**ARTICLE 20**  
**Modifications and Amendments**

1. Any modification or amendment to the present Agreement agreed between the Parties by consultation, in accordance with Article 18 of the present Agreement, shall enter into force from the date of receipt through diplomatic channels of the last written notification by each Party on fulfilling all their internal procedures necessary for the said entry into force.
2. Any Modification or Amendment to the Annex of the present Agreement shall be agreed directly between the Aeronautical Authorities of the States of the Parties by means of consultations in accordance with Article 18 of the present Agreement. These changes shall enter into force when confirmed by an exchange of notes through diplomatic channels.

**ARTICLE 21**  
**Multilateral Conventions**

In case the Parties become parties of international conventions or agreements on air services, the present Agreement shall be modified in order to ensure its conformity with the provisions of such conventions and agreements after consultations between the Parties in accordance with the Article 18 of the present Agreement.

**ARTICLE 22**  
**Registration with the International Civil Aviation Organization**

The present Agreement and any subsequent modification thereto shall be registered with the International Civil Aviation Organization.

**ARTICLE 23**  
**Termination**

1. Either Party may at any time notify the other Party through a diplomatic note of its decision to terminate the present Agreement. Such notice shall be communicated simultaneously to International Civil Aviation Organization.
2. Termination shall take effect twelve (12) months after the date of receipt of the notification by the other Party, unless the notice is withdrawn by agreement before the expiration of this term. In case that the other Party does not acknowledge receipt of the notice of termination, the notice shall be deemed to have been received fourteen (14) days after the date of receipt of the notice by International Civil Aviation Organization.

**ARTICLE 24**  
**Entry into Force**

The present Agreement shall enter into force thirty (30) days after both Parties have notified each other, through diplomatic channels, that they have fulfilled all their internal procedures for its entry into force.

Upon entry into force of this Agreement, the Air Services Agreement between the Government of the Union of the Soviet Socialist Republic and the Government of the Republic of Kenya, signed on February 17<sup>th</sup> 1983 with all supplements, Annex and amendments to the present Agreement is terminated in regard to relations between the Russian Federation and the Republic of Kenya.

Done in.....on the..... day of..... in duplicate, in Russian and English languages, all texts being equally authentic.

FOR THE GOVERNMENT OF THE  
RUSSIAN FEDERATION

FOR THE GOVERNMENT OF THE  
REPUBLIC OF KENYA

**ANNEX  
TO THE AIR SERVICES AGREEMENT BETWEEN  
THE GOVERNMENT OF THE RUSSIAN FEDERATION AND  
THE GOVERNMENT OF THE REPUBLIC OF KENYA**

1. Routes Schedule

- a) The designated airlines of the Russian Federation shall be entitled to operate international scheduled air services in both directions on the routes specified hereunder:

Points of Origin	Intermediate Points	Points of Destination	Points Beyond
Points in the Russian Federation	To be agreed later	Nairobi and other points*	To be agreed later

- b) The designated airlines of the Republic of Kenya shall be entitled to operate international scheduled air services in both directions on the routes specified hereunder:

Points of Origin	Intermediate Points	Points of Destination	Points Beyond
Points in Republic of Kenya	To be agreed later	Moscow and other points*	To be agreed later

\*Other points shall be subject to an agreement between the aeronautical authorities of the Parties.

Notes

1. Intermediate points and points beyond the territories the States of the Parties shall be subject to an agreement between the aeronautical authorities of the Parties. Intermediate points and points beyond may be omitted by the designated airlines of the Parties at their discretion.
2. The right to combine points of origin or points of destination in the territories the States of the Parties as well as intermediate points and points beyond shall be subject to the separate agreement between the aeronautical authorities of the Parties.
3. The right of the designated airlines of one Party to transport passengers, cargo and mail between the point in the territory the State of the other Party and points in the territory of the third countries (exercise of fifth freedom traffic right) shall be subject to the agreement between the aeronautical authorities of the Parties.
4. Any operation, along Transsiberian, Transpolar and Transasia Air Route networks in the airspace of the Russian Federation shall be subject to the separate agreement between the aeronautical authorities of the Parties.



5. Charter, additional and non-scheduled flights shall be carried out in accordance with laws and regulations of the Parties.

6. Any designated airline may enter into commercial and/or co-operative marketing arrangements including, but not limited to, blocked-space or code sharing 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 authorization and traffic rights;

b) both, the operating and marketing airlines hold the appropriate route rights;

c) the sale of services for carriage of passengers between a point in the territory of the other country and a point in a third country, or between points in the territory of the other country, be exercised only by an airline which holds such traffic rights;

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) code sharing agreement will be subject to approval by the Aeronautical Authorities of both sides.

end

