



PARLIAMENT OF KENYA LIBRARY

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

Telephone: (+254 20) 2729200 Fax: (+254 20) 2726362 Email: ps@transport.go.ke Website: www.transport.go.ke

TRANSCOM HOUSE NGONG ROAD P.O. Box 52692 - 00200 NAIROBI

DLSP

Pse deal. CMA

20th June, 2018

MOT&I/S/ADM/086 VOL.XVIII

21/6/18

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

Dear Sir

RATIFICATION OF BILATERAL AIR SERVICES AGREEMENTS BETWEEN AND JORDAN; KENYA AND JAMAICA; KENYA AND THE BAHAMAS; AND THE PROTOCOL AMENDING THE BILATERAL AIR SERVICES AGREEMENT BETWEEN KENYA AND TURKEY

Reference is made the above subject.

Further to our letter ref. no. MOT&I/S/ADM/086 VOL.XVIII/(52) dated 8th June, 2018, please find Explanatory Memorandum to Ratification of Bilateral Air Services Agreements between and Jordan; Kenya and Jamaica; Kenya and the Bahamas; and the Protocol Amending the Bilateral Air Services Agreement between Kenya and Turkey

Yours sincerely

[Handwritten signature]

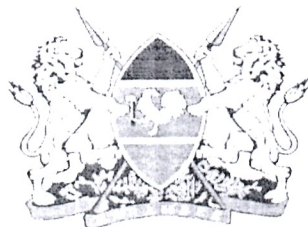
Prof. Arch. Paul M. Maringa (PhD), CBS, Corp. Arch, Maak, Mkip PRINCIPAL SECRETARY

Wanjum Ndindiri

Please deal.

① Hazel, HOD For attention of relevant committee after consultation with HOD HODs 21/6

RECEIVED



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

**EXPLANATORY MEMORANDUM TO RATIFICATION OF BILATERAL
AIR SERVICES AGREEMENTS BETWEEN AND JORDAN; KENYA AND
JAMAICA; KENYA AND THE BAHAMAS; AND THE PROTOCOL
AMENDING THE BILATERAL AIR SERVICES AGREEMENT
BETWEEN KENYA AND TURKEY**

Name of the statutory instrument	: Bilateral Air Services Agreements Between Kenya and Jordan initialed on 23 rd April, 2008; Kenya and Jamaica initialed on 20 th November, 2014; Kenya and the Bahamas initialed on 8 th December, 2016; and the Protocol amending the Bilateral Air Services Agreement between Kenya and Turkey initialed on 21 st October, 2015.
Name of the Parent Act	: The 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	: 15 th May, 2018

1. Purpose of the Statutory Instrument

The purpose of the instrument is to approve Bilateral Air Services Agreements between Kenya and various Countries to enable Kenyan air operators such as

Kenya Airways provide scheduled air services and expand their existing route network. In addition, the Agreements allow foreign carriers access the Kenyan market.

2. Legislative Context

The Agreements are 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 Agreements are 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.

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.

3. Policy Background

The Ministry of Transport, Infrastructure, Housing and Urban Development negotiates and reviews Bilateral Air Services Agreements between Kenya and various Countries to enable Kenyan air operators such as Kenya Airways provide scheduled air services and expand their existing route network. In addition, the Agreements allow foreign carriers access the Kenyan market. 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.

The Bilateral Air Services Agreements between Kenya and Jordan was negotiated and initiated on 23rd April, 2008, Kenya and Jamaica negotiated and initiated on 20th November, 2014 and Kenya and the Bahamas negotiated and initiated on 8th December, 2016. In order to operationalize the Agreements the delegations signed Memoranda of Understanding (MoU) that gave force to the Agreements while awaiting formal signing by the Cabinet Secretaries or Ministers in charge of Civil

Aviation. The Protocol amending the Air Services Agreement between Kenya and Turkey was initialed on 21st October, 2015.

The three Agreements are modeled on the ICAO template and are aimed at enabling designated airlines of either States to operate scheduled services between their territories without any restrictions.

The Kenya/Jordan Bilateral Air Services Agreement

The Bilateral Air Services Agreement between Kenya and Jordan was negotiated and initialed on 23rd April, 2008 in Amman, Jordan. It was operationalized by the signing of a Memorandum of Understanding.

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 5th freedom Traffic rights is subject to approval by the respective aeronautical authorities.

Currently, no Kenyan carrier operates scheduled air services to/from the Hashemite Kingdom of Jordan. Similarly, there is no airline from Jordan operating scheduled air services between the two States. However, the Jordanian authorities have on several occasions requested through diplomatic channels for the Agreement to be formally signed.

The Kenya/Jamaica Bilateral Air Services Agreement

The Bilateral Air Services Agreement between Kenya and Jamaica was negotiated and initialed on 20th November, 2014 in Bali, Indonesia.

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 5th freedom Traffic rights is subject to approval by the respective aeronautical authorities.

Jamaican authorities have requested for the Agreement to be formally signed.

Kenya/the Bahamas Bilateral Air Services Agreement

The Kenya/Bahamas Bilateral Air Services Agreement was negotiated and initialed on 8th December, 2016 in Nassau, the Bahamas. The Agreement has not been operationalized. The Memorandum of Understanding signed administratively allowed for application of the principles of the Agreement within the scope of the national regulations pending the formal signing of the Agreement after the completion of internal procedures by both parties to enable it enter into force.

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 5th freedom Traffic rights shall be subject to approval by the respective aeronautical authorities.

Currently, no carrier from either party operates scheduled air services on the route between the two States. However, the Bahamas has completed their internal constitutional/legal procedures and are ready to formally sign the Agreement to enable it enter into force.

Protocol Amending the Kenya/Turkey Air Services Agreement

The existing Air Services Agreement between Kenya and Turkey was formally signed on 20th February, 2009 in Nairobi. The Protocol amending the Agreement was negotiated and initialed on 21st October, 2015 in Antalya, Turkey. The amendment was to replace Article 13 "*Establishment of Tariffs*" of the Agreement by a new text outlined in Article 1 of the Protocol. This was done to make it more liberal.

The Turkish authorities have requested for the Protocol to be formally signed to enable it enter into force.

4. Consultation Outcome

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 and other local airlines. Stakeholders are consulted including the Kenya Association of Air Operators.

5. Impact

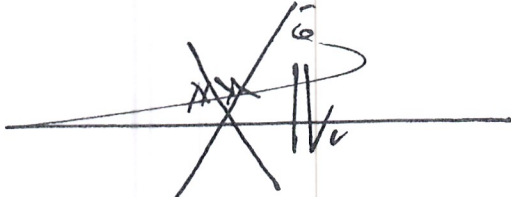
An impact assessment has not been prepared for this statutory instrument.

6. Monitoring and review

The Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works and the Kenya Civil Aviation Authority monitor and review the implementation of the Bilateral Air Services Agreements

7. Contact

Nicholas Bodo, Deputy Director Air Transport, Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works, Telephone No. 2729200, email address bodo@transport.go.ke

A handwritten signature in black ink, consisting of several overlapping loops and lines, positioned above a horizontal line.

Prof. Arch. Paul M. Maringa (PhD), CBS, Corp. Arch, MAAK, MKIP
PRINCIPAL SECRETARY