

MEMORANDUM OF UNDERSTANDING

1. Delegations representing the Aeronautical Authorities of the Governments of the Republic of Argentina and the Republic of South Africa (hereinafter referred to as "Argentina" and "South Africa" respectively or "the Parties" collectively) met in Pretoria on 18 March 1999 for bilateral consultations in relation to the draft Agreement for Air Services between the two Governments negotiated on 29 April 1993 (hereinafter referred to as "the Agreement").
2. The discussions were held in a cordial and friendly atmosphere and a list of the members of the two delegations appears as Annexure A.
3. The Parties have reached the following understanding:-

3.1 FREQUENCIES

Passenger Services:

The designated airlines of either Party shall be entitled to operate a total of three (3) weekly frequencies with any aircraft type.

The designated airlines can exercise their right in code-sharing in accordance with the provisions of paragraph 3.2.

Cargo Services

The designated airlines of either Party shall be entitled to operate a total of seven (7) weekly frequencies with any aircraft type and on any route.

The South African delegation agreed to study the following Argentinean proposal:

The airlines of each Contracting Party, regular and non-regular, will have the right to operate all-cargo flights, with no limitation of frequencies or capacity, with any type of aircraft, from points behind its territory, through points in its territory and intermediate points, to points located in the territory of the other Contracting Party, and to points beyond, with 3rd, 4th, 5th, 6th and 7th freedom traffic rights.

3.2 CODE-SHARING

The designated airlines of each Contracting Party that hold the required authorisation to operate the agreed air services, will be entitled to operate and /or offer the agreed services on the specified routes or on any of the sections of those routes, by way of different cooperative arrangements such as code sharing, blocked space, joint venture, or other ways of cooperation, with an airline or airlines that hold the appropriate authorization for that route, subject to the provisions normally applied to those arrangements.

All airlines in such arrangements must, in respect of any ticket sold by it, make it clear to the purchaser at the point of sale as to which airline will actually operate each sector of the service and with which airline or airlines the purchaser is entering into a contractual relationship.

Counting of Code-Shared Services

Each code-sharing service operated by the designated airlines of either country will count as one (1) frequency, whereas the code-sharing services of the marketing carrier will not be counted as a frequency.

3.3 ROUTE SCHEDULE

Both delegations have agreed to amend the current Route Schedule to allow access to all beyond and domestic points. A copy of the amended Route Schedule is attached as Annexure B.

3.4 DESIGNATION OF AIRLINES

In accordance with Article 3 (Designation and Authorisation) of the draft agreement, the Government of the Republic of South Africa designates South African Airways and the Government of the Republic of Argentina designates Aerolineas Argentinas Sociedad Anonima for the operation of scheduled air services. Each Contracting Party shall have the right to designate more than one airline for the operation of scheduled air services, on the specified routes; in such case the number of frequencies agreed for that Party will be the maximum to be operated by all the designated airlines of that Party.

3.5 DRAFT AGREEMENT FOR AIR SERVICES

The two delegations examined the main text of the Air Services Agreement which was agreed to and initialled during the negotiations held on 27 to 29 April 1993. Agreement was reached on legal corrections by the two delegations and the text of this revised text of the draft Air Services Agreement has been initialled, a copy of which appears as Attachment C.

3.6 OPERATION OF SERVICES

The designated airlines may enter into cooperative arrangements, which shall be subject to approval by both Aeronautical Authorities.

3.7 TARIFFS

The Parties agreed in principle to adopt a double disapproval regime for the establishment of tariffs. It was further agreed that the South African and Argentinean proposals will be studied with a view to reaching agreement on a suitable text through correspondence. Copies of the proposals are attached as Annexures E and F respectively.

3.8 GENERAL

For practical purposes, and due to the provisions of this Memorandum of Understanding replacing the provisions of the Memorandum of Understanding of 29 April 1993, it was agreed to re-iterate past decisions, which will remain in force, as stated hereunder:

3.8.1 CHANGE OF AIRCRAFT

The right to change aircraft on the territory of the other Contracting Party was discussed and it was agreed that this right will remain pending until the need arises at a later stage. The Argentinean proposal is added as Annexure D.

3.8.2 FIFTH FREEDOM TRAFFIC RIGHTS

The Parties agreed not to grant fifth freedom traffic rights. The Parties further agreed to address the issue at a later stage on the request of the designated airlines.

3.8.3 GROUND HANDLING

The designated airlines may perform ground handling in accordance with the domestic laws of each Contracting Party.

3.8.4 ADDITIONAL FLIGHTS

The operation of supplementary flights to the agreed frequencies is subject to the approval of the respective Aeronautical Authorities.

The provisions of this Memorandum of Understanding shall be effective from the date of signature and will supersede the Memorandum of Understanding of 29 April 1993. The provisions of the draft Air Services Agreement shall be brought into provisional effect as from the date of initialling thereof, to the extent possible under domestic law.

Signed at Pretoria 16th day of March 1999.

Mr Sipho Msikinya
LEADER OF THE SOUTH AFRICAN
DELEGATION

Architect Fermín Alarcia
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