

MEMORANDUM OF CONSULTATIONS

Representatives of the United States of America and the Republic of Sierra Leone met in Mumbai, India, at the ICAO Air Services Negotiation Conference (ICAN) on October 21, 2011 to continue discussions, which had been initiated between the U.S. Embassy in Freetown and the Sierra Leone Civil Aviation Authority (SLCAA), on negotiating an Open Skies agreement. Through subsequent discussions, the two sides reached *ad referendum* agreement on the text of an Open Skies air transport agreement (“the Agreement”). The text of the Agreement is attached at Attachment A; delegation lists are attached at Attachment B.

The Sierra Leonean delegation described a standing request from the African Union to include an entitlement in bilateral air transport agreements that would allow carriers from any member state of a particular regional economic grouping to fly under the terms of a bilateral agreement between another member state and a third party. In this instance, such a provision would mean carriers from any Economic Community of West African States (ECOWAS) member state could be authorized to operate between Sierra Leone and the United States under the terms of the U.S. - Sierra Leonean Open Skies agreement. The U.S. delegation explained that any third-country carrier that wishes to provide air transportation between Sierra Leone and the United States would be bound by the terms of the aviation relationship between its homeland and the United States, and would not be entitled to rights under the U.S.-Sierra Leonean agreement.

With respect to carriers of Sierra Leone owned or controlled by nationals of a third country, the U.S. delegation noted that ownership and control requirements are integral to the U.S. model air transport agreement. The U.S. Department of Transportation has the authority, however, to waive these requirements with respect to foreign airlines, and has generally done so when all countries involved are implementing Open Skies with the United States. The U.S. delegation noted that, of the fifteen member states of ECOWAS, nine (Benin, Burkina Faso, Cape Verde, Gambia, Ghana, Liberia, Mali, Nigeria, and Senegal) have Open Skies agreements with the United States.

The Sierra Leonean delegation noted that its model language on Commercial Opportunities differs in format from that of the United States. The Sierra Leonean delegation requested that Article 8 (“Commercial Opportunities”) include sub-headings to describe the Article’s contents. They also requested a Table of Contents for the Agreement. Both delegations recognized that the sub-headings and the Table of Contents are for informational purposes only.

The Sierra Leonean delegation asked that Article 11, paragraph 4, regarding filing of schedules, allow for the filing of schedules ten days prior to operation due to limited airport capacity in Sierra Leone. This would be for informational purposes only, not for approval. The U.S. delegation explained that the paragraph, as written, allows for the filing of schedules as may be required to enable access to limited airport infrastructure and/or facilities.

With regard to Article 12, the Sierra Leonean delegation expressed a desire to add language regarding consultations when pricing concerns arise. The U. S. delegation noted that Article 13 allows either Party, at any time, to request consultations relating to any section of this Agreement.

Both delegations noted the importance of the multilateral aviation security conventions and/or protocols listed in Article 7, paragraph 1.

The Sierra Leonean delegation noted that its model air transport agreement includes language committing the Parties, in the case of armed conflict or other unusual circumstances causing a Party to be unable to operate a service on its normal routing, to use best efforts to facilitate continued operation through temporary changes to routes. The U. S. delegation noted that such a clause is not necessary in the case of an Open Skies air transport agreement because carriers already have the flexibility to change routes and operations as they see fit.

Both delegations noted the intention of their aeronautical authorities to permit operations consistent with the terms of the Agreement on the basis of comity and reciprocity, pending its entry into force.

FOR THE DELEGATION OF THE
UNITED STATES OF AMERICA:

Thomas S. EVANS
June 26, 2012

FOR THE DELEGATION OF THE REPUBLIC
OF SIERRA LEONE:

[Signature]
CMPT V.E.O. SPAINWE 26/6/2012