

Memorandum of Consultations

1. Delegations of the Republic of Namibia and the United States of America met in Colombo, Sri Lanka on December 6, 2017, under the auspices of the tenth ICAO Air Services Negotiation Event (ICAN 2017).
2. The delegations noted that the Air Transport Agreement between the Government of the Republic of Namibia and the Government of the United States of America, signed at Windhoek on March 16, 2000 (the "Agreement"), has not entered into force, but the Parties have continued to permit operations consistent with that Agreement on the basis of comity and reciprocity. The delegations also noted that Annex III to the Agreement no longer has applicability and Annex IV to the Agreement expired by its terms in 2002.
3. Mindful of the importance of expanding opportunities in keeping with the spirit of the Agreement, the delegations reached *ad referendum* agreement to amend the Agreement as per the attached Agreement to Amend.
4. The delegations further expressed the intent of their respective aeronautical authorities to permit operations consistent with the terms of the Agreement to Amend on the basis of comity and reciprocity, from the date of signature of this Memorandum of Consultations, pending its entry into force.
5. The delegations further expressed their intention to take the steps necessary for the entry into force of the Agreement in accordance with its Article XVIII (Entry into force) within a reasonable time.

For the Namibia Delegation:

CEORIC LIMBO

Place: Colombo, Sri Lanka
Date: December 7, 2017

For the United States Delegation:

Yenni P. Robel

Place: Colombo, Sri Lanka
Date: December 7, 2017

**AGREEMENT AMENDING THE
AIR TRANSPORT AGREEMENT
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF NAMIBIA**

The Government of the Republic of Namibia and the Government of the United States of America (hereinafter, the "Parties");

Desiring to modernize and strengthen their bilateral aviation relationship and to expand all-cargo international air transport opportunities in order to facilitate increased and more efficient commerce and trade;

Have agreed to amend the Air Transport Agreement between the Government of the United States of America and the Government of the Republic of Namibia, signed at Windhoek March 16, 2000 (the "Agreement"), as follows:

Article 1

Amendments to Annex I ("Scheduled Air Transportation")

In Annex I to the Agreement:

1. Section 1, paragraph A, shall be deleted and replaced with the following:
 - A. Routes for the airline or airlines designated by the Government of the United States:

From points behind the United States via the United States and intermediate points to any point or points in the Republic of Namibia and beyond; and for all-cargo service, between the Republic of Namibia and any point or points.

2. Section 1, paragraph B, shall be deleted and replaced with the following:
 - B. Routes for the airline or airlines designated by the Government of the Republic of Namibia:

From points behind the Republic of Namibia via the Republic of Namibia and intermediate points to any point or points in the United States and beyond; and for

all-cargo service, between the United States and any point or points.

3. Section 2 shall be amended by deleting paragraph 6 and replacing it with the following paragraph 6 and final clause. The final clause shall be applicable to paragraphs 1 to 6 of Section 2 of Annex I.

6. serve points behind any point in its territory with or without change of aircraft or flight number and may hold out and advertise such services to the public as through services;

without directional or geographic limitation and without loss of any right to carry traffic otherwise permissible under this Agreement; provided that, with the exception of all-cargo services, the service serves a point in the territory of the Party designating the airline.

4. Section 3 shall be deleted and replaced with the following:

Section 3

Change of Gauge

On any segment or segments of the routes above, any designated airline may perform international air transportation without any limitation as to change, at any point on the route, in type or number of aircraft operated; provided that, with the exception of all-cargo services, in the outbound direction, the transportation beyond such point is a continuation of the transportation from the territory of the Party that has designated the airline and, in the inbound direction, the transportation to the territory of the Party that has designated the airline is a continuation of the transportation from beyond such point.

Article 2

Amendments to Annex II ("Charter Air Transportation")

Section I of Annex II to the Agreement shall be deleted and replaced with the following:

Section I

A. Airlines of each Party designated under this Annex shall, in accordance with the terms of their designation, have the right to carry international charter traffic of passengers (and their accompanying baggage) and/or cargo

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(including, but not limited to, freight forwarder, split, and combination (passenger/cargo) charters):

1. Between any point or points in the territory of the Party that has designated the airline and any point or points in the territory of the other Party; and
 2. Between any point or points in the territory of the other Party and any point or points in a third country or countries, provided that, with the exception of all-cargo services, such service constitutes part of a continuous operation, with or without a change of aircraft, that includes service to the homeland for the purpose of carrying local traffic between the homeland and the territory of the other Party.
- B. In the performance of services covered by this Annex, airlines of each Party designated under this Annex shall also have the right: (1) to make stopovers at any points whether within or outside of the territory of either Party; (2) to carry transit traffic through the other Party's territory; (3) to combine on the same aircraft traffic originating in one Party's territory, traffic originating in the other Party's territory, and traffic originating in third countries; and (4) to perform international air transportation without any limitation as to change, at any point on the route, in type or number of aircraft operated; provided that, with the exception of all-cargo services, in the outbound direction, the transportation beyond such point is a continuation of the transportation from the territory of the Party that has designated the airline and in the inbound direction, the transportation to the territory of the Party that has designated the airline is a continuation of the transportation from beyond such point.
- C. Each Party shall extend favorable consideration to applications by airlines of the other Party to carry traffic not covered by this Annex on the basis of comity and reciprocity.

Article 3

Deletion of Annex III ("Principles of Non-Discrimination Within and Competition among Computer Reservations Systems") and Annex IV ("Transitional Provisions")

Annexes III and IV shall be deleted in their entirety.

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Article 4

Entry into Force

This agreement shall enter into force on the later of the date of signature of this agreement and the date of entry into force of the Air Transport Agreement between the Government of the United States of America and the Government of the Republic of Namibia, signed at Windhoek March 16, 2000.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this agreement.

DONE at _____, this _____ day of _____, 20__, in two originals, in the English language.

FOR THE GOVERNMENT OF THE
REPUBLIC OF NAMIBIA:

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

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