

EMBASSY OF BELGIUM



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September 5, 1995.

Dear Mr. Secretary,

I have the honor to acknowledge receipt of Your note of September 5, 1995 which reads as follows:

QUOTE

"Excellency:

I have the honor to refer to discussions held by representatives of our two governments in Washington February 28 and March 1, 1995 concerning the Air Transport Agreement between the Government of the United States of America and the Government of Belgium, with annexes, effected by exchange of notes at Washington October 23, 1980, as amended (hereinafter the Agreement).

In light of the understandings reached in those discussions, I have the honor to propose, on behalf of the Government of the United States of America, that the Agreement be further amended as follows:

1. Article 1:

Delete subparagraphs (ii) and (iii) from paragraph (g).

Add: "or services including related services or facilities" to the end of paragraph (j).

Add a new paragraph: "(k) "Full cost" means the cost of providing service plus a reasonable charge for administrative overhead."

2. Article 3:

Add: "and Article 7 (Aviation Security)" to end of subparagraph (2) (c).

Add a new paragraph (3): "(3) This Article does not limit the rights of either Party to withhold, revoke, limit or impose conditions on the operating authorization or technical permission of an airline or airlines of the other Party in accordance with the provisions of Article 7 (Aviation Security)."

## 3. Article 6:

Delete "and security" from the first and second sentences of paragraph (2).

## 4. Article 7:

Add: "Without limiting the generality of their rights and obligations under international law" at the beginning of

paragraph (3) and add the words "in particular" between "shall" and "act" in the same sentence.

Delete the last two sentences from paragraph (4).

Delete: "referred to in paragraph 4" from paragraph (5).

## 5. Article 8:

Add: "except as may be specifically provided by the charter regulations of the country in which the charter originates that relate to the protection of passenger funds, and passenger cancellation and refund rights" to the end of the first sentence in paragraph (4).

Add: "on the date the carrier makes the initial application for remittance" to the end of the second sentence of paragraph (5).

Add a new paragraph (6): " (6) The airlines of each Party shall be permitted to pay for local expenses, including purchases of fuel, in the territory of the other Party in local currency. At their discretion, the airlines of each Party may pay for such expenses in the territory of the other Party in freely convertible currencies according to local currency regulation."

Add a new paragraph (7): "(7)(a) In operating or holding out the authorized services on the agreed routes, provided that all airlines in such arrangements 1) hold the appropriate authority and 2) meet the requirements normally applied to such arrangements, any designated airline of one Party may enter into cooperative marketing arrangements such as blocked-space, code-sharing or leasing arrangements, with

- i) an airline or airlines of either Party; and
- ii) an airline or airlines of a third country, provided that such third country authorizes or allows comparable arrangements between the airlines of the other Party and other airlines on services to, from and via such third country;

(b) notwithstanding the proviso of ii above, if an airline of one Party holds out service between a point in the other Party and a point in a third country by means of a code-share arrangement on any segment of that service with an airline of the other Party, the first Party must authorize or allow any airline of the other Party to code share with any airline on any segment of services between that third country and the other Party via a point or points in the first Party."

6. Article 9:

Add to paragraph (2) a new subparagraph (d):

"(d) promotional and advertising materials introduced into or supplied in the territory of one Party and taken on board, within reasonable limits, for use on outbound aircraft of an airline of the other Party engaged in international air transportation, even when these stores are to be used on a part of the journey performed over the territory of the Party in which they are taken on board."

7. Article 10:

Delete in its entirety and replace with the following :

"(1) User charges that may be imposed by the competent charging authorities or bodies of each Party on the airlines of the other Party shall be just, reasonable, not unjustly discriminatory, and equitably apportioned among categories of users. In any event, any such user charges shall be assessed on the airlines of the other Party on terms not less favorable than the most favorable terms available to any other airline at the time the charges are assessed.

(2) User charges imposed on the airlines of the other Party may reflect, but shall not exceed, the full cost to the competent charging authorities or bodies of providing the appropriate airport, airport environmental, air navigation, and aviation security facilities and services at the airport or within the airport system. Such full cost may include a reasonable return on assets, after depreciation. Facilities and services for which charges are made shall be provided on a efficient and economic basis.

(3) Each Party shall encourage consultations between the competent charging authorities or bodies in its territory and the airlines using the services and facilities, and shall encourage the competent charging authorities or bodies and the airlines to exchange such information as may be necessary to permit an accurate review of the reasonableness of the charges in accordance with the

principles of paragraphs (1) and (2) of this Article. Each Party shall encourage the competent charging authorities to provide users with reasonable notice of any proposal for changes in user charges to enable users to express their views before charges are made.

(4) Neither Party shall be held, in dispute resolution procedures pursuant to Article 14, to be in breach of a provision of this Article, unless (i) it fails to undertake a review of the charge or practice that is the subject of complaint by the other Party within a reasonable amount of time; or (ii) following such a review it fails to take all steps within its power to remedy any charge of practice that is inconsistent with this Article."

8. Article 11: Delete paragraph (2).

9. Article 12:

Amend subparagraph (1)(a) to read: "(a) prevention of unreasonably discriminatory prices or practices;"

Substitute : "30 days" for "45 days" in paragraph (2).

Delete: "for passenger services and 60 days for cargo services" from the end of the second sentence in paragraph (2).

Add: "except as may be required on a non-discriminatory basis for information purposes" to the end of the last sentence of paragraph (2).

Delete paragraph (4).

10. Article 13:

Amend to read in its entirety as follows:

"Intermodal services: Notwithstanding any other provision of this Agreement, airlines and indirect providers of cargo transportation of both Parties shall be permitted, without restriction, to employ in connection with international air transportation any surface transportation for cargo to or from any points in the territories of the Parties or in third countries, including transport to and from all airports with customs facilities, and including, where applicable, the right to transport cargo in bond under applicable laws and regulations. Such cargo, whether moving by surface or by air, shall have access to airport customs processing and facilities. Airlines may elect to perform their own surface transportation or to provide it through

arrangements with other surface carriers, including surface transportation operated by other airlines and indirect providers of cargo air transportation. Such intermodal cargo services may be offered at a single, through price for the air and surface transportation combined, provided that shippers are not misled as to the facts concerning such transportation."

11. Article 14: Delete

12. Article 15: Delete

13. Article 17:

Add after the first sentence in paragraph (3): "The Tribunal, once formed, may recommend interim relief measures pending its final determination."

14. Article 20:

Amend to read in its entirety as follows: "If, after entry into force of this Agreement, both Parties become Party to a multilateral agreement that addresses matters covered by this Agreement, they shall consult to determine whether this Agreement should be revised to take into account the multilateral agreement."

15. Annex I:

Amend Section 1 to read in its entirety as follows:

"Section 1

Airlines of each Party designated under this Annex shall, in accordance with the terms of their designation, be entitled to perform scheduled international air transportation between points on the following routes:

"A. Routes for the airline or airlines designated by the government of the United States of America:

From points behind the United States via the United States and intermediate points to a point or points in Belgium and beyond.

B. Routes for the airline or airlines designated by the government of Belgium:

From points behind Belgium via Belgium and intermediate points to a point or points in the United States and beyond."

Amend Section 2 in its entirety to read as follows:

"Section 2 Operational flexibility

Each designated airline may, on any or all flights and at its option:

1. Operate flights in either or both directions;
2. Combine different flight numbers within one aircraft operation;
3. Serve points on the routes in any combination and in any order (which may include serving intermediate points as beyond points and beyond points as intermediate points);
4. Omit stops at any point or points;
5. Transfer traffic from any of its aircraft to any of its other aircraft at any point on the routes; and
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 geographical limitation and without loss of any right to carry traffic otherwise permissible under this Agreement; provided that the service serves a point in the territory of the Party designating the airline."

Amend Section 3 in its entirety to read as follows:

"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, 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."

Delete Section 4.

16. Annex II:

Amend Sections 1 and 2 to read in their entirety as follows:

"Section 1

The designated airlines of each Party shall have the right to carry international charter traffic in passengers (and their accompanying baggage) and/or cargo between any point or points in one Party via intermediate points to any point or points in the other Party and beyond, provided that the service must serve a point in the territory of the Party designating the airline.

In the performance of service covered by this Annex, the airlines of one Party shall also have the right: (1) to make stopovers at any points whether within or outside the territory of either Party; (2) to carry traffic through the other Party's territory; (3) to combine on the same aircraft traffic originating in one Party's territory with traffic originating in the other Party's territory; (4) to combine on the same aircraft traffic originating at or destined for a point or points behind a point in its territory with U.S. - Belgium traffic; and (5) to combine on the same aircraft traffic originating at or destined for an intermediate point or points or traffic originating at or destined for a point or points beyond the territory of either Party with U.S.- Belgium traffic.

Each Party shall extend favorable consideration to applications by the designated airlines of the other Party to carry traffic not covered by this Annex on the basis of comity and reciprocity.

## Section 2

Any airline designated by either Party performing international charter air transportation originating in the territory of either Party shall have the option of complying with the charter laws, regulations and rules of either its homeland or of the other Party. If a Party applies different rules, regulations, terms, conditions or limitations to one or more of its airlines, or to airlines of different countries, each designated airline shall be subject to the least restrictive criteria. However, nothing in this paragraph shall limit the rights of one Party to require airlines designated under this Annex by the other Party to adhere to requirements relating to the protection of passenger funds and passenger cancellation and refund rights."

Add to the beginning of Section 3 the following: "Except with respect to the consumer protection rules referred to in the preceding paragraph above,..."

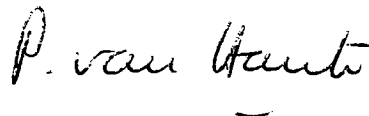
17. Where additions are made, it is assumed that the Parties will renumber paragraphs and subparagraphs and repunctuate appropriately.

If these proposals are acceptable to the Government of Belgium, I have the further honor to propose that this note and Your Excellency's note in reply shall constitute an agreement between our two governments, which shall be provisionally applicable from the date of Your Excellency's note and shall enter into force following written notification through the diplomatic channel by each Party that it has complied with the procedure required by its legislation.

Accept, Excellency, the renewed assurances of my highest consideration." UNQUOTE

I have the honor to inform You that these proposals for the amendment of the 1980 Air Transport Agreement between the United States and Belgium are acceptable to the Government of Belgium and that this note and Your above-referenced note shall constitute an agreement between our two Governments, which shall be provisionally applicable from the date of this note and shall enter into force following written notification through the diplomatic channel by each Party that it has complied with the procedure required by its legislation.

Accept, Dear Mr. Secretary, the renewed assurances of my highest consideration.



Patrick van Haute  
Chargé d'Affaires of Belgium

The Honorable Warren Christopher  
Secretary of State  
Washington, D.C.