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5/11/26

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION- 2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE

REPORT ON:

THE RATIFICATION OF BILATERAL AIR SERVICES AGREEMENTS (BASAs) BETWEEN THE REPUBLIC OF KENYA AND VARIOUS COUNTRIES

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 05 NOV 2026
DAY. THURSDAY
TABLED BY: CHAIRPERSON HON - G. K. KARIUKI
CLERK-AT-THE-TABLE: J. Lemerella

Directorate of Departmental Committees
Clerk's Chambers
Parliament Buildings
NAIROBI

NOVEMBER 2026

NATIONAL ASSEMBLY
RECEIVED
05 NOV 2026
SPEAKER'S OFFICE
P.O. Box 41842-00100 NAIROBI

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LIST OF ABBREVIATIONS AND ACRONYMS

AFRAA	-	African Airlines Association
API	-	Advance Passenger Information
BASA/BASAs	-	Bilateral Air Services Agreement(s)
CORSIA	-	Carbon Offsetting and Reduction Scheme for International Aviation
EU	-	European Union
ICAO	-	International Civil Aviation Organization
IATA	-	International Air Transport Association
IDF	-	Import Declaration Fee
JKIA	-	Jomo Kenyatta International Airport
KAA	-	Kenya Airports Authority
KAAO	-	Kenya Association of Air Operators
KAICC	-	Kenya Association of International Cargo Consolidators
KCAA	-	Kenya Civil Aviation Authority
KQ	-	Kenya Airways
MRO	-	Maintenance, Repair and Overhaul
MoU	-	Memorandum of Understanding
PNR	-	Passenger Name Record
RoD/RoDs	-	Record(s) of Discussion
RDL	-	Railway Development Levy
SARPs	-	Standards and Recommended Practices
SITA	-	Société Internationale de Télécommunications Aéronautiques
TASA/TASAs	-	Template Air Services Agreement(s)
VAT	-	Value Added Tax

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CHAIRPERSON'S FOREWORD

This Report presents the proceedings of the Departmental Committee on Transport and Infrastructure on its consideration of the Ratification of Bilateral Air Services Agreements (BASAs) between Kenya and various countries, namely: Cabo Verde, the Sultanate of Oman, Algeria, Federative Republic of Brazil, Republic of Zimbabwe, Grand Duchy of Luxemburg, Federal Republic of Somalia, Iceland, Dominican Republic, Russian Federation, Republic of Guinea, the United Kingdom, Republic of Korea, Kingdom of Morocco, Republic of Poland, Republic of Haiti and the Kingdom of Eswatini.

The Agreements were tabled in the House on 5th August 2026 and subsequently referred to the Departmental Committee on Transport and Infrastructure for consideration and reporting to the House pursuant to Section 8 of the Treaty Making and Ratification Act, 2012.

The main objective of the Bilateral Air Services Agreements is to establish a framework for the provision of scheduled international air services between Kenya and the respective partner countries. The Agreements seek to enable Kenyan air operators, including Kenya Airways, to provide scheduled air services and expand their existing route networks. They also facilitate access to the Kenyan market by foreign carriers, promote connectivity through commercial arrangements such as codeshare agreements, and provide for the designation of airlines, traffic rights, flight frequencies and other operational arrangements.

Pursuant to the provisions of Article 118(1)(b) of the Constitution, the Committee, through an advertisement in the print media dated 14th August 2026, invited members of the public to submit memoranda on the proposed ratification of the Agreements. On 16th October 2026, the Committee held a stakeholders' engagement meeting with representatives from the State Department for Foreign Affairs, the Office of the Attorney-General, the Kenya Civil Aviation Authority (KCAA), the Kenya Airports Authority (KAA), Kenya Airways (KQ), the Kenya Association of Air Operators (KAAO), the African Airlines Association (AFRAA) and Safari Link Aviation Limited. The Committee also received written submissions from the State Department for Aviation and Aerospace Development, Mr. Andrew Tumbu and the Mau Mau Post-Colonial Children Elites.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the technical, procedural and logistical support accorded to it throughout the consideration of the Agreements. I also acknowledge the valuable contributions made by the Stakeholders. Finally, I express my appreciation to the Honourable Members of the Committee for their diligence and commitment, and to the Committee Secretariat for their dedication and support in the preparation of this Report.

Pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, and the applicable provisions of the National Assembly Standing Orders, it is my privilege and honour to present to the House the Report of the Departmental Committee on Transport and Infrastructure on the Ratification of Bilateral Air Services Agreements between the Republic of Kenya and various countries.

Having considered the Agreements, the views expressed by stakeholders and the written submissions received, the Committee recommends that the House **APPROVES** the ratification of the seventeen (17) Bilateral Air Services Agreements between the Republic of Kenya and the respective partner states. The Committee further urges the Ministry of Roads and Transport, through the State Department for Aviation and Aerospace Development, in collaboration with other relevant Ministries, Departments and Agencies, to address the implementation and policy issues identified in this Report.

Hon. GK George Kariuki, CBS, MP
Chairperson,
Departmental Committee on Transport and Infrastructure

CHAPTER ONE

1.0 PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Transport and Infrastructure is one of the twenty Departmental Committees established under Standing Order No. 216 whose mandate pursuant to Standing Order 216 (5) is as follows:
   a) *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
   b) *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
   c) *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
   d) *To study and review all the legislation referred to it;*
   e) *To study, access and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
   f) *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
   g) *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);*
   h) *To examine treaties, agreements and conventions;*
   i) *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
   j) *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
   k) *To examine any questions raised by Members on a matter within its mandate.*

1.2 Mandate of the Committee

2. In accordance with the Second Schedule to the Standing Orders, the Committee is mandated to consider transport, including non-motorized transport and maintenance of roads, rails, air and marine transport, seaports and national integrated infrastructure policies and programmes and transport safety.

3. In executing its mandate, the Committee oversights the Ministry of Roads and Transport, which has the State Department of Roads, the State Department for Transport and the State Department for Aviation and Aerospace Development; and the State Department for Shipping and Maritime Affairs under the Ministry of Mining, Blue Economy and Maritime Affairs.

1.3 Committee Membership

4. The Departmental Committee on Transport and Infrastructure was reconstituted by the House on 5th March 2025 and comprises the following Members:

Chairperson
The Hon. G.K. George Kariuki, CBS, MP
Ndia Constituency
United Democratic Alliance Party

Vice-Chairperson
The Hon. Mutua Didmus Wekesa Barasa, MP
Kimilili Constituency
United Democratic Alliance Party

Members

The Hon. Samuel Arama, MP
Nakuru Town Constituency
Jubilee Party

The Hon. Festus Mwangi Kiunjuri, MP
Laikipia East Constituency
The Service Party

The Hon. Abdul Rahim Dawood, MP
North Imenti Constituency
Independent Member

The Hon. Bady Bady Twalib, MP
Jomvu Constituency
Orange Democratic Movement Party

The Hon. Johnson Manya Naicca, MP
Mumias West Constituency
Orange Democratic Movement Party

The Hon. Husseinweitan Mohamed Abdirahman, MP
Mandera East Constituency
Orange Democratic Movement Party

The Hon. Elsie Muhanda, MP
Kakamega County
Orange Democratic Movement Party

The Hon. Komingoi Kibet Kirui, MP
Bureti Constituency
United Democratic Alliance Party

The Hon. Francis T. J. Kajwang', MP
Ruaraka Constituency
Orange Democratic Movement Party

The Hon. Ibrahim Abdi Saney, MP
Wajir North Constituency
United Democratic Alliance Party

The Hon. John Kiragu Chege, MP
Limuru Constituency
United Democratic Alliance Party

The Hon. Zaheer Jhanda, MP
Nyaribari Chache Constituency
United Democratic Alliance Party

The Hon. Betty Njeri Maina, MP
Murang'a County
United Democratic Alliance Party

1.4 Committee Secretariat

5. The Committee is facilitated by the following Secretariat:

Head of Secretariat
Mr. John Mugoma
Senior Clerk Assistant

Mr. Mohamednur M. Abdullahi
Clerk Assistant II

Mr. Binensa Mabungu
Clerk Assistant II

Mr. Abdinasir Y. Moge
Fiscal Analyst

Mr. Erick Kariuki
Research Officer

Ms. Faith Makena
Serjeant-at-Arms II

Ms. Patricia Gichane
Legal Counsel

Mr. Kevin Obilo
Media Relations Officer

Ms. Rehema Koech
Audio Officer

CHAPTER TWO

2.0 BACKGROUND

2.1 Analysis of Bilateral Air Services Agreements

6. Bilateral Air Services Agreements (BASAs) are agreements between two States that establish the legal and operational framework for the provision of scheduled international air services between them. The Agreements regulate the rights and obligations of the contracting States in relation to international air transport, including the designation of airlines, traffic rights, flight frequencies, routes and other operational arrangements.

7. The Ministry responsible for transport negotiates and reviews Bilateral Air Services Agreements between Kenya and various countries to enable Kenyan air operators, including Kenya Airways, to provide scheduled air services and expand their existing route networks. The Agreements also facilitate access to the Kenyan market by foreign carriers.

8. The Agreements enable airlines to expand their existing route networks by directly operating scheduled services to other markets. Where airlines are unable to offer services directly, the Agreements facilitate commercial arrangements, including codeshare agreements, which enable airlines to serve additional markets and improve connectivity for the travelling public.

9. The Agreements are negotiated in line with the Integrated National Transport Policy, which provides for the liberalization of new and existing air services agreements based on the Yamoussoukro Decision for countries within Africa and on the principles of fair and equal opportunity and reciprocity for other countries.

10. The Agreements are based on standard templates issued by the International Civil Aviation Organization (ICAO) and contain provisions on the grant of traffic rights, designation and authorization of airlines, application of national laws, recognition of certificates and licences, aviation safety and security, customs duties and other charges, among other matters.

11. To operationalize the Agreements, the delegations representing the contracting States may sign a Memorandum of Understanding (MoU) or a Record of Discussion, pending formal signing by the Cabinet Secretaries or Ministers responsible for civil aviation. In other instances, the Agreements contain provisions requiring formal signing before they enter into force.

2.2 Analysis of the Memoranda on the Ratification of Bilateral Air Services Agreements between Kenya and Various Countries

12. The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, Hon. Dr. Musalia Mudavadi, E.G.H., submitted two Parliamentary Memoranda seeking the approval of the National Assembly for the ratification of Bilateral Air Services Agreements between Kenya and various countries.

13. The first Memorandum relates to the Bilateral Air Services Agreements between Kenya and Cabo Verde, Oman, Algeria, Brazil, Zimbabwe and Luxembourg, which were approved by Cabinet during its meeting held on 27th April 2023.

14. The second Memorandum relates to the Bilateral Air Services Agreements between Kenya and the Federal Republic of Somalia, Iceland, the Dominican Republic, the Russian Federation, Guinea, the United Kingdom, Zimbabwe, South Korea, Morocco, Poland, Haiti, Algeria and Swaziland. Cabinet approval for these Agreements was granted during its meeting held on 4th July 2024.

15. The Memoranda indicate that the Agreements are aligned with the Medium-Term Plan and the Kenya Airways route network expansion plan. They further indicate that the Agreements do not propose amendments to the Constitution and have no financial implications.

16. The Agreements between Kenya and the respective countries were negotiated and initialled or signed on different dates and have been operationalized through the signing of Memoranda of Understanding, Records of Discussion or other agreed instruments, as applicable. The dates and operational arrangements for the respective Agreements are set out in the Parliamentary Memoranda submitted to the National Assembly.

17. The Agreements contain provisions on the designation of multiple airlines, the number of weekly frequencies for passenger and cargo services, aircraft capacity, route schedules and the exercise of traffic rights. The specific provisions vary from one Agreement to another.

18. The Agreements generally provide for multiple designation of airlines, allowing each contracting State to designate one or more airlines to operate the agreed services. They also provide for unlimited or specified weekly frequencies for passenger and cargo services, depending on the terms of the respective Agreement.

19. The Agreements provide for open and liberal route schedules and, in most cases, do not impose restrictions on aircraft capacity. However, the applicable frequencies, capacity provisions and other operational conditions are determined by the terms of each Agreement.

20. The Agreements also provide for the exercise of fifth freedom traffic rights, which permit an airline to transport passengers or cargo between two foreign States as part of an international service originating from or terminating in its own country. The exercise of these rights within Africa is provided for in accordance with the Yamoussoukro Decision, while their exercise outside Africa is, in applicable cases, subject to approval by the respective aeronautical authorities.

21. The Agreements between Kenya and the respective countries provide opportunities for the expansion of air services and route networks, increased connectivity and cooperation in international air transport. The Committee is required to consider whether the proposed

Agreements are consistent with the Constitution of Kenya and whether they promote Kenya's national aviation interests.

22. The Committee, in considering the proposed ratification of the Agreements, is also required to take into account the views of the public and relevant stakeholders, together with the applicable legal and constitutional provisions governing the ratification of treaties in Kenya.

2.3 Legal Framework

23. Article 2(5) of the Constitution of Kenya, 2010 provides that the general rules of international law shall form part of the law of Kenya, while Article 2(6) provides that any treaty or convention ratified by Kenya shall form part of the law of Kenya.

24. Article 94(5) of the Constitution provides that no person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by the Constitution or by legislation. This provision underlines the role of Parliament in the legislative framework governing the ratification of treaties.

25. The Treaty Making and Ratification Act, No. 45 of 2012, was enacted by Parliament to give effect to Article 2(6) of the Constitution and to provide a framework for the making and ratification of treaties in Kenya.

26. Section 2 of the Act defines a treaty as an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments, and whatever its particular designation, including a convention. The Act also defines ratification as the international act by which a State signifies its consent to be bound by a treaty and includes acceptance, approval and accession where the treaty so provides.

27. Under the Act, the responsibility for initiating the treaty-making process, negotiating and ratifying a treaty lies with the Executive. In making decisions relating to treaty-making, the Executive is required to be guided by the considerations set out in Section 5(2) of the Act.

28. Section 7 of the Act provides that where the Government intends to ratify a treaty, the Cabinet Secretary of the relevant State Department shall, in consultation with the Attorney-General, submit the treaty to Cabinet together with a memorandum outlining the relevant considerations for Cabinet approval.

29. Section 8 of the Act provides for the consideration of treaties by Parliament. Upon approval of a treaty by Cabinet, the relevant Cabinet Secretary submits the treaty together with a memorandum on the treaty to the Speaker of the National Assembly for tabling in accordance with the National Assembly Standing Orders.

30. Section 8(3) of the Act provides that the relevant parliamentary committee shall consider the treaty and ensure public participation in the ratification process in accordance with the laid-down parliamentary procedures.

31. Section 8(4) of the Act provides for approval of the ratification of a treaty without reservations, while Section 8(5) provides for approval with reservations to specific provisions of the treaty. Section 8(7) provides for the consequences where the National Assembly declines to approve the ratification of a treaty.

32. Section 8(9) of the Act provides that the National Assembly shall not approve the ratification of a treaty or any part thereof if its provisions are contrary to the Constitution. It also prohibits the approval of a reservation that negates any provision of the Constitution, even where the reservation is permitted under the relevant treaty.

33. Section 12 of the Act provides that a treaty shall not be ratified unless it has been considered and approved by Cabinet and Parliament in accordance with the Act.

34. Standing Order 216(5)(fa) provides for the function of Departmental Committees to examine treaties, agreements and conventions.

35. The procedure for the ratification of treaties is further provided for under Part XXI of the National Assembly Standing Orders, particularly Standing Order 170A. Standing Order 170A (1) provides that a treaty submitted to the National Assembly for ratification shall be laid on the Table of the House and stand committed to the relevant Committee for consideration.

36. Standing Order 170A (2) requires the Committee to undertake public participation before submitting its report to the House. Standing Order 170A (3) further empowers the Committee to require the relevant Cabinet Secretary to submit additional information, including information on the short-term, medium-term and long-term social and environmental impact of the treaty and the nature and evidence of any public participation conducted on the treaty.

37. Standing Order 170A (4) provides that the Committee's report to the House shall include the views of the people arising from public participation, the Committee's findings on the treaty and a recommendation that the House approves the ratification of the treaty, approves the ratification with reservations or rejects the ratification.

38. Standing Order 170A (5) provides that where the House approves the ratification of a treaty with reservations, it shall specify the affected provisions and the proposed text of each reservation. Standing Order 170A (6) provides that upon the decision of the House on a treaty, the Clerk shall, within seven days, notify the relevant Cabinet Secretary and enter the information in the register of treaties.

CHAPTER THREE

3.0 PUBLIC PARTICIPATION/STAKEHOLDER ENGAGEMENT

39. In accordance with Article 118(1)(b) of the Constitution of Kenya, 2010, Section 8(3) of the Treaty Making and Ratification Act, 2012, and Standing Order 170A (2) of the National Assembly Standing Orders, the Clerk of the National Assembly placed an advertisement in the local daily newspapers on 14th August 2026, inviting members of the public to submit memoranda on the proposed ratification of the Bilateral Air Services Agreements (BASAs) between Kenya and various countries. Further, vide a letter Ref: NA/DDC/T&I/2026/097 dated 6th October 2026, the Committee requested comments and submissions from relevant stakeholders, namely the National Treasury; the State Department for Foreign Affairs; the State Department for Aviation and Aerospace Development; the Office of the Attorney-General and Department of Justice; the Kenya Civil Aviation Authority (KCAA); Kenya Airways (KQ); the Kenya Association of Air Operators (KAAO); the African Airlines Association (AFRAA); and the Law Society of Kenya (LSK).

40. Additionally, vide letters Ref: NA/DDC/T&I/2026/101 and Ref: NA/DDC/T&I/2026/102, dated 8th October 2026, the Committee invited the Kenya Airports Authority (KAA) and the Kenya Association of International Cargo Consolidators (KAICC), respectively, to submit their comments and participate in the stakeholder engagement on the proposed ratification of the Agreements.

41. Further on Friday, 16th October 2026, the Committee held a stakeholders' engagement meeting on the proposed ratification of the Bilateral Air Services Agreements (BASAs) between Kenya and various countries. During the engagement, the Committee received submissions from the following stakeholders:

    a) State Department for Foreign Affairs;
    b) Office of the Attorney-General and Department of Justice;
    c) Kenya Civil Aviation Authority (KCAA);
    d) Kenya Airports Authority (KAA);
    e) Kenya Airways (KQ);
    f) Kenya Association of Air Operators (KAAO); and
    g) African Airlines Association (AFRAA).

42. In addition to the submissions received during the stakeholders' engagement, the Committee received written memoranda from the following stakeholders:

    a) The State Department for Aviation and Aerospace Development;
    b) Mr. Andrew Tumbu; and
    c) Mau Mau Post-Colonial Children Elites.
    d) Mr. Vicxeylin Bello Rocha

43. The stakeholders submitted as follows:

3.1 Submission by the State Department for Foreign Affairs

Ms. Helen Koki, Chief State Counsel in the State Department for Foreign Affairs, appeared before the Committee on Friday, 16th October 2026, and submitted as follows:

44. The Ministry confirmed that Cabinet had approved the submission of the seventeen (17) Bilateral Air Services Agreements (BASAs) to the National Assembly for consideration and approval of their ratification.

45. In accordance with Section 8 of the Treaty Making and Ratification Act, Cap. 4D, the Agreements and the requisite Parliamentary Memoranda had been prepared and forwarded to the National Assembly for consideration.

46. The Ministry affirmed its support for the ratification of the seventeen (17) BASAs. The Agreements were expected to strengthen Kenya's air transport connectivity, expand market access for Kenyan air carriers, promote trade, tourism, investment and people-to-people exchanges, and advance Kenya's national interests in the aviation sector.

3.2 Submission by the Office of the Attorney-General and Department of Justice

Ms. Racheal Mbugua, Deputy Chief State Counsel, State Law Office, appeared before the Committee on Friday, 16th October 2026, representing the Office of the Attorney-General and Department of Justice, and made the following submissions on the proposed ratification of the Bilateral Air Services Agreements (BASAs) between Kenya and various countries:

47. The Office of the Attorney-General confirmed that it had reviewed the Bilateral Air Services Agreements and the Records of Discussions (RoDs) arising from negotiations between Kenya and the respective partner States and found them to be in order from a legal perspective. The Agreements reviewed comprised:

    a) Bilateral Air Services Agreements between Kenya and Cabo Verde, Oman, Algeria, Brazil, Zimbabwe and Luxembourg; and
    b) Bilateral Air Services Agreements between Kenya and the Federal Republic of Somalia, Iceland, the Dominican Republic, the Russian Federation, Guinea, the United Kingdom, Zimbabwe, the Republic of Korea, Morocco, Poland, Haiti, Algeria and Eswatini.

48. The Office explained that a Bilateral Air Services Agreement is a treaty between Kenya and another State under which each State grants the other the traffic rights required by its airlines to operate

scheduled international air services. Article 6 of the Convention on International Civil Aviation provides that scheduled international air services may not be operated over or into the territory of a contracting State without the special permission or other authorisation of that State. The BASA provides the reciprocal and legally binding framework through which such permission is granted.

49. The Office of the Attorney-General submitted that it had examined the Cabinet Memoranda, the BASAs and the Records of Discussions against the applicable domestic legal and policy frameworks and confirmed their compliance as follows:

a) Constitution of Kenya

50. Articles 2(5) and 2(6) provide for the application of the general rules of international law and treaties ratified by Kenya as part of the law of Kenya. The Records of Discussions build on existing BASAs and the framework established under the Chicago Convention, both of which bind Kenya.

51. Article 10(2), which provides for the rule of law, public participation, transparency and accountability, is observed through the requirement to obtain Cabinet approval before executing the relevant instruments.

52. Article 132(5) requires the President to ensure, through the relevant Cabinet Secretaries, that Kenya fulfils its international obligations. The direction to the Cabinet Secretary responsible for Roads and Transport to take the necessary action is consistent with this responsibility.

53. Articles 152 and 153, which address the composition of Cabinet and the requirement for Cabinet decisions to be in writing, govern the approval sought.

54. The Office therefore submitted that the statement in the Cabinet Memoranda regarding compliance with the Constitution was supported.

b) Treaty Making and Ratification Act, 2012 (No. 45 of 2012)

55. Section 2 defines a treaty as an international agreement concluded between States in written form and governed by international law.

56. Section 4 vests the initiation, negotiation and ratification of treaties in the national Executive.

57. Section 3(4) preserves the Government's power to enter into bilateral agreements necessary for the conduct of government business or relating to technical, administrative or executive matters. Air Services Agreements ordinarily fall within this category.

58. The Office observed that Records of Discussions may lead to Memoranda of Understanding that modify traffic rights, routes, capacity or airline designation under existing BASAs. Obtaining Cabinet

approval before executing such instruments was therefore considered appropriate. The Office further noted that Section 12 makes it an offence, punishable by imprisonment for a term not exceeding fifteen years or a fine not exceeding twenty million shillings, or both, to ratify a treaty without following the applicable Cabinet and Parliamentary approval requirements under Part III of the Act.

59. Any Record of Discussion that, in substance, amends the text of a BASA must be processed under Part III of the Act to the extent that Section 3 applies to it.

c) Civil Aviation Act, 2013 (No. 21 of 2013)

60. Section 52(f) assigns the Cabinet Secretary responsible for transport the function of establishing and reviewing air services agreements in an open and transparent manner. The Memorandum appropriately places the matter under the Cabinet Secretary responsible for Roads and Transport.

61. The Kenya Civil Aviation Authority is mandated under Section 7(1)(a) to license air services and under Section 7(1)(z) to give effect to the Chicago Convention and other international civil aviation agreements to which Kenya is a party. Section 7(3) requires the Authority to act consistently with the Convention and its Annexes.

d) Executive Directives and National Policy

62. Circular No. OP/CAB.39/1A dated 1st March 2018, issued by the Head of the Public Service, requires Memoranda of Understanding and commercial contracts with local and foreign partners to receive the concurrence of the responsible Cabinet Secretary and Cabinet approval before execution. The Office submitted that signing the Records of Discussions subject to approval complies with the Circular.

63. The negotiating mandate was consistent with Sessional Paper No. 2 of 2012 on the Integrated National Transport Policy, under which Kenya liberalises air services with African States on the basis of the Yamoussoukro Decision and with other States on the basis of fair and equal opportunity and reciprocity. It was also consistent with the Third Medium Term Plan (2018–2022) of Kenya Vision 2030.

e) Compliance with International Law

64. The Office of the Attorney-General further examined the Agreements against the applicable international legal instruments and policy frameworks as follows:

f) Convention on International Civil Aviation (Chicago Convention, 7th December 1944)

65. Kenya deposited its notification of adherence to the Convention on 1st May 1964, effective 31st May 1964.

66. Article 1 recognises every State's complete and exclusive sovereignty over the airspace above its territory.

67. Article 6 prohibits scheduled international air services over or into the territory of a State without its special permission or other authorisation, providing the legal basis for BASAs.

68. Article 7 addresses cabotage.

69. Articles 11 and 13 provide for the application of national laws relating to admission, entry and clearance.

70. Article 15 addresses airport and similar charges.

71. Article 24 addresses customs duties on fuel, lubricants and stores on board aircraft.

72. Articles 31–33 address certificates of airworthiness and licences and the mutual recognition of certificates issued in accordance with standards at least equal to the minimum standards established by the International Civil Aviation Organization (ICAO).

73. Articles 37–38 provide for the adoption of international standards and the notification of differences.

74. Article 82 addresses the abrogation of inconsistent arrangements.

75. Article 83 provides for the registration of new agreements with the ICAO Council.

76. Article 96 defines the terms "air service", "international air service", "airline" and "stop for non-traffic purposes".

77. ICAO's Standards and Recommended Practices (SARPs) are adopted by the Council as Annexes to the Convention. BASAs incorporate them by reference: the standard definition of "the Convention" includes any Annex adopted under Article 90 in so far as it is in force for both Parties, and the safety and security articles oblige each Party to act in conformity with the relevant SARPs.

78. The Annexes engaged are:

Annex	Subject	BASA provisions engaged
Annex 1	Personnel Licensing	Recognition of certificates and licences; safety
Annex 6	Operation of Aircraft (Part I: International Commercial Air Transport)	Safety; authorisation (air operator certification); ramp inspections
Annex 8	Airworthiness of Aircraft	Recognition of certificates; safety
Annex 9	Facilitation	Application of laws (entry, clearance, immigration, customs); facilitation
Annex 13	Aircraft Accident and Incident Investigation	Safety cooperation (Kenya is also party to the EAC multilateral agreement on accident investigation)
Annex 14	Aerodromes	User charges; safety
Annex 16	Environmental Protection (including CORSIA, Volume IV)	Environment
Annex 17	Security: Safeguarding International Civil Aviation against Acts of Unlawful Interference	Aviation security
Annex 18	Safe Transport of Dangerous Goods by Air	Safety; cargo provisions
Annex 19	Safety Management	Safety (State safety programme; oversight)

79. ICAO's Template Air Services Agreements (TASAs) are comprehensive framework agreements for optional use by States, offering traditional, transitional and liberal options for each article. They are

reproduced in Doc 9587 (*Policy and Guidance Material on the Economic Regulation of International Air Transport*) and explained in Doc 9626 (*Manual on the Regulation of International Air Transport*, 3rd ed., 2018). These documents informed the negotiating texts. Kenya's BASAs follow the ICAO template and contain standard articles on the grant of rights, designation, authorization, application of national laws, recognition of certificates, aviation safety and security, and customs duties and charges.

g) Yamoussoukro Decision (14th November 1999)

80. The Decision was adopted under the Abuja Treaty and endorsed by the OAU Assembly of Heads of State and Government at Lomé in July 2000.
    i. Article 2 gives the Decision precedence over any inconsistent bilateral agreement between State Parties;
    ii. Article 3.1 grants the free exercise of first to fifth freedom traffic rights, and Article 5 removes limits on capacity and frequency; and
    iii. Article 7 requires fair opportunity on a non-discriminatory basis.

81. Kenya was one of the 23 founding States of the Single African Air Transport Market, launched by the African Union on 28th January 2018 to give full effect to the Decision. The RoDs with Cabo Verde, Algeria, Zimbabwe, Guinea, Morocco, Eswatini and the Federal Republic of Somalia were reviewed for consistency with these commitments.

h) Law of Treaties

82. Kenya signed the Vienna Convention on the Law of Treaties on 23rd May 1969 but has not ratified it. Its core rules on signature, consent to be bound and good faith nonetheless apply as customary international law under Article 2(5) of the Constitution. The RoDs were vetted to ensure that they record negotiated outcomes without expressing Kenya's consent to be bound pending the domestic approvals described above.

i) Partner-State Frameworks

83. For Luxembourg, Poland and Iceland, being EU/EEA States, account was taken of Regulation (EC) No. 847/2004 on the negotiation and implementation of air service agreements between EU/EEA States and third countries, including the standard EU designation clause, so that the instruments remain capable of execution by those States.

3.3 Submission by the Kenya Civil Aviation Authority (KCAA)

Dr. Serah W. Waitiki, representing the Director General of the Kenya Civil Aviation Authority (KCAA), appeared before the Committee on Friday, 16th October 2026, and made the following submissions:

84. The Authority expressed its support for the ratification of the Bilateral Air Services Agreements between Kenya and the respective partner States, namely Cabo Verde, Oman, Algeria, the Russian Federation, Guinea, the United Kingdom, South Korea, Morocco, Poland, Haiti, Swaziland, Brazil, Zimbabwe, Luxembourg, Somalia, Iceland and the Dominican Republic.

85. The Authority informed the Committee that KCAA is a State Corporation established with the primary functions of regulating and overseeing aviation safety and security, undertaking the economic regulation of air services and development of civil aviation, providing air navigation services, and training aviation personnel. These functions are guided by the Convention on International Civil Aviation, the related International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARPs), the Civil Aviation Act, Cap. 394, and the attendant Civil Aviation Regulations.

86. The Authority observed that the Bilateral Air Services Agreements would serve as strategic instruments for enhancing air connectivity, expanding trade and investment, and strengthening bilateral cooperation in civil aviation. The Agreements would create opportunities for the development of passenger and cargo services between Kenya and the identified source markets while supporting broader economic relations.

87. The Authority submitted that ratification of the Agreements would enable Kenya to benefit from:

    i. Reciprocal traffic rights between the contracting States;
    ii. Adequate flight frequencies and global interconnectivity;
    iii. Increased cargo and passenger services and airline partnerships; and
    iv. Promotion of tourism and trade, including opportunities for Kenyan exporters and businesses.

88. The Authority reaffirmed its commitment to discharging its regulatory mandate in aviation safety and security oversight while developing national frameworks that enhance compliance with international standards and recommended practices through effective implementation and adherence to best practices.

89. The Authority concluded by expressing its support for the ratification of the Bilateral Air Services Agreements before the National Assembly.

3.4 Submission by Kenya Airports Authority (KAA)

Mr. Henry Ogoye, General Manager, Planning and Strategy at the Kenya Airports Authority (KAA), appeared before the Committee on Friday, 16th October 2026, and made the following submissions:

90. The Authority observed that air service development is one of the critical strategies for achieving optimal utilisation of the aeronautical capacity of the 21 aerodromes currently managed by Kenya Airports Authority.

91. The Authority reaffirmed its support for the proposed ratification of the Bilateral Air Services Agreements and noted that ratification of the Agreements would enhance seat capacity between Jomo Kenyatta International Airport (JKIA) and the rest of the world, thereby supporting and promoting trade.

3.5 Submission by Kenya Airways (KQ)

Mr. Isaac Mwangi, Manager, Government and Industry Affairs at Kenya Airways (KQ), appeared before the Committee on Friday, 16th October 2026, and made the following submissions:

92. The airline confirmed that it participates in bilateral review processes led by the Ministry responsible for Transport and acknowledged the Government of Kenya's engagement in the negotiation, review and operationalisation of Bilateral Air Services Agreements (BASAs), including their alignment with international treaties and commitments.

93. Having participated in the negotiations of the seventeen (17) BASAs under consideration, Kenya Airways expressed support for the completion of the ratification process.

94. The airline supported the joint submission by the African Airlines Association (AFRAA) and the Kenya Association of Air Operators (KAAO), noting that it is a member of both organizations and shares their interest in the development of the aviation sector.

95. Kenya Airways observed that a fair bilateral air services agreement should provide a fair and reciprocal business environment for the parties involved. It noted that agreements with African countries are based on the Yamoussoukro Decision, which advocates for the liberalisation of the African aviation market. For agreements with countries outside Africa, the airline recommended careful, case-by-case consideration to ensure a fair share of the market and mutual benefits for airlines of the contracting parties.

96. The airline urged the Government to protect national carriers from secondary barriers in foreign markets, including restrictions relating to airport slots, aircraft parking and unequal bureaucratic requirements.

97. Kenya Airways further observed that restrictions on the repatriation of funds, resulting in blocked funds, presented challenges to its operations. It cited Ethiopia, Mozambique and Malawi as countries where it continued to experience such challenges and recommended that the Government pursue reciprocal arrangements to address the issue.

98. The airline acknowledged the support provided by the Ministry responsible for Transport and the Ministry responsible for Foreign Affairs, including initiatives involving currency-swap arrangements between Kenya Airways and Ethiopian Airlines, under which the two airlines were expected to collaborate on balancing funds through their respective hubs.

99. On taxation, Kenya Airways urged the Government to address emerging unilateral taxes imposed by States under bilateral arrangements, including environmental taxes, security charges and data fees, which could increase the cost of air travel for citizens of the countries concerned.

100. The airline noted that Cabo Verde was introducing a carbon tax and referred to the advice of AFRAA and the International Air Transport Association (IATA) that States should adopt the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA), developed by the International Civil Aviation Organization (ICAO), as a global mechanism for addressing carbon dioxide emissions from international aviation.

101. Notwithstanding its concerns regarding the proposed carbon tax, Kenya Airways clarified that it did not support delaying the ratification of the BASA between Kenya and Cabo Verde. It preferred that the taxation issue be addressed through other channels.

102. Kenya Airways stated that it had no objection to the ratification of the seventeen (17) Bilateral Air Services Agreements and expressed appreciation to the Committee for the opportunity to present its comments.

3.6 Submission by the Kenya Association of Air Operators (KAAO) and African Airlines Association (AFRAA)

103. Representatives of the Kenya Association of Air Operators (KAAO) and the African Airlines Association (AFRAA) appeared before the Committee during the stakeholders' engagement held on Friday, 16th October 2026, and made oral submissions on the proposed ratification of seventeen (17) Bilateral Air Services Agreements between Kenya and various countries.

104. The Associations subsequently submitted an updated written memorandum vide Letter Ref. No. KAAO/ADMIN/093/26 dated 22nd October 2026, providing further observations and recommendations on the proposed Agreements and other issues affecting the aviation industry as follows:

105. In their submission, the Associations outlined their respective mandates, noting that KAAO is the national umbrella body for Kenya's aviation industry and represents more than ninety-five per cent (95%) of Kenyan air operators. Its membership comprises scheduled and non-scheduled passenger and cargo operators, humanitarian and air ambulance services, general aviation, unmanned aircraft systems, balloon operations, approved training organizations and approved maintenance organizations.

106. The Associations further noted that AFRAA comprises fifty (50) member airlines representing more than eighty-five per cent (85%) of Africa's scheduled air traffic, together with forty-one (41) industry

partners. AFRAA advocates for a safe, secure, efficient, sustainable and economically viable African air transport sector.

107. The Associations commended the Government for facilitating the ratification process, observing that the Agreements presented an important opportunity to strengthen air transport cooperation and connectivity. They noted, however, that airlines continued to face high operating costs, infrastructure constraints, taxation and charges, fuel-price volatility, foreign exchange pressures and divergent regulatory requirements across jurisdictions. They recommended that the implementation of the Agreements be monitored to establish whether expanded market access would translate into additional capacity, new routes, increased flight frequencies, improved connectivity and greater affordability for passengers.

108. Regarding agreements between African Union Member States, the Associations recommended that the Agreements be aligned with the Yamoussoukro Decision to promote consistent implementation, liberalised market access and effective competition across African aviation markets.

109. With respect to agreements between African States and non-African States or regions, the Associations referred to the African Union Guidelines for the Negotiation of Air Services Agreements between Member States of the African Union and non-African States and regions. They observed that the Guidelines provided measures through which African States could safeguard the interests of their airlines and recommended enhanced coordination among African States and carriers before the conclusion of bilateral agreements or horizontal arrangements with non-African States and regions.

3.6.1 Specific issues and recommendations raised by the Associations

a) Cabo Verde carbon tax

110. The Associations noted that Cabo Verde introduced a national carbon tax in its 2025 budget, including a levy of CVE 550 on tickets. They observed that the tax could increase the financial burden on passengers and airlines and create additional administrative requirements. They advocated for coordinated decarbonization measures consistent with the International Civil Aviation Organization's (ICAO) Long-Term Global Aspirational Goal and the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA), to minimize unnecessary financial and administrative burdens and avoid overlapping or duplicative measures.

c) Blocked airline funds

111. The Associations raised concern over delays and restrictions affecting the repatriation of airline funds in Mozambique, Algeria, Zimbabwe and the Russian Federation. They observed that such restrictions undermined airlines' access to their revenues and ability to meet operational obligations, potentially exposing them to foreign exchange losses, additional financing costs and opportunity

costs. They further noted that such restrictions could constitute non-compliance with applicable Bilateral Air Services Agreements and emphasized the need for States to facilitate the timely and effective repatriation of airline revenues in accordance with their applicable international obligations.

d) Air cargo connectivity with Oman

112. The Associations informed the Committee that Astral Aviation was finalizing arrangements for weekly cargo operations to Muscat, Oman. They considered the proposed operations a positive development with the potential to enhance air cargo connectivity, facilitate trade and create additional commercial opportunities between the two markets.

3.6.2 Concerns relating to the Finance Act, 2026

113. In addition to matters directly relating to the BASAs, KAAO raised concerns regarding taxation measures affecting the aviation industry under the Finance Act, 2026. The Association called for the long-term preservation and reinstatement of tax exemptions on aircraft, engines, spare parts and essential aviation maintenance inputs affected by the Act.

114. KAAO cited data in its memorandum on the Finance Bill, 2026, indicating that between the financial years 2022/2023 and 2024/2025, passenger traffic grew by 10.1 per cent, from 10.74 million to 11.82 million; aircraft movements increased by 7.2 per cent, from 285,797 to 306,294; and cargo throughput grew by 16.8 per cent, from 405.5 million kilogrammes to 473.6 million kilogrammes.

115. The Association further reported that a survey of twenty-one (21) operators for the period 2023–2025 indicated that the operators had paid approximately USD 39.56 million in taxes and statutory payments, supported 1,551 direct jobs, made current investments valued at USD 121.22 million and forecasted a further USD 128.43 million in investment.

116. KAAO observed that Kenya's National Aviation Policy recognised the importance of a predictable tax policy that took account of international best practices on tax exemptions in the aviation sector. The Association raised the following concerns regarding the tax measures introduced:

a) Increased costs and delays in accessing aircraft parts and maintenance inputs, placing pressure on preventive maintenance and local Maintenance, Repair and Overhaul (MRO) capacity;
b) The application of Value Added Tax (VAT) at the rate of sixteen per cent (16%) to aircraft under Chapter 88, components, aircraft instruments and other spare parts where the relevant exemptions did not apply, thereby increasing acquisition and maintenance costs;
c) The additional application of the Import Declaration Fee (IDF) at 2.5 per cent and the Railway Development Levy (RDL) at 2 per cent on aircraft and aviation inputs; and
d) Increased input costs that could translate into higher passenger fares and freight charges, weaken route viability and investment, and reduce Kenya's competitiveness against jurisdictions that maintained aviation tax exemptions.

117. To address these concerns, KAAO requested the Committee to engage with the Departmental Committee on Finance and National Planning and the National Treasury on the implementation and retention of appropriate aviation tax exemptions. Specifically, the Association recommended:

a) Reinstatement of VAT exemptions for all goods and parts under Chapter 88, including aircraft, engines and components;
b) Reinstatement of VAT exemptions for direction-finding compasses, instruments and appliances for aircraft;
c) Reinstatement of VAT relief for other aircraft spare parts imported by operators or eligible maintenance organizations upon the recommendation of the competent civil aviation authority; and
d) Reinstatement of IDF and RDL exemptions for all Chapter 88 goods and parts, avoiding restrictions that left particular aircraft categories or essential aviation inputs subject to additional levies.

3.6.3 Implementation of the National Aviation Policy

118. KAAO called for the effective implementation of Kenya's National Aviation Policy, which it stated was approved by Cabinet in June 2024 and subsequently by the National Assembly on 31st March 2026.

119. The Association recommended that the implementation plan be measurable and time-bound, with regular reporting to stakeholders. It observed that effective implementation of the Policy would strengthen Kenya's competitiveness as a regional aviation hub and ensure that expanded international market access contributed to the long-term growth of the domestic aviation industry.

3.6.4 Mandatory Advance Passenger Information and Passenger Name Record transmission

120. The Associations acknowledged the Government's objectives of strengthening national security, aviation security and passenger facilitation through mandatory transmission of Advance Passenger Information (API) and Passenger Name Record (PNR) data. However, they raised concerns regarding the associated service charge and its proposed retrospective application.

121. The Associations informed the Committee that, during a stakeholder meeting with the Directorate of Immigration Services (DIS) on 22nd October 2026, industry stakeholders were advised that a service charge of USD 4.95 per passenger per transmission would apply, with charges backdated to 1st December 2025, when the system was launched.

122. The Associations questioned the legal basis for backdating the charges, the methodology used to calculate them and the financial implications for operators already facing significant operational costs and regulatory obligations. They further observed that no public participation had been undertaken before the requirement was enforced and the associated service charge introduced.

123. The Associations therefore requested clarification from DIS on the legal and contractual basis for the charge, the authority under which retrospective billing was proposed, and whether affected operators had been adequately notified and consulted before the costs were imposed. They recommended that the proposed backdated charges be suspended pending transparent disclosure, meaningful stakeholder consultation and clarification of the applicable legal obligations.

124. On the protection of passenger information, the Associations observed that operators were required to transmit passenger and crew information through a third-party service provider, SITA. They emphasized the need for the arrangement to comply with the Constitution of Kenya and the Data Protection Act, 2019.

125. The Associations recommended that DIS clarify the respective data protection responsibilities of the Government and SITA, the lawful purposes for processing personal data, data retention and deletion periods, access controls, cross-border transfers, security incident reporting and accountability for unauthorised access or disclosure. They further recommended that a documented data protection impact assessment and appropriate contractual safeguards be put in place.

126. In relation to API/PNR transmission, the Associations made the following recommendations to the Committee:

a) Seek clarification from DIS and SITA on the legal basis, cost structure and contractual arrangements supporting the USD 4.95 service charge.
b) Call for the suspension of retrospective billing pending clarification of its legal basis, disclosure of the proposed calculations and meaningful consultation with affected operators.
c) Examine the absence of prior public participation and recommend appropriate stakeholder consultation before the introduction or enforcement of service charges affecting the aviation industry.
d) Engage the Office of the Data Protection Commissioner, DIS and the Kenya Civil Aviation Authority (KCAA) to ensure that passenger and crew information is handled in accordance with the Data Protection Act, 2019, including appropriate safeguards for third-party processing.
e) Require clear accountability arrangements covering data security, access restrictions, data retention and deletion, breach notification and the handling of passenger complaints.

3.6.5 Agreement-specific observations and recommendations

127. The Associations presented specific observations and recommendations on individual Agreements. These included concerns regarding designation of airlines, flight frequencies, aircraft capacity, fifth-

freedom traffic rights, the status of associated implementation instruments and the participation of Kenyan carriers on the respective routes.

a) Agreement between Kenya and Somalia

128. The Associations observed that the Agreement provided for multiple designation of airlines, unlimited frequencies, no restrictions on aircraft capacity and a liberal route schedule. They questioned whether Kenya was in a position to accept unlimited frequencies and capacity and recommended consideration of a review trigger or limits as foreign carrier capacity grew, while preserving the ability to vet designated airlines.

129. They further recommended that the process and timelines for approval of fifth-freedom traffic rights by the respective aeronautical authorities be specified to prevent open-ended approvals. Noting that several carriers operated on the route, the Associations recommended confirmation that the proposed capacity and frequency arrangements safeguarded the interests of existing Kenyan operators. They also sought correction of the description of Freedom Airline and I-FLY AIR, observing that the two were Kenyan-registered operators based at Wilson Airport rather than Somali operators.

b) Agreement between Kenya and Iceland

130. The Associations noted that the Agreement provided for multiple designation of airlines, seven (7) weekly passenger frequencies and fourteen (14) weekly cargo frequencies. They recommended confirming that the frequency entitlements were sufficient to meet demand and providing a mechanism for increasing them where necessary.

131. They also recommended specifying the process and timelines for approving fifth-freedom traffic rights. In addition, they sought confirmation of the legal status of the Record of Discussion associated with the Agreement, which they stated was pending formal signing by the Cabinet Secretaries, and clarification of whether signatures were required under the entry-into-force clause. They further noted that Safari Express Cargo Limited operated on the route.

c) Agreement between Kenya and the Dominican Republic

132. The Associations observed that the Agreement provided for multiple designation of airlines, fourteen (14) frequencies, no restrictions on aircraft capacity and an open and liberal route schedule. They recommended confirming whether the fourteen (14) frequencies were sufficient, establishing a mechanism for increasing them and defining the criteria for vetting designated airlines.

133. They also recommended specifying the procedures and timelines for approval of fifth-freedom traffic rights. Further, they sought clarification on the legal status of the Record of Discussion pending formal signing by the Cabinet Secretaries and confirmation of whether signatures were required for

the Agreement to enter into force. Noting that there were no current operations, they recommended confirming whether Kenya Airways or another Kenyan carrier intended to serve the route or whether codeshare arrangements were envisaged.

d) Agreement between Kenya and the Russian Federation

134. The Associations observed that the Agreement provided for multiple designation of airlines, fourteen (14) frequencies, no restrictions on aircraft capacity and an open and liberal route schedule. They recommended confirming that the proposed frequencies were adequate, providing a mechanism for increasing them and defining criteria for vetting designated airlines.

135. They further recommended specifying the procedures and timelines for approving fifth-freedom traffic rights. They noted that the Agreement had been negotiated and initialled but that no instrument operationalising it was identified in the submission. They therefore recommended specifying whether a Record of Discussion or Memorandum of Understanding operationalised the Agreement. Given that no operations were reported, they also recommended confirming whether Kenya Airways or another Kenyan carrier intended to operate on the route or whether codeshare arrangements were envisaged.

e) Agreement between Kenya and Guinea

136. The Associations noted that the Agreement provided for multiple designation of airlines, seven (7) weekly frequencies, no restrictions on aircraft capacity and an open and liberal route schedule. They recommended confirming whether the seven (7) weekly frequencies were sufficient and providing a mechanism for increasing them.

137. On fifth-freedom traffic rights, they recommended confirming that the provisions applicable within Africa were consistent with the Yamoussoukro Decision and specifying the approval process and timelines for points outside Africa. They also sought clarification on the legal status of the Record of Discussion pending formal signing by the Cabinet Secretaries and confirmation of whether signatures were required under the entry-into-force clause. In view of the absence of current operations, they recommended confirming the plans of Kenya Airways or another Kenyan carrier for the route, including the possible use of codeshare arrangements.

f) Agreement between Kenya and the United Kingdom

138. The Associations observed that the Agreement provided for multiple designation of airlines, seven (7) weekly frequencies, no restrictions on aircraft capacity and an open and liberal route schedule. They noted that Kenya Airways was operating fourteen (14) weekly frequencies, while the Agreement provided for seven (7) weekly frequencies. They therefore recommended clarifying whether the seven (7) frequencies applied per airline or per contracting Party and confirming that the existing operations of Kenya Airways would not be constrained.

139. They also recommended specifying the procedures and timelines for approving fifth-freedom traffic rights. Further, they sought clarification on the legal status of the Record of Discussion pending formal signing by the Cabinet Secretaries and confirmation of whether signatures were required under the entry-into-force clause. The Associations noted that British Airways operated seven (7) weekly frequencies while Kenya Airways operated fourteen (14) weekly frequencies between the two countries.

g) Agreement between Kenya and Zimbabwe

140. The Associations noted that the Agreement provided for multiple designation of airlines, unlimited frequencies, no restrictions on aircraft capacity and an open and liberal route schedule for passenger and cargo services. They questioned whether Kenya was in a position to accept unlimited frequencies and capacity and recommended consideration of review triggers or limits as foreign carrier capacity grew, while retaining the ability to vet designated airlines.

141. They further recommended confirming that the fifth-freedom provisions within Africa were consistent with the Yamoussoukro Decision and specifying the approval process and timelines for points outside Africa. The Associations noted that Kenya Airways operated seven (7) weekly frequencies between the two States. They also recommended confirming the legal status of the Record of Discussion pending formal signing by the Cabinet Secretaries and clarification of the entry-into-force requirements.

h) Agreement between Kenya and the Republic of Korea

142. The Associations observed that the Agreement provided for multiple designation of airlines, seven (7) weekly frequencies, no restrictions on aircraft capacity and an open and liberal route schedule. They recommended confirming that the frequency entitlement was sufficient and providing a mechanism for increasing it.

143. They also recommended specifying the process and timelines for approval of fifth-freedom traffic rights. In addition, they sought confirmation of the legal status of the Record of Discussion pending formal signing by the Cabinet Secretaries and clarification of the entry-into-force clause. As no operations were reported, they recommended confirming whether Kenya Airways or another Kenyan carrier intended to operate on the route or whether codeshare arrangements were envisaged.

i) Agreement between Kenya and Morocco

144. The Associations observed that the Agreement provided for multiple designation of airlines, unlimited frequencies, no restrictions on aircraft capacity and an open and liberal route schedule. They recommended consideration of review triggers or limits as foreign carrier capacity grew, together with appropriate criteria for vetting designated airlines.

145. They further recommended confirming that the fifth-freedom provisions within Africa were consistent with the Yamoussoukro Decision and specifying the approval process and timelines for points outside Africa. The Associations also sought confirmation of the legal status of the Record of Discussion pending formal signing by the Cabinet Secretaries and clarification of the entry-into-force requirements.

j) Agreement between Kenya and Poland

146. The Associations noted that the Agreement provided for multiple designation of airlines, fourteen (14) weekly passenger frequencies and seven (7) weekly cargo frequencies, with no restrictions on aircraft capacity. They recommended confirming that the frequency entitlements were sufficient, particularly in view of the lower cargo frequency allocation, and providing a mechanism for increasing them.

147. They also recommended specifying the process and timelines for approving fifth-freedom traffic rights. Further, they sought clarification on the legal status of the Record of Discussion pending formal signing by the Cabinet Secretaries and confirmation of whether signatures were required for the Agreement to enter into force. Given that no operations were reported, they recommended confirming the plans of Kenya Airways or another Kenyan carrier for the route or whether codeshare arrangements were envisaged.

k) Agreement between Kenya and Haiti

148. The Associations observed that the Agreement provided a framework for airline cooperation but did not specify frequencies, aircraft capacity or traffic rights, reflecting the parties' stated understanding of their immediate interests and mutual benefits. They recommended that the Agreement be more specific regarding airline designation, frequencies, capacity and fifth-freedom traffic rights.

149. They further noted that the Agreement had been negotiated and initialled and that Agreed Minutes had been signed to operationalise it. They recommended confirmation of the legal status of the Agreed Minutes pending formal signing by the Cabinet Secretaries. In view of the absence of current operations, they also recommended confirming whether Kenya Airways or another Kenyan carrier intended to serve the route or whether codeshare arrangements were envisaged.

l) Agreement between Kenya and Algeria

150. The Associations identified inconsistencies between the two parliamentary memoranda concerning the frequency entitlements under the Agreement. They noted that one memorandum provided for multiple designation and fourteen (14) weekly frequencies for passengers and cargo, while the other provided for seven (7) weekly frequencies for passengers and cargo in both directions. They

recommended reconciling the two descriptions against the signed Agreement and confirming the applicable frequency entitlements.

151. They also identified differences in the descriptions of fifth-freedom traffic rights. One memorandum indicated that such rights were subject to approval by the respective aeronautical authorities, while the other referred to their exercise within Africa in accordance with the Yamoussoukro Decision, subject to agreement between the two aeronautical authorities. The Associations recommended reconciling the provisions against the signed text and specifying the applicable approval process and timelines.

152. The Associations further noted that the Agreement had been negotiated and initialled on 7th December 2016 in Algiers and that a Memorandum of Understanding had been signed. They recommended confirmation that the Memorandum of Understanding gave effect to the Agreement pending formal signing by the Cabinet Secretaries and clarification of the entry-into-force clause. They also noted that no Kenyan or Algerian carrier was operating on the route and recommended confirming whether Kenya Airways or another Kenyan carrier intended to serve the route or whether codeshare arrangements were envisaged.

m) Agreement between Kenya and the Kingdom of Swaziland

153. The Associations noted that the Agreement provided for multiple designation of airlines and unlimited frequencies for passenger and cargo services in both directions. They questioned whether Kenya was in a position to accept unlimited frequencies and capacity and recommended consideration of review triggers or limits as foreign carrier capacity grew, while preserving the ability to vet designated airlines.

154. They further observed that the exercise of fifth-freedom traffic rights was to be agreed upon between the two aeronautical authorities and recommended specifying the applicable procedures and timelines. The Associations noted that the Agreement had been initialled on 27th November 2010 and that a Memorandum of Understanding had been signed to operationalise it. They recommended confirming that the text remained current before ratification, clarifying the legal effect of the Memorandum of Understanding pending formal signing by the Cabinet Secretaries and confirming the entry-into-force requirements.

155. They also noted that no operations were reported and recommended confirming whether a Kenyan carrier intended to serve the route or whether codeshare arrangements were envisaged.

n) Agreement between Kenya and Cabo Verde

156. The Associations observed that the Agreement provided for multiple designation of airlines, unlimited frequencies, no restrictions on aircraft capacity and an open and liberal route schedule.

They recommended consideration of review triggers or limits as foreign carrier capacity grew, while retaining the ability to vet designated airlines.

157. They further noted that fifth-freedom traffic rights within Africa were unrestricted, while the exercise of such rights outside Africa was subject to approval by the respective aeronautical authorities. They recommended considering whether unrestricted fifth-freedom rights within Africa were appropriate and specifying the approval process and timelines for points outside Africa.

158. The Associations noted that the Agreement had been negotiated and initialled on 10th December 2018 in Nairobi and that a Memorandum of Understanding had been signed. They recommended confirmation that the Memorandum of Understanding gave effect to the Agreement pending formal signing by the Cabinet Secretaries and clarification of the entry-into-force clause. They also noted that no Kenyan carrier or Cabo Verde airline operated scheduled services between the two States and recommended confirming whether Kenya Airways or another Kenyan carrier intended to serve the route or whether codeshare arrangements were envisaged.

n) Agreement between Kenya and Oman

159. The Associations noted that the Agreement provided for multiple designation of airlines, seven (7) frequencies, no restrictions on aircraft capacity and an open and liberal route schedule. They recommended confirming that the seven (7) frequencies were sufficient and providing a mechanism for increasing them where necessary.

160. They further recommended specifying the process and timelines for approving fifth-freedom traffic rights. The Associations noted that the Agreement had been negotiated and initialled on 6th December 2017 in Sri Lanka and that a Memorandum of Understanding had been signed. They recommended confirmation that the Memorandum of Understanding gave effect to the Agreement pending formal signing by the Cabinet Secretaries and clarification of the entry-into-force clause.

161. The Associations also observed that no Kenyan carrier operated scheduled services to Oman, although Kenya Airways operated codeshare flights and Oman Air operated one (1) frequency to Nairobi. They recommended considering whether a Kenyan carrier would operate directly to Oman to ensure reciprocity.

o) Agreement between Kenya and Brazil

162. The Associations observed that the Agreement provided for multiple designation of airlines and unlimited frequencies and capacity for passenger and cargo services. They questioned whether Kenya was in a position to accept unlimited frequencies and capacity and recommended consideration of review triggers or limits as foreign carrier capacity grew, while retaining the ability to vet designated airlines.

163. They further noted that the Agreement allowed designated airlines of both States to exercise fifth-freedom traffic rights at any intermediate and/or beyond points without a stated approval requirement. The Associations recommended careful consideration of whether Kenya was in a position to accept unrestricted fifth-freedom traffic rights at any intermediate and beyond points.

164. The Associations also noted that the Agreement had been negotiated and initialled on 5th December 2022 in Nigeria and that a Record of Discussion had been signed. They recommended confirmation of the legal status of the Record of Discussion pending formal signing by the Cabinet Secretaries and clarification of the entry-into-force clause. As no operations were reported, they further recommended confirming whether Kenya Airways or another Kenyan carrier intended to serve the route or whether codeshare arrangements were envisaged.

p) Agreement between Kenya and Luxembourg

165. The Associations noted that the associated Memorandum of Understanding provided for multiple designation of airlines, fourteen (14) weekly frequencies for all-cargo flights, seven (7) weekly frequencies for passenger/combination operations and unlimited capacity for both passenger and cargo services. They recommended confirming that the seven (7) weekly passenger frequencies were sufficient and clarifying the position on unlimited capacity.

166. They further noted that fifth-freedom traffic rights were subject to approval by the aeronautical authorities and recommended specifying the process and timelines for such approvals. The Associations stated that the Agreement had been negotiated and initialled on 15th March 2018 in Nairobi and that a Memorandum of Understanding had been signed. They recommended confirming that the Memorandum of Understanding gave effect to the Agreement pending formal signing by the Cabinet Secretaries and clarifying the entry-into-force requirements.

167. The Associations also observed that Cargolux, a designated airline of Luxembourg, operated all-cargo services between the two States. They recommended considering whether a Kenyan cargo carrier would be designated to ensure reciprocity.

Overall position of the Associations

168. The Associations emphasised the importance of ensuring that the implementation of the seventeen (17) Bilateral Air Services Agreements promoted fair and reciprocal market access, effective competition, the participation of Kenyan and African carriers, improved connectivity and sustainable growth of the aviation sector. They urged that the agreement-specific issues identified in their submission be considered, particularly those relating to flight frequencies, capacity, fifth-freedom traffic rights, reciprocity, blocked funds and the legal status of instruments associated with the Agreements.

3.7 Submissions by the State Department for Aviation and Aerospace Development

169. The Committee received a written submission from the State Department for Aviation and Aerospace Development vide letter Ref: MORT/SDAAD/AT/028/373VOL.II(30) dated 14th October 2026. In its submission, the State Department confirmed its concurrence with the proposed ratification of the Bilateral Air Services Agreements between the Republic of Kenya and the respective States.

3.8 Submissions by Mr. Andrew Juma Makokha Tumbu

The Committee received a written memorandum from Mr. Andrew Juma Makokha Tumbu, dated 15th August 2026, in support of the ratification of seventeen (17) Bilateral Air Services Agreements between Kenya and various countries.

170. In his submission, Mr. Tumbu observed that the Agreements would enhance international air connectivity, expand market access for Kenyan airlines, promote tourism, trade and investment, create employment opportunities and strengthen Kenya's position as a regional aviation hub.

171. He emphasised the importance of ensuring fair and reciprocal market access for Kenyan-designated airlines, effective codeshare arrangements, fair competition and adequate safeguards for aviation safety, security and consumer protection. He further recommended that the implementation of the Agreements be monitored to assess their economic impact on Kenyan airlines, passengers, tourism, trade and employment.

172. Mr. Tumbu recommended that the Committee support ratification, subject to verification that each Agreement complied with the applicable constitutional and legal requirements and provided meaningful reciprocal benefits to Kenya. He also proposed periodic reviews of the Agreements to assess their commercial performance and ensure that they delivered tangible benefits to the country.

3.9 Submission by Mau Mau Children Post-Colonial Elites

173. The Committee received a written memorandum dated 18th August 2026 from Mau Mau Children Post-Colonial Elites, through MMV Associates CLG, on the ratification and implementation of seventeen (17) Bilateral Air Services Agreements between Kenya and various countries.

174. In its submission, MMV Associates CLG supported the expansion of Kenya's international air connectivity, noting that the Agreements could facilitate access to new markets for Kenyan airlines, improve passenger and cargo connectivity, promote tourism, trade and investment, and strengthen regional integration. However, it recommended that the Agreements be assessed individually to ensure genuine reciprocity, commercial viability and protection of Kenya's national interests.

175. The organization recommended that ratification be subject to adequate safeguards on aviation safety and security, fair competition, consumer protection, codeshare arrangements, environmental sustainability, airport capacity and transparency. It further proposed that the Government establish a monitoring framework with measurable performance indicators and periodic reporting to Parliament on the implementation and benefits of the Agreements.

176. MMV Associates CLG also recommended the development of a National Bilateral Air Services Agreements Policy to guide future negotiations, establish clear national objectives and promote consistency in the negotiation and implementation of the Agreements. It proposed stronger coordination among relevant Government agencies and the use of Kenya's airports, including Mombasa, Kisumu and Eldoret, to promote regional connectivity where commercially viable.

177. The organization recommended a conditional and safeguards-based approach to ratification, urging the Committee to seek clarification, amendments or renegotiation where any Agreement contains ambiguities, inadequate safeguards or provisions that could disadvantage Kenyan airlines or undermine the public interest.

3.10 Submission from Mr. Vicxeylin Bello Rocha

178. The Committee received an email from Mr. Vicxeylin Bello Rocha supporting the ratification of the Bilateral Air Services Agreement between Kenya and the Dominican Republic.

179. He noted that the absence of direct air connectivity between East Africa and the Caribbean results in lengthy journeys, high travel costs and transit visa requirements.

180. He observed that the Agreement could facilitate passenger and cargo air services, reduce travel costs, promote tourism and trade, and strengthen people-to-people relations.

181. He urged the Committee to support ratification and proposed provisions for unlimited passenger and cargo frequencies, fifth-, sixth- and seventh-freedom traffic rights as negotiated, and codeshare and charter operations.

CHAPTER FOUR

4.0 COMMITTEE OBSERVATIONS

Having considered the seventeen (17) Bilateral Air Services Agreements (BASAs), the Parliamentary Memoranda and submissions received from stakeholders, the Committee observed that:

1) The proposed Agreements provide a framework for scheduled international air services between Kenya and the respective partner States and present opportunities to expand route networks, passenger and cargo connectivity, tourism, trade, investment and international aviation cooperation.

2) The State Department for Foreign Affairs supported ratification of the seventeen (17) Agreements and stated that the Agreements were intended to advance Kenya's national interests, strengthen air connectivity and expand market access for Kenyan carriers.

3) The Office of the Attorney-General and Department of Justice had reviewed the Agreements and related Records of Discussions and considered them to be in order from a legal perspective, subject to compliance with the applicable constitutional, statutory and procedural requirements.

4) The Kenya Civil Aviation Authority supported the ratification and undertook to continue exercising its mandate in relation to aviation safety, security, economic regulation and compliance with international standards and recommended practices.

5) The Kenya Airports Authority supported the Agreements particularly their potential to improve utilisation of the aeronautical capacity of the 21 aerodromes managed by the Authority and enhance capacity at JKIA.

6) The Kenya Airways supported the ratification but emphasised the need for fair and reciprocal market access, protection of national carriers from operational barriers in foreign markets and action to address blocked airline funds and unilateral taxes that could increase the cost of air travel.

7) The joint concerns raised by the Kenya Association of Air Operators and the African Airlines Association regarding multiple airline designation, unlimited or specified frequencies, aircraft capacity, fifth-freedom traffic rights, reciprocity, the legal status of Records of Discussions and other instruments, and the participation of Kenyan carriers in the relevant markets.

8) The Kenya Association of Air Operators and the African Airlines Association identified inconsistencies in the Parliamentary Memoranda concerning the frequency entitlements under the Kenya–Algeria Agreement and differences in the description of fifth-freedom traffic rights. The Committee considered that the relevant provisions should be checked against the signed Agreement and clarified to avoid uncertainty during implementation.

9) The concerns about restrictions and delays affecting the repatriation of airline revenues in certain markets, the possible effect of aviation-related taxes and charges on operating costs and passenger fares, and the importance of implementing the National Aviation Policy through a measurable and time-bound plan.

10) The joint concerns raised by the Kenya Association of Air Operators and the African Airlines Association regarding the proposed retrospective service charge for Advance Passenger Information and Passenger Name Record transmission and the handling of passenger and crew data through a third-party service provider. The Committee observed that the Ministry of Roads and Transport, through the State Department for Aviation and Aerospace Development, Ministry of Interior and National Administration, through the State Department of Immigration and Citizen Services, the Office of the Attorney-General and Department of Justice, and the Office of the Data Protection Commissioner should clarify the legal basis, charging arrangements and data-protection safeguards, within their respective mandates.

11) The written submission from the State Department for Aviation and Aerospace Development confirmed the Department's concurrence with the proposed ratification of the Agreements. The Committee also considered the written submissions from Mr. Andrew Juma Makokha Tumbu and Mau Mau Children Post-Colonial Elites, which supported expanded air connectivity while calling for reciprocity, safeguards, monitoring and protection of Kenya's national interests.

12) The email from Mr. Vicxeylin Bello Rocha in support of the ratification of the Bilateral Air Services Agreement between Kenya and the Dominican Republic. The Committee observed that the concerns raised regarding the lack of direct air connectivity, high travel costs and lengthy journeys highlighted the potential benefits of the Agreement in enhancing air connectivity, facilitating passenger and cargo transportation, and promoting tourism, trade and people-to-people relations.

13) The Committee emphasised that implementation should promote meaningful reciprocal opportunities for Kenyan-designated airlines, fair competition, affordable air travel, improved regional connectivity and sustainable growth of Kenya's aviation sector.

14) The the carbon tax introduced by Cabo Verde could increase the cost of air travel and result in overlapping environmental charges alongside ICAO's Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA). There is need for coordinated international approaches to aviation emissions.

15) The taxation of aircraft, engines, spare parts and other aviation inputs under the Finance Act, 2026 increased operating and maintenance costs, weaken local aviation maintenance capacity and make Kenya less competitive as an aviation hub.

16) The implementation of the National Aviation Policy requires a clear, measurable and time-bound implementation plan, with defined institutional responsibilities and regular progress reporting.

17) The legal basis and calculation of the proposed USD 4.95 API/PNR service charge, particularly its retrospective application from 1st December 2025, had not been sufficiently clarified. The proposed transmission of passenger and crew information through SITA also requires clear safeguards on data protection, access, retention, security and accountability.

18) The legal status and effect of some Memoranda of Understanding, Records of Discussion and Agreed Minutes associated with the Agreements require clarification, particularly where they are yet to be formally signed or may alter existing treaty provisions.

19) Some Agreements provide for unlimited flight frequencies, unrestricted capacity and extensive fifth-freedom traffic rights without sufficiently clear implementation and review arrangements. The exercise of these rights should be guided by reciprocity, fair competition and Kenya's national aviation interests.

20) The existence of bilateral market access rights does not necessarily guarantee commercial opportunities for Kenyan airlines. Some of the markets covered by the Agreements have no direct services by Kenyan carriers, while the Kenya–United Kingdom Agreement also requires clarification of the applicable frequency entitlements to avoid affecting existing operations.

21) The Kenya–Haiti Agreement does not sufficiently specify airline designation, frequencies, aircraft capacity and traffic rights, which could create uncertainty during implementation.

22) The proposed cargo operations between Kenya and Oman present an opportunity to strengthen air cargo connectivity and facilitate trade. It further observed that greater utilisation of airports such as Mombasa, Kisumu and Eldoret could promote regional connectivity where commercially viable.

23) The Kenya lacks a specific policy framework to guide the negotiation and implementation of BASAs. Such a framework would provide clear national negotiating objectives and safeguards on reciprocity, market access, competition and the interests of Kenyan carriers. Future negotiations should also take account of the African Union Guidelines on the negotiation of air services agreements with non-African States.

24) The National Aviation Policy, which was approved by Cabinet in June 2024 and subsequently by the National Assembly on 31st March 2026, had not yet been fully implemented by the Ministry. Effective implementation of the Policy is critical to providing an overarching framework for the development of Kenya's aviation sector and guiding the implementation of the Bilateral Air Services Agreements.

CHAPTER FIVE

5.0 COMMITTEE RECOMMENDATION

Having considered the seventeen (17) Bilateral Air Services Agreements, the accompanying Parliamentary Memoranda, the applicable legal framework and the views of stakeholders, the Committee recommends that the House **APPROVES** the ratification of the seventeen (17) Bilateral Air Services Agreements between the Republic of Kenya and the respective partner states and makes the following recommendations to the House on the ratification and implementation of the Agreements;

1) The Ministry of Roads and Transport, through the State Department for Aviation and Aerospace Development, verifies and reconciles the differing descriptions of frequency entitlements and fifth-freedom traffic rights in the Parliamentary Memoranda concerning the Kenya–Algeria Agreement against the signed text, and provides clear guidance on the applicable provisions.

2) The Ministry of Roads and Transport, through the State Department for Aviation and Aerospace Development, in consultation with the Ministry of Foreign and Diaspora Affairs, through the State Department for Foreign Affairs, ensures that implementation of the Agreements safeguards fair and reciprocal market access for Kenyan-designated airlines and monitors whether the agreed traffic rights translate into additional routes, capacity, frequencies, cargo services and improved connectivity.

3) The Ministry of Roads and Transport, through the State Department for Aviation and Aerospace Development, and the Ministry of Foreign and Diaspora Affairs, through the State Department for Foreign Affairs, engage partner States to address restrictions and delays affecting the repatriation of airline revenues and take appropriate steps, in consultation with the National Treasury where financial or foreign-exchange matters arise, to protect the operational interests of Kenyan carriers.

4) The Ministry of Transport and Transport, through the State Department for Aviation and Aerospace Development, Ministry of Interior and National Administration, through the State Department of Immigration and Citizen Services, in consultation with the Office of the Attorney-General and Department of Justice and the Office of the Data Protection Commissioner, clarify the legal basis and calculation of the proposed Advance Passenger Information and Passenger Name Record service charge, including the proposed retrospective application, and ensure that the processing of passenger and crew information complies with the Constitution and the Data Protection Act, 2019.

5) The Ministry of Roads and Transport, through the State Department for Aviation and Aerospace Development, in consultation with the Ministry of Foreign and Diaspora Affairs, through the State Department for Foreign Affairs, and the National Treasury, engages the Government of Cabo Verde on the carbon tax imposed on international air travel, with a view to examining its implications for Kenyan airlines and passengers and promoting alignment with internationally agreed aviation emissions frameworks, including CORSIA, to avoid duplication of environmental charges.

6) The National Treasury, in consultation with the Ministry of Roads and Transport, through the State Department for Aviation and Aerospace Development reviews the taxation measures affecting the aviation industry under the Finance Act, 2026, with a view to considering appropriate exemptions or reliefs for aircraft, engines, components, spare parts and other essential aviation maintenance inputs. The review should specifically consider the reinstatement of relevant VAT, Import Declaration Fee and Railway Development Levy exemptions, taking into account their implications for operating costs, local maintenance capacity, investment, employment and the competitiveness of Kenya's aviation industry.

7) The Ministry of Roads and Transport, through the State Department for Aviation and Aerospace Development, in consultation with the Kenya Civil Aviation Authority, Kenya Airports Authority and aviation industry stakeholders, develops and implements a measurable and time-bound implementation plan for the National Aviation Policy. The plan should identify institutional responsibilities, implementation timelines, resource requirements and performance indicators and provide for periodic reporting to Parliament on progress made.

8) The Ministry of Interior and National Administration, through the State Department of Immigration and Citizen Services, in consultation with the Ministry of Roads and Transport, the Office of the Attorney-General and Department of Justice and the Office of the Data Protection Commissioner—

   a) clarifies the statutory and contractual basis for the proposed USD 4.95 API/PNR service charge, its calculation and the authority for its retrospective application from 1st December 2025;
   b) undertakes stakeholder consultation with affected aviation operators and addresses the concerns raised regarding the proposed retrospective billing, including consideration of suspending such billing pending clarification of its legal basis;
   c) establishes the respective data protection responsibilities of the Government and SITA, including safeguards on access, processing, storage, retention, deletion and cross-border transfer of passenger and crew information; and
   d) ensures that an appropriate data protection impact assessment, contractual safeguards and accountability mechanisms are in place in accordance with the Data Protection Act, 2019.

9) The Ministry of Roads and Transport, through the State Department for Aviation and Aerospace Development, in consultation with the Ministry of Foreign and Diaspora Affairs and the Office of the Attorney-General and Department of Justice, undertakes a review of all Memoranda of Understanding, Records of Discussion and Agreed Minutes associated with the seventeen (17) Agreements to establish their legal status, effect and relationship with the principal Agreements. The review should identify instruments pending formal execution, clarify the applicable entry-into-force requirements and ensure that any instrument which substantively amends an existing Agreement undergoes the requisite constitutional and statutory approval processes.

10) The Ministry of Roads and Transport, through the State Department for Aviation and Aerospace Development, in consultation with the Kenya Civil Aviation Authority, reviews the implementation

of provisions relating to airline designation, flight frequencies, aircraft capacity and fifth-freedom traffic rights under the Agreements. The review should—

a) reconcile the inconsistencies identified in the Parliamentary Memoranda concerning the Kenya–Algeria Agreement and clarify the applicable frequency entitlements under the Kenya–United Kingdom Agreement;
b) establish clear procedures and timelines for the consideration and approval of fifth-freedom traffic rights, consistent with the applicable provisions of the Agreements and the Yamoussoukro Decision;
c) assess the implications of unlimited frequencies and aircraft capacity provisions and, where necessary, engage the respective partner States on appropriate review mechanisms; and
d) clarify the operational provisions of the Kenya–Haiti Agreement, particularly airline designation, frequencies, aircraft capacity and traffic rights, and advise on whether supplementary arrangements or amendments are necessary.

11) The Ministry of Roads and Transport, through the State Department for Aviation and Aerospace Development, in consultation with the Ministry of Foreign and Diaspora Affairs, Kenya Airways, the Kenya Association of Air Operators and other relevant industry stakeholders, identifies and promotes opportunities for Kenyan-designated airlines to operate in the markets covered by the Agreements. This should include facilitating direct passenger and cargo services, codeshare arrangements and removal of operational barriers relating to airport slots, aircraft parking and discriminatory regulatory requirements in partner States. The Ministry should also periodically assess whether the Agreements are delivering meaningful reciprocal market access and commercial opportunities for Kenyan carriers.

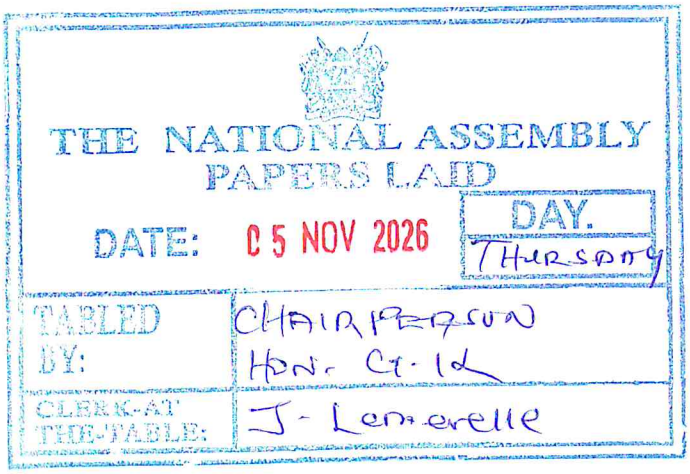
12) The Ministry of Roads and Transport, through the State Department for Aviation and Aerospace Development, in collaboration with the Kenya Airports Authority and Kenya Civil Aviation Authority, facilitates the development of international air cargo services, including the proposed cargo operations between Kenya and Oman. The Ministry should also assess opportunities for expanding passenger and cargo services through other Kenyan airports, including Mombasa, Kisumu and Eldoret, where commercially and operationally viable, to promote regional connectivity, trade and tourism and optimise existing airport infrastructure.

13) The Ministry of Roads and Transport, through the State Department for Aviation and Aerospace Development, in consultation with the Ministry of Foreign and Diaspora Affairs, the Kenya Civil Aviation Authority and relevant aviation industry stakeholders, develops a National Policy on Bilateral Air Services Agreements to guide future negotiations, reviews and implementation. The Policy should establish clear national objectives and negotiating principles relating to reciprocity, market access, airline designation, traffic rights, flight frequencies, competition, environmental obligations and protection of Kenyan carriers. In developing the Policy, the Ministry should take into account the Yamoussoukro Decision and the African Union Guidelines for the Negotiation of Air Services Agreements between African Union Member States and non-African States and regions.

14) The Ministry of Roads and Transport, through the State Department for Aviation and Aerospace Development, in consultation with the Kenya Civil Aviation Authority, Kenya Airports Authority and other relevant aviation industry stakeholders, should prioritise and expedite the implementation of the National Aviation Policy. The Ministry should develop a clear, measurable and time-bound implementation plan, outlining specific actions, institutional responsibilities and implementation timelines and establish mechanisms for regular monitoring and reporting on progress.

SIGNED..... **DATE**.....03-11-2026

HON. GK GEORGE KARIUKI, CBS, MP
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE



Annexure I : Adoption Schedule for the Report

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT

DEPARTMENTAL COMMITTEE ON TRANSPORT & INFRASTRUCTURE

REPORT ADOPTION LIST

We, the members of the Departmental Committee on Transport & Infrastructure, have pursuant to Standing Order 170A, adopted this report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity.

Date: 03 - 11 - 2026

No.	MEMBER	SIGNATURE
1.	The Hon. GK George Kariuki, CBS, MP – Chairperson	
2.	The Hon. Dr. Didmus Barasa, MP, CBS, - Vice Chairperson	
3.	The Hon. Kiunjuri, Festus Mwangi, MP	
4.	The Hon. Abdul Rahim Dawood, CBS, MP	
5.	The Hon. Arama Samuel, MP	
6.	The Hon. Bady, Bady Twalib, MP	
7.	The Hon. Francis, Kajwang' Tom Joseph, CBS, MP	
8.	The Hon. Naicca, Johnson Manya, CBS, MP	
9.	The Hon. Chege, John Kiragu, CBS, MP	
10.	The Hon. Elsie Muhanda, MP	
11.	The Hon. Saney, Ibrahim Abdi, MP	
12.	The Hon. Hussein Weytan Mohamed, MP	
13.	The Hon. Jhanda Zaheer, MP	
14.	The Hon. Komingoi, Kibet Kirui, MP	
15.	The Hon. Maina Betty Njeri, MP	