

November 26, 1964

**AGREEMENT BETWEEN THE GOVERNMENT OF INDIA AND HIS MAJESTY'S GOVERNMENT OF NEPAL RELATING TO AIR SERVICES**

**New Delhi**

The Government of India and His Majesty's Government of Nepal, hereinafter described as the "Contracting Parties",  
BEING parties to the Convention on International Civil Aviation (hereinafter referred to as the Convention) opened for signature at Chicago on the 7th  
December, 1944,  
AND DESIRING to conclude an Agreement for the purpose of establishing reciprocal air services,  
HAVE agreed as follows :

**Article 1**

For the purpose of the present Agreement, unless the context otherwise requires :

1. the term "aeronautical authorities" shall mean, in the case of India, the Director General of Civil Aviation, and in the case of Nepal the Chief Engineer of the Department of Transport, Director of Civil Aviation or any person or body authorised to perform the functions presently exercised by the said Director General of Civil Aviation or by the said Chief Engineer, Director of Civil Aviation;
2. the term "designated airline" shall mean an airline which the aeronautical authorities of one Contracting Party have designated in writing to the aeronautical authorities of the other Contracting Party in accordance with Article III of the present Agreement;
3. the terms "territory" "air service" "International air service" and "stop for non-traffic purposes" have the meanings respectively assigned to them in Articles 2 and 96 of the Convention.

## Article II

1. Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing air services on the routes specified in the Annex thereto (hereinafter called "the agreed services" and "the specified routes"). The agreed services may be inaugurated at any time after the provisions of Article III have been complied with.
2. Subject to the provisions of the present Agreement, the airline designated by each Contracting Party shall, while operating the agreed services on the specified routes enjoy the following rights :
  - I. to fly without landing across the territory of the other Contracting Party;
  - II. to make stops in the territory of the other Contracting Party for non-traffic purposes; and
  - III. to make stops in the territory of the other Contracting Party at the point specified for that route in the Annex to the present Agreement, for the purpose of disembarking or embarking traffic in passengers, cargo and mail.
3. Nothing in paragraph 2 of this Article shall be deemed to confer on the airline of one Contracting Party the privilege of taking on, in the territory of the other Contracting Party, passengers, cargo or mail to be disembarked for another point in the territory of that other Contracting Party.
4. The laws, regulations and instructions of one Contracting Party relating to entry into or departure from its territory of aircraft or air services operated in international air navigation or to the operation of such aircraft for air services while within its territory shall apply to aircraft and agreed services of the designated airline of the other Contracting Party.

## Article III

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one airline for the purpose of operating the agreed services on the specified routes.

2. On receipt of the designation, the Contracting Party shall through its own aeronautical authorities and subject to the provisions of paragraphs 3 and 4 of this Article, without delay grant to the designated airline the appropriate operating authorisation.
3. The aeronautical authorities of one Contracting Party may require the airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied by them to the operations of the air carriers and of international commercial air services.
4. Each Contracting Party shall have the right to refuse to accept the designation of the airline and to withhold or to revoke the grant to the airline of the rights specified in paragraph 2 of Article II of the present Agreement or to impose such conditions as it may deem necessary on the exercise by the airline of those rights in any case where it is not satisfied that substantial ownership, and effective control of that airline are vested in the other Contracting Party or its nationals.
5. The airline so designated and authorised may begin to operate the agreed services at any time provided that the provisions of Articles X and XII have been complied with.

#### **Article IV**

1. Each Contracting Party reserves the right to itself to revoke the operating authorisation or impose such appropriate conditions as it may deem necessary in case of failure by a designated airline of the other party to comply with the laws and regulations of the former Party or in case in the judgement of the former Party, there is a failure to fulfil the conditions under which the rights are granted in accordance with the present Agreement. This shall also apply if the provisions of paragraph 4 of Article III are not complied with. Such action shall be taken only after consultation between the Contracting Parties in accordance with Article XIV of the present Agreement unless an immediate suspension of operations or imposition of conditions is considered necessary, in the interest of safety.
2. In the event of the action by one Contracting Party under this Article the right of other Contracting Party under Article III shall not be prejudiced.

#### **Article V**

The charges imposed in the territory of one Contracting Party for the use of airports and other aviation facilities by the aircraft of the designated airline of the other Contracting Party shall not be higher than those paid by the aircraft of a national airline engaged in similar international air services.

#### **Article VI**

1. Aircraft operated on agreed services by the designated airline of either Contracting Party, as well as their regular equipment, supplies of fuel and lubricants, and aircraft stores (including food, beverages and tobacco) on board such aircraft shall be exempt from all customs duties, inspection

fees and other duties or taxes on arriving in the territory of the other Contracting Party, provided such equipment and supplies remain on board the aircraft upto such time as they are re-exported.

2. The following shall also be exempt from the same duties and taxes with the exception of charges corresponding to the services performed :
  - I. aircraft stores taken on board in the territory of either Contracting Party, within limits fixed by the authorities' of said Contracting Party, and for use on board the aircraft engaged in an international service of the other contracting Party;
  - II. spare parts entered into the territory of either Contracting Party for incorporation in or use on the aircraft used on agreed services by the designated airline of the other Contracting Party;
  - III. fuel and lubricants intended for being supplied to aircraft operated on the agreed services by the designated airline of the other Contracting Party, even when these supplies are to be used on the part of the journey performed over the territory of the Contracting Party in which they are taken on board.

Materials referred to in sub-paragraphs (a), (b) and (c) above may be required to be kept under Customs supervision or control.

#### **Article VII**

The designated airline of each Contracting Party shall, in all respects, enjoy fair and equal rights in the operation of the agreed air services for the carriage of traffic on the specified routes.

#### **Article VIII**

In the operation by the designated airline of either Contracting Party of the agreed air services, the interests of the airlines of the other Party shall be taken into consideration so as not to affect unduly the services which the latter provides on the same route.

#### **Article IX**

1. The capacity to be provided and the frequency of services to be operated shall be agreed between the designated airlines in accordance with the principles laid down in Articles VII and VIII and the provisions of this Article. Such agreement shall be subject to the approval of the aeronautical authorities of the two Contracting Parties.
2. Any increase in the capacity to be provided or frequency of services to be operated by the designated airline of either Contracting Party shall be agreed in the first instance, between the designated airlines and shall be subject to the approval of the aeronautical authorities on the basis of the estimated requirements of traffic between the territories of the two Parties. Pending such agreement or settlement, the capacity and frequency entitlements already in force shall prevail.

3. The designated airline of either Contracting Party shall be allowed to embark or disembark at one specified point in the territory of the other Contracting Party, international traffic to be set down at or picked up from such third country on the specified route at such time and subject to such conditions as shall be agreed between the aeronautical authorities of the two Contracting Parties.
4. If the designated airlines of the Contracting Parties fail to agree on any matter on which their agreement is required under the provisions of this Article, the aeronautical authorities of the Contracting Parties shall endeavour to reach agreement thereon.
5. The capacity to be provided and the frequency of services to be operated as agreed to in accordance with the provisions of this Article shall be specified in an exchange of letters between the Contracting Parties.

#### **Article X**

Each Contracting Party shall cause its designated airline to provide to the aeronautical authorities of the other Contracting Party, as long in advance as practicable, but not later than thirty days prior to the inauguration of the agreed services information on the type of aircraft to be used, the flight schedules, tariff schedules, and all other relevant information concerning the operation of the agreed services including such information as may be required to satisfy the aeronautical authorities that the requirements of the present Agreement are being duly observed. The requirements of this Article shall likewise apply to any changes concerning the agreed service.

#### **Article XI**

The aeronautical authorities of either Contracting Party shall furnish to the aeronautical authorities of the other Contracting Party statistics relating to the traffic carried during each month on their air services to or from the territory of the other Contracting Party and the points of embarkation and disembarkation of such traffic. Such statistics shall be furnished as early as possible and in any case within six months of the period to which they relate.

#### **Article XII**

In fixing tariffs on any agreed service due account shall be taken of all factors, such as cost of operation, reasonable profit, the characteristics of the various routes and the tariffs . charged by any other airlines which operate over the same routes or parts thereof. In fixing such tariffs, the provisions of the following sub-paragraphs should be observed :

1. The tariffs shall, if possible, be agreed for each route between the two designated airlines.
2. Any tariffs so agreed shall be submitted for approval to the aeronautical authorities of both Contracting parties at least thirty days prior to the proposed date of their introduction. This period may be reduced in special cases if the aeronautical authorities so agree.

3. If no agreement has been reached between the designated airlines in accordance with sub-paragraph (ii) of this Article or if the aeronautical authorities of one of the Contracting Parties do not consent to the tariff submitted for their approval in accordance with sub-paragraph (ii) of this Article, the aeronautical authorities of the two Contracting Parties should by common accord fix those tariffs for routes or parts thereof on which there is disagreement or lack of consent.
4. Pending determination of tariffs in accordance with this Article, the tariffs already in force shall prevail.

### **Article XIII**

In a spirit of close co-operation, the aeronautical authorities of the Contracting Parties shall consult each other from time to time with a view to ensuring the implementation of and the satisfactory compliance with, the provisions of the present Agreement.

### **Article XIV**

Consultations may be requested at any time by either Contracting Parties for the purpose of initiating any amendments to the present Agreement. Consultations may also be requested on matters concerning the interpretation or application of the present Agreement if either Contracting Party considers that an exchange of views within the meaning of Article XIII has been without success. Such consultation shall begin within a period of sixty days from the date of the request. Any modification of the present Agreement as a result of such consultations shall come into effect after the respective constitutional requirements have been fulfilled and when it has been confirmed by an exchange of diplomatic notes.

### **Article XV**

1. In case any dispute arises relating to the interpretation or application of this Agreement, the aeronautical authorities of the Contracting Parties shall, in the first place, endeavour to settle it by negotiation between themselves, failing which the matter shall be referred to the Contracting Parties for settlement.
2. If the Contracting Parties fail to reach a settlement by negotiation :
  - I. they may agree to refer the dispute for the decision to an arbitral tribunal or some other person or body appointed by agreement between them; or
  - II. if they do not so agree, or, if having agreed to refer the dispute to an arbitral tribunal, they cannot reach agreement as to its composition, either Contracting Party may submit the dispute for decision to any tribunal competent to decide it which may be established within the International Civil Aviation Organisation, or, if there is no such tribunal, to the Council of the said Organisation.

3. The Contracting Parties undertake to comply with any decision given, including any interim recommendation made, under paragraph 2 of this Article.
4. if and so long as either Contracting Party or a designated airline of either Contracting Party fails to comply with the requirements of paragraph 3 of this Article, the other Contracting Party may limit, withhold or revoke any rights which it has granted by virtue of this Agreement.

#### **Article XVI**

The applicable provisions of the Convention shall remain in force in their present form between the Contracting Parties for the duration of the Agreement, as if they were an integral part of the Agreement, unless both Contracting Parties ratify any amendment to the Convention, which shall have duly come into force in which case the Convention as amended shall remain in force for the duration of the present Agreement.

#### **Article XVII**

1. The Annex attached to the present Agreement shall be deemed to be part of the Agreement and all references to the Agreement shall include reference to the Annex, except where otherwise expressly provided.
2. The present Agreement shall be subject to ratification and the Instruments of Ratification shall be exchanged as soon as possible.
3. The present Agreement shall come into force on the date of the exchange of the Instruments of Ratification.
4. The present Agreement shall be registered with the International Civil Aviation Organisation.

#### **Article XVIII**

Either Contracting Party may, at any time, give written notice to the other, of its desire to terminate the present Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organisation. If such notice is given, the present Agreement shall terminate twelve months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of acknowledgement of receipt by the other Contracting Party notice shall be deemed to have been received fourteen days after the receipt of the notice by the International Civil Aviation Organisation.

DONE at New Delhi this 26th day of November, 1964 in six originals, two each in the Hindi, Nepalese and English languages, all the six texts being equally authentic. In case of any divergence of interpretation, the English texts shall prevail.

Sd /--

V. SHANKAR

For the Government of India.

Sd/-

YADU NATH KHANAL

For His Majesty's Government of Nepal.

## **ANNEX**

### Section I

The airline designated by His Majesty's Government of Nepal shall be entitled to operate air services in both directions on the routes specified in this Section and to land for traffic purposes in the territory of India at the points therein indicated.

1. Nepal to Delhi
2. Nepal to Calcutta
3. Nepal to Patna

### Section II

The airline designated by the Government of India shall be entitled to operate air services in both directions on the routes specified in this Section and to land for traffic purposes in the territory of Nepal at the points therein indicated.

1. India to Kathmandu
2. India to any two points in Nepal in addition to Kathmandu as may be specified at any time by the airline designated by the Government of India.

## **LETTERS**

New Delhi,

Date: November 26 , 1964

From

Ambassador of Nepal,  
New Delhi.

Sir,

With reference to the Agreement between His Majesty's Government of Nepal and the Government of India relating to Air Services, signed to-day at New Delhi, I have the honour to record that it is the understanding of His Majesty's Government of Nepal that in the implementation of the provisions



of Article 1X of the said Agreement :

1. the airline designated by His Majesty's Government of Nepal shall be authorised to operate upto a total of twenty four services per week, in each direction, between Nepal and India. Such services may be operated on any or all of the following routes provided that the total number of services operated between, Nepal and India by the airline does not exceed twenty four services per week in each direction :

I. Nepal-Calcutta

II. Nepal-New Delhi

III. Nepal-Patna

2. The airline designated by the Government of India shall be authorised to operate upto a total of twenty four services per week, in each direction, between India and Kathmandu. The airline designated by the Government of India shall also be entitled at any time to operate to any two more points of its own choice in Nepal, in addition to Kathmandu, provided that the total number of services operated between India and Nepal by the airlines does not exceed twenty four services per week in each direction.

I have the honour to request you to confirm that this is also the understanding of the Government of India.

Please accept, Sir, the assurances of my highest consideration.

Sd /--

YADU NATH KHANAL

Shri V. SHANKAR,  
Secretary,  
Ministry of Civil Aviation,  
New Delhi.

New Delhi

Date :November 26 , 1964

From  
Secretary,

Ministry of Civil Aviation,  
New Delhi.

Excellency,

I have the honour to acknowledge receipt of Your Excellency's letter of today's date, which reads as follows :

"With reference to the Agreement between His Majesty's Government of Nepal and the Government of India relating to Air Services, signed today at New Delhi, I have the honour to record that it is the understanding of His Majesty's Government of Nepal that in the implementation of the provisions of Article IX of the said Agreement :

1. the airline designated by His Majesty's Government of Nepal shall be authorised to operate upto a total of twenty four services per week, in each direction, between Nepal and India. Such services may be operated on any or all of the following routes, provided that the total number of services operated between Nepal and India by the airline does not exceed twenty four services per week in each direction :

I. Nepal-Calcutta

II. Nepal-New Delhi

III. Nepal-Patna

2. the airline designated by the Government of India shall be authorised to operate upto a total of twenty four services per week, in each direction, between India and Kathmandu. The airline designated by the Government of India shall also be entitled at any time to operate to any two more points of its own choice in Nepal, in addition to Kathmandu, provided that the total number of services operated between India and Nepal by the airline does not exceed twenty four services per week in each direction.

I have the honour to request you to confirm that this is also the understanding of the Government of India.

Please accept, Sir, the assurances of my highest consideration.

I have the honour to confirm on behalf of my Government that the above represents also the understanding of the Government of India.

Please accept, Excellency, the assurances of my highest consideration.

Sd /-

V. SHANKAR

His Excellency  
Mr. YADU NATH KHANAL  
Ambassador of Nepal,  
New Delhi.