

## **Agreement on Air Services Exchange of Letters, 6/04/1970**

May 31, 1963

### **AGREEMENT BETWEEN THE GOVERNMENT OF INDIA AND THE FEDERAL REPUBLIC OF GERMANY RELATING TO AIR SERVICES**

#### **New Delhi**

The Government of India and the Federal Republic of Germany, 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 air services between and beyond their respective territories,  
HAVE agreed as follows

#### **Article I**

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 the Federal Republic of Germany, the Federal Minister of Transport, or any person or body authorised to perform the functions presently exercised by the said Director General or by the said Minister;
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 came into force on 18 February 1965.
3. the terms "territory", "air-service", "international air service" and "stop Ar 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 according to the Route Schedule which shall be specified by; an Exchange of Notes between the Contracting Parties; such air services and routes as specified in the route Schedule shall hereinafter be 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 enjoy, while operating an agreed service on a specified route, 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 in accordance with the Route Schedule as specified in the Exchange of Notes for the purpose of putting down and taking on international traffic in passengers, mail and cargo.

3. Nothing in the present Agreement 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, mail or cargo to be set down at another point in the territory of that other Contracting Party.

4. The laws and regulations of one Contracting Party relating to entry into or departure from its territory of aircraft or of air services operated in international air navigation or to the operation of such aircraft or 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 in accordance with the Schedule.

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 applied by them to the operations of 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 or to withhold 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 necessary to avoid further infringements of laws, regulations or provisions of the present Agreement.

2. Each Contracting Party shall have the right by written communication to the other Contracting Party to replace its designated airline by another designated airline subject to the provisions of the present Agreement. The newly designated airline shall have the same rights and be subject to the same obligations as the airline which it replaces.

### **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 by a designated airline of either Contracting Party and entering, departing again from, or flying across the territory of the other Contracting Party, as well as fuel, lubricants, spare parts, regular equipment and aircraft stores on board such aircraft, shall be exempt from customs duties and other charges levied on the occasion of importation, exportation or transit of goods, provided that the aircraft does not stay at a time in the territory of the other Contracting Party for a period exceeding six months. This shall also apply to goods on board the aircraft consumed during the flight across the territory of the latter Contracting Party.

2. Aircraft stores, spare parts and regular equipment temporarily imported into the territory of either Contracting Party, there to be immediately or after storage installed in the aircraft of the designated airline of the other Contracting Party or to be placed on board such aircraft for the use by or on board such aircraft or to be otherwise exported again from the territory of the former Contracting Party, shall be exempt from customs duties and other charges mentioned in Paragraph 1 of this Article.

3. Fuel and lubricants taken on board the aircraft of a designated airline of either Contracting Party in the territory of the other Contracting Party and used in international air services shall be exempt from the customs duties and other charges mentioned in Paragraph 1 of this Article.

4. Each Contracting Party shall have the right to require that the loading, unloading, temporary storage pending re-export and reexport of the goods mentioned in Paragraphs 1 to 3 of this Article shall be done under the supervision of the customs authorities of the Contracting Party in whose territory these take place.

#### **Article VII**

1. The designated airline of each Contracting party shall, in all respects, enjoy fair and equal opportunity for the carriage of international traffic between and beyond the territories of the two Parties.

2. The aeronautical authorities of the two Contracting Parties shall regularly exchange views in regard to application and interpretation of this Article in order to assure the observance of principles of fair and equal opportunity to the designated airlines.

#### **Article VII**

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

#### **Article IX**

1. The capacity to be provided, the frequency of services to be operated and the nature of air services, that is, transiting through or terminating in the territory of the other Contracting Party 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 and any other traffic to be jointly agreed and determined. Pending such agreement or settlement, the capacity and frequency entitlements already in force shall prevail.

3. 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.

4. The capacity to be provided, the frequency of services to be operated and the nature of air service, that is, transiting through or terminating in the territory of the other Contracting Party as agreed to in accordance with the provisions of this Article shall be specified in an exchange of letters between the aeronautical authorities of the Contracting Parties.

#### **Article X**

Each Contracting Party shall cause its designated airline to communicate 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, the type of service, 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 services.

#### **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 or through the territory of the other Contracting Party showing the countries of origin and destination 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**

1. 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 Paragraphs should be observed.

2. The tariffs shall, if possible, be agreed for each route between the two designated airlines. For this purpose the designated airlines should be guided by such decisions as are applicable under the traffic conference procedures of the International Air Transport Association (IATA) or should, if possible, agree on such tariffs directly between themselves after consulting with airlines of third countries which operate over the same routes or parts thereof.

3. Any OHMS 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.

4. If no agreement has been reached between the designated airlines in accordance with Paragraph 2 of this Article, or if the aeronautical authorities of one of the Contracting Parties do not

consent to the tariffs submitted for their approval in accordance with Paragraph 3 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.

5. Pending determination of the tariffs in accordance with this Article, the tariffs already in force shall prevail.

#### **Article XIII**

In a spirit of close collaboration, the aeronautical authorities of the two Contracting Parties shall exchange views regularly on the application and interpretation of the present Agreement.

#### **Article XIV**

Consultations may be requested at any time by either Contracting Party for the purpose of initiating any amendments to the present Agreement or to the Exchange of Notes referred to in Article II of the present Agreement. Consultations may also be requested on matters concerning the interpretation and 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. Any modification of the Exchange of Notes referred to in Article II of the present Agreement shall come into effect when it has been confirmed by an exchange of diplomatic notes.

#### **Article XV**

1. To the extent that any disagreement arising out of the interpretation or application of the present Agreement cannot be settled in accordance with Article XIV of the present Agreement, it shall be submitted to an arbitral tribunal at the request of either Contracting Party.
2. Such arbitral tribunal shall be established in each individual case in such a way as to comprise one member to be appointed by each Contracting Party and these two members shall then agree upon the choice of a national of a third State as the chairman who shall be appointed by the Governments of the two Contracting Parties. The members shall be appointed within sixty days and the chairman within ninety days after either Contracting Party has informed the other Contracting Party of its intention of referring the disagreement to arbitration.
3. If the time-limits provided for in Paragraph 2 are not observed, either of the Contracting Parties may, in the absence of any other relevant agreement, invite the President of the Council of the International Civil Aviation Organization (ICAO) to make the necessary appointments. Where the President is prevented from carrying out this function, his deputy in office should be invited to make the necessary appointments.
4. The arbitral tribunal shall reach its decisions by a majority of votes. Such decisions shall be binding on both Contracting Parties. Each of the Contracting Parties shall bear the expenses of its own member as well as of its representation in the proceedings at the arbitral tribunal; the expenses of the chairman and any other expenses shall be borne in equal parts by both Contracting Parties. In all other respects, the arbitral tribunal shall determine its own procedure.

#### **Article XVI**

To the extent to which they are applicable to the air services established under the present Agreement, the 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 present Agreement shall be subject to ratification and instruments of ratification shall be exchanged as soon as possible.
2. The present Agreement shall enter into force thirty days after the exchange of the instruments of ratification.

#### **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 Organization. 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 Organization.

DONE at New Delhi this 31st day of May, 1963 in six originals, two each in the Hindi, German and English languages, all the six texts being equally authentic. In case of any divergence of interpretation, the English texts shall prevail.

Sdl-  
M.M. PHILIP  
For the Government of India.

Sdl-  
G.F. DUCKWITZ  
For the Federal Republic of Germany.

#### **DER BOTSCHAFTER**

#### **DER RUNDESREPUBLIK DEUTSCHLAND**

Sir,

I have the honour to refer to paragraph 1 of Article II of the Air Services Agreement signed today at New Delhi. In this negotiations which have been conducted in connection with the above mentioned Agreement, it has been agreed that air services may be operated on the routes specified in the following Route Schedule:

1. Routes to be operated in both directions by the Airlines designated by the Federal Republic of Germany

<b>Point of Origin</b>	<b>Intermediate points</b>	<b>Points in the territory of India</b>	<b>Points beyond</b>
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1. Germany	Points in Central Europe, Southern Europe, south Eastern Europe, Lebanon, Syria, Egypt, Iraq, Iran Saudi Arabia, Persian Gulf, Afghanistan, west Pakistan.	Calcutta	A point in Burma a point in Thailand, Hong Kong a point in Phillipines to Japan.
2. Germany	As in route 1 above	A point in India as may be agreed	To Australia via intermediate points to be agreed.

2. Routes to be operated in both directions by the Airlines designated by the Government of India

Point of Origin	Intermediate points	Points in the territory of India	Points beyond
1. India	Points in West Pakistan, Afghanistan, Persian Gulf, Saudi Arabia, Iran, Iraq, Egypt, Syria, Lebanon, South Eastern, Europe, Central Europe.	Frankfurt on Main	A point in France a point in United Kingdom, a point in Eire, a point in USA.
2. India	As route 1 above	A point in Federal Republic of Germany as may be agreed.	A point in U.S. A via Canada and other intermediate points as may be agreed.

3. A designated airline may, if it so desires omit one or more of the points on the specified routes. I have the honour to inform you that the Federal Republic of Germany agrees to the above Route Schedule. I should be grateful you would inform me whether the Government of India also agree to this Route Schedule. If this should be the case, the present note and your note in reply shall be regarded as constituting an Agreement between our Governments.

Accept, Sir, the renewed assurance of my highest consideration.

New Delhi, May 31, 1963.

Sd/-

G.F. DUCKWITZ

Ambassador of the Federal Republic of Germany

Shri M.M. PHILIP,

Secretary, Ministry of Transport and Communications, (Deptts. of Communications and Civil Aviation), New Delhi.

New Delhi

Dated May 31, 1963

From Secretary,

Ministry of Transport and Communications, (Departments of Communications and Civil Aviation), New Delhi.

Excellency,

I have the honour to refer to your note of to-day's date reading as

"I have the honour to refer to paragraph 1 of Article II of the Air Services Agreement signed today at New Delhi. In this negotiations which have been conducted in connection with the above mentioned Agreement, it has been agreed that air services may be operated on the routes specified in the following Route Schedule

**ROUTE SCHEDULE**

1. Routes to be operated in both directions by the airline designated by the Federal Republic of Germany:

Point of Origin	Intermediate points	Points in the territory of India	Points beyond
1. Germany	Points in Central Europe, southern Europe, South eastern Europe, Lebanon, Syria, Egypt, Iraq, Iran, Saudi Arabia, Persian Gulf, Afghanistan, West Pakistan.	Calcutta  A point in India as may be agreed.	A point in Burma, Thailand, Hong Kong, Philippines to Japan.  To Australia via other points to be agreed.
2. Germany	As in route 1 above		

2. Routes to be operated in both directions by the airlines designated by the Government of India :

Point of Origin	Intermediate points	Points in the territory of the Federal Republic of Germany	Points beyond
1. India	Points in West Pakistan, Afghanistan, Persian Gulf, Saudi Arabia, Iraq, Egypt, Syria, Lebanon, South Eastern Europe, Southern Europe, Central Europe.	Frankfurt on Main  A point in Federal Republic of Germany as may be agreed.	A point on France a point in United Kingdom, a point in Eirew a point in USA  A point in USA via Canada and other intermediate pointts as may be agreed.
2. India	As route 1 above		

3. A designated airline may, if it so desires omit one or more of the points on the specified routes.

I have the honour to inform you that the Federal Republic of Germany agrees to the above Route Schedule. I should be grateful if you would inform me whether the Government India agrees to the



proposals contained in sections I to III above, I have the honour to suggest that this Note and your note in reply thereto expressing the agreement of Your Government shall constitute an Arrangement between our two Governments, to enter into force on the date of your Note in reply.

Accept, Mr. Secretary, the assurance of my highest consideration."

I have the honour to confirm that the above represents also the understanding of the Government of India and that your Note and this reply shall be regarded as constituting an Agreement between our Governments.

I avail myself of this opportunity to renew to you the assurance of my highest consideration.

Yours sincerely,

Sd/-

N. SAHGAL

New Delhi

Date April 6, 1970

From

The Secretary to the Government of India, Ministry of Tourism and Civil Aviation, New Delhi.

To

The Charged' affaires ad interim, The Embassy of the Federal Republic of Germany, New Delhi.

Sir,

I have the honour to refer to your Note of today's date reading as follows

"I have the honour to refer to the consultations held in Bonn between 20 and 24 January, 1969 pursuant to Article XIII of the Indo-German Air Services Agreement of May 31, 1963 and, pursuant to the arrangement signed today concerning the Route Schedule, to propose on behalf of the Government of the Federal Republic of Germany that the Arrangements concluded in the exchanges of Notes of May 31, 1963 and December 29, 1967 concerning air services be deemed to have ceased to have effect on January 24, 1969 and replaced as from that date by the following arrangements.

1. The airline designated by the Federal Republic of Germany shall be entitled to co-operative weekly services on the routes specified in the Route Schedule via the intermediate points stipulated for each of the two routes.

As from April 1, 1970, the airline designated by the Federal Republic of Germany shall be entitled to operate a sixth weekly service via India on one of the specified routes.

2. The airline designated by the Government of India shall be entitled to operate five weekly services on the routes specified in the Routes Schedule via the intermediate points stipulated for each of the two routes.

As from April 1, 1970, the airline designated by the Government of India shall be entitled to operate a sixth weekly service via the Federal Republic of Germany one of the specified routes.

It was further agreed that the airline designated by the Government of India may operate on the route specified under 11. 1 of the Route Schedule, two of its weekly services via Moscow with full traffic rights.

3. The airline designated by the Federal Republic of Germany may, provided it has notified the aeronautical authorities, at any time replace New Delhi by Bombay on the routes stipulated in Route I of the Route Schedule.

Similarly, the airline designated by the Government of India, may, provided it has notified the aeronautical authorities, at any time replace its second chosen point by any other point in the territory of the Federal Republic of Germany.

4. The airline designated by the Government of India may, from time to time, service the same point in the Federal Republic of Germany twice on one flight. Similarly, the airline designated by the Federal Republic of Germany may, from time to time, service the same point in India twice on the same flight. Such double servicing should be notified in advance to the aeronautical authorities, whose approval is required. Under normal circumstances such approval should not be withheld.

5. The airlines designated by the two Contracting Parties shall be entitled to operate any or all of their weekly services with the equipment of their choice on condition that up to two weekly services may be operated with aircraft of type Boeing 747 until the conclusion of an arrangement between the two Parties concerning an increase in the appropriate weekly services in accordance with Article IX of the afore-mentioned Agreement. Both parties state their readiness to give sympathetic consideration to proposals for an increase in these weekly services on the basis of the third, fourth and fifth freedom as soon as decisions concerning flight tariffs and other questions connected with the employment of aircraft of type Boeing 747 have been announced.

6. If the Government of India agrees to the proposals contained in paragraphs (a) to (e) above, I have the honour to suggest that this Note and Your Note in reply thereto expressing the agreement of your Government shall constitute an Arrangement between our two Governments, to enter into force on the date of your Note in reply.

Accept, Mr. Secretary, the assurance of my highest consideration."

I have the honour to confirm that the above represents also the understanding of the Government of India and that your Note and this reply shall be regarded as constituting an Agreement between our Governments.

I avail myself of this opportunity to renew to you the assurance of my highest consideration.

Yours sincerely,

Sdl-

N. SAHGAL