

AIR SERVICES AGREEMENT BETWEEN THE GOVERNMENT OF INDIA AND

THE GOVERNMENT OF THE REPUBLIC OF KOREA

The Government of India and the Government of the Republic of Korea (hereinafter referred to as the "Contracting Parties"),

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944,

Desiring to conclude an agreement for the purpose of establishing and operating air services between and beyond their respective territories, Have agreed as follows:

ARTICLE - 1

DEFINITIONS

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

- (a) the term "the Convention" means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944, and includes any annex adopted under Article 90 of that Convention and any amendment of the Annexes or of the Convention under Articles 90 and 94 thereof so far as these annexes and amendments have been effective for both Contracting Parties;
- (b) the term "aeronautical authorities" means, in the case of India, the Director General of Civil Aviation and in the case of the Republic of Korea, the Minister of Transportation or in both cases any other person or body authorized to perform the functions exercised at present by the said authorities;



- (c) the term "designated airline" means any airline which the aeronautical authorities of one Contracting Party has designated, by written notification to the other Contracting Party, for the operation of air services on the routes specified in the Annex of the present Agreement, and to which the appropriate operating permission has been given by the aeronautical authorities of that other Contracting Party, in accordance with Article 3 of the present Agreement;
- (d) the term "territory" in relation to a State has the meaning assigned to it in Article 2 of the Convention;
- (e) the terms "air service", "international air service", "airline" and "stop for non-traffic purposes" have the meanings respectively assigned to them in Article 96 of the Conventioon;
- (f) the term "capacity" in relation to an aircraft means the payload of that aircraft available on a route or section of a route;
- (g) the term "capacity" in relation to an agreed service means the capacity of the aircraft used on such service multiplied by the frequency operated by such aircraft over a given period and route or section of a route;
- (h) the term "carriage of traffic" means carriage of passengers, cargo and mail; and
- (i) the term "Annex" means the Annex to the present Agreement or as amended in accordance with the provisions of Article 16 of the present Agreement. The Annex forms an integral part of the present Agreement, and all references to the Agreement shall include references to the Annex except where otherwise explicitly provided.



GRANT OF TRAFFIC RIGHTS

- 1. Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement to enable its designated airlines to establish and operate scheduled international air services on the routes specified in the Annex. Such services and routes are hereinafter called "the agreed services" and "the specified routes" respectively.
- 2. Subject to the provisions of the present Agreement, the designated airlines of each Contracting Party shall enjoy the following rights:
 - (a) to fly without landing across the territory of the other Contracting Party;
 - (b) to make stops in the territory of the other Contracting

 Party for non-traffic purposes; and
 - (c) While operating the agreed services on the specified routes, to take up and put down passengers, cargo and mail at any point subject to the provisions contained in the Annex.
- 3. Nothing in paragraph 2 of this Article shall be deemed to confer on the designated airlines of one Contracting Party the rights of taking up, in the territory of the other Contracting Party, passengers, cargo or mail carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

ARTICLE - 3

DESIGNATION OF AIRLINES

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

- 2. On receipt of such designation, the other Contracting Party shall, subject to the provisions of paragraphs 3 and 4 of this Article, grant without delay to the designated airlines the appropriate operating authorisation.
- The aeronautical authorities of one Contracting Party may require the designated airlines of the other Contracting Party to satisfy them that the airlines qualify to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied to the operation of international air services by such authorities in conformity with the provisions of the Convention.
- 4. Each Contracting Party shall have the right to refuse to accept the designation of airlines or to refuse to grant the operating authorisation referred to in paragraph 2 of this Article, or to impose such conditions as it may deem necessary on the exercise by the designated airlines of the rights specified in Article 2 of the present Agreement, in any case where the said Contracting Party is not satisfied that substantial ownership and effective control of those airlines are vested in the Contracting Party designating the airlines or in its nationals.
- 5. For the purpose of this paragraph 4, the expression "substantial ownership and effective control" means that in any case where a designated airline operates its services under this Agreement by entering into any agreement with an airline of any other country or the Government or nationals of any other country, the Contracting Party designating the airline or its nationals shall not be deemed to have substantial ownership and effective control of the designated airline, unless the Contracting Party or its nationals, in addition to the ownership of the major part of the assets of the designated airline, have also:-
 - (a) effective control in the management of the designated airline, and
 - (b) ownership and effective control of the major part of the fleet of aircraft and equipment used in the operation

of the services.



6. The airlines designated and authorised in accordance with the provisions of paragraphs 1 and 2 of this Article may begin to operate the agreed services, provided that the capacity is regulated under Article 10 of the present Agreement and that the requirements of Article 11 of the present Agreement are fulfilled in respect of those services.

ARTICLE - 4

REVOCATION AND SUSPENSION OF RIGHTS

- 1. Each Contracting Party shall have the right to revoke an operating authorisation or to suspend the exercise of the rights specified in Article 2 of the present Agreement by the airlines designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of these rights:
 - (a) in any case where it is not satisfied that substantial ownership and effective control of those airlines are vested in the Contracting Party designating the airlines or in nationals of such Contracting Party; or
 - (b) in case of failure by those airlines to comply with the laws or regulations of the Contracting Party granting those rights; or
 - (c) in case the airlines otherwise fail to comply with the provisions of the present Agreement.
- 2. Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph 1 of the present Article is essential to prevent further infringements of laws or regulations, such right shall be exercised by each Contracting Party only after consultation with the other Contracting Party.



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ARTICLE - 5

CHARGES

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 airlines of the other Contracting Party shall not be higher than those paid by the aircraft of an airline of the first Contracting Party engaged in similar international air services.

ARTICLE - 6

CUSTOMS DUTIES AND OTHER SIMILAR CHARGES

- 1. Aircraft operated on international services by the designated airlines of the Contracting Parties, as well as their regular equipment, spare parts, 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 similar charges on arriving in the territory of the other Contracting Party in accordance with the provisions of the laws and regulations in force of each Contracting Party, provided such equipment and supplies remain on board the aircraft upto such time as they are re-exported.
- 2. Additionally, the following shall also be exempt from the same duties, fees and charges, with the exception of charges corresponding to the service performed:
 - (a) aircraft stores taken on board in the territory of either Contracting Party, within the limits fixed by the competent authorities of the said Contracting Party, and for use on board aircraft engaged in the agreed services of the other Contracting Party;



- (b) spare parts brought into the territory of either Contracting Party for the maintenance or repair of aircraft used on the agreed services by the designated airlines of the other Contracting Party;
- (c) fuel and lubricants destined to supply aircraft operated on the agreed services by the designated airlines of the other Contracting Party, even when those 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) of this paragraph may be required to be kept under customs supervision or control.

- 3. The regular airborne equipment, as well as the materials and supplies retained on board the aircraft of either Contracting Party, may be unloaded in the territory of the other Contracting Party only with the approval of the customs authorities of that other Contracting Party. In such case, they may be placed under the supervision of the said authorities upto such time as they are re-exported or otherwise disposed of in accordance with customs regulations.
- 4. Baggage and cargo in direct transit on board an aircraft of one Contracting Party shall be exempt from customs duties and other similar charges in the territory of the other Contracting Party.



APPLICABILITY OF LAWS AND REGULATIONS

- 1. The laws and regulations of one Contracting Party governing entry into or departure from its territory of an aircraft engaged in international air navigation or flights of such aircraft over that territory shall be applied to the aircraft of the designated airlines of the other Contracting Party and shall be complied with by such aircraft upon entering into or departing from, and while within the territory of the first Contracting Party.
- 2. The laws and regulations of one Contracting Party governing entry into, stay in, transit through or departure from its territory of passengers, crew, cargo and mail, such as those concerning the formalities of entry and exit, of emigration and immigration, customs, currency, medical and quarantine measures, shall be applied to the passengers, crew, cargo or mail carried by the aircraft of the designated airlines of the other Contracting Party while within the territory of the first Contracting Party.

ARTICLE - 8

ESTABLISHMENT OF AIRLINE REPRESENTATIVE OFFICES

- The designated airlines of each Contracting Party shall have the right to establish representative offices in the territory of the other Contracting Party. Those representative offices may include commercial, operational and technical staff.
- 2. The representative offices, representatives and staff shall be established in accordance with the laws and regulations in force in the territory of that other Contracting Party.

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ARTICLE - 9

RECOGNITION OF CERTIFICATES AND LICENCES

- 1. Certificates of airworthiness, certificates of competency and licences issued or rendered valid by either Contracting Party shall during the period of their validity, be recognized as valid by the other Contracting Party.
- 2. Each Contracting Party reserves the right, however, not to recognize as valid, for the purpose of flights over its own territory, certificates of competency and licences granted to its own nationals or rendered valid for them by the other Contracting Party or by any other State.

ARTICLE - 10 CAPACITY REGULATIONS

- There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to operate the agreed services on the specified routes.
- In operating the agreed services, the designated airlines of each Contracting Party shall take into account the interests of the designated airlines of the other Contracting Party so as not to affect unduly the services which the latter provide on all or part of the same routes.
- On any specified route the capacity provided by the designated airlines of one Contracting Party together with the capacity provided by the designated airlines of the other Contracting Party shall be maintained in reasonable relationship to the requirements of the public for air transport on that route.

- Contracting Party shall have as their primary objective the provision, at a reasonable load factor, of capacity adequate to the current and foreseeable traffic demands to and from the territory of the Contracting Party designating the airlines. The carriage of traffic embarked or disembarked in the territory of the other Contracting Party to and from points on the specified routes in the territories of States other than that designating the airlines shall be of supplementary character. The right of such airlines to carry traffic between points of the specified routes located in the territory of the other Contracting Party and points in third countries shall be exercised in the interest of an orderly development of international air transport in such a way that the capacity is related to:
 - (a) the traffic demand to and from the territory of the Contracting Party designating the airlines;
 - (b) the traffic demand existing in the areas through which the agreed services pass, taking account of local and regional air services; and
 - (c) the requirements of through airline operation.
- 5. Keeping in view the principles set out above, the capacity to be provided and the frequency of services to be operated by the designated airlines shall be agreed between the aeronautical authorities of the two Contracting Parties prior to the commencement of the agreed services. Any increase in the frequency/capacity entitlements of the designated airlines shall be agreed between the two aeronautical authorities on the basis of growth in traffic. Pending an agreement on such increase, the capacity and frequency entitlements already in force shall prevail.

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ARTICLE - 11

TARIFFS

- 1. For the purpose of the following paragraphs, the term "tariffs" means the prices to be paid for the carriage of passengers and cargo and the conditions under which those prices apply, including prices and conditions for agency and other auxiliary services but excluding remuneration and conditions for the carriage of mail.
- 2. The tariffs on any agreed services shall be established at reasonable levels, due regard being paid to all relevant factors including cost of operation, reasonable profit, characteristics of service such as standards of speed and accommodation, and the tariffs of other airlines for any part of the specified routes.
- The tariffs shall be fixed in accordance with the following provisions:-
 - (a) The tariffs referred to in paragraph 2 of this Article, together with the rates of agency commission used in conjunction with them shall, if possible, be agreed in respect of each of the specified routes and sectors thereof between the designated airlines concerned, and such agreement shall, where possible, be reached through the rate fixing machinery of the International Air Transport Association.
 - (b) The tariffs so agreed shall be submitted for the approval of the aeronautical authorities of both Contracting Parties at least ninety (90) days before the proposed date of their introduction. In special cases, this period may be reduced, subject to the agreement of the said authorities.



- (c) This approval may be given expressly: If neither of the aeronautical authorities has expressed disapproval within thirty (30) days from the date of submission, in accordance with paragraph 3(b) of this Article, these tariffs shall be considered as approved. In the event of the period for submission being reduced, as provided for in paragraph 3(b), the aeronautical authorities may agree that the period within which any disapproval must be notified shall be less than thirty (30) days.
- (d) If a tariff cannot be agreed upon in accordance with the provisions of paragraph 3(a) of this Article, or if during the period applicable in accordance with paragraph 3(c) of this Article, one aeronautical authority gives the other aeronautical authority notice of its disapproval of a tariff agreed in accordance with the provisions of paragraph 3(c) of this Article, the aeronautical authorities of the two Contracting Parties shall try to determine the tariff by mutual agreement.
- (e) If the aeronautical authorities cannot agree on any tariff submitted to them under paragraph 3(b) of this Article, or on the determination of any tariff under paragraph 3(d) of this Article, the dispute shall be settled in accordance with the provisions of Article 17 of the present Agreement.
- (f) A tariff established in accordance with provisions of this Article shall remain in force until a new tariff has been established. Nevertheless, a tariff shall not be prolonged by virtue of this paragraph for more than twelve (12) months after the date on which it would otherwise have expired.



PROVISION OF STATISTICS

The aeronautical authorities of each Contracting Party shall cause their designated airlines to supply to the aeronautical authorities of the other Contracting Party such periodic or other statements of statistics as may be reasonably required for the purpose of reviewing the capacity provided on the agreed services by the designated airlines of the first Contracting Party. Such statements shall include all information required to determine the amount of traffic carried by those airlines on the agreed services and the points of embarkation and disembarkation of such traffic.

ARTICLE - 13

TRANSFER OF REVENUES

- 1. Each Contracting Party shall grant to the designated airlines of the other Contracting Party the right of transfer of excess of receipts over expenditure earned by the airlines in the territory of the first Contracting Party in connection with the carriage of passengers, mail and cargo, in any of freely convertible currencies in accordance with the foreign exchange regulations in force.
- Such transfers shall be effected on the basis of the official exchange rate for currency payment, or where there are no official exchange rates, at the prevailing foreign exchange market rates for currency payment.
- 3. In case special arrangements ruling the settlement of payments are in force between the two Contracting Parties, the provisions of such arrangements shall be applied to the transfer of funds under paragraph (1) of this Article.



SECURITY

- 1. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement. Without limiting the generality of their rights and obligations under international law, the Contracting Parties shall in particular act in conformity with the provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September, 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December, 1970, the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988 or any other convention on aviation security to which both Contracting Parties shall become members.
- 2. The Contracting Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unalwful acts against the safety of such aircraft, their passengers and crew, airports and air navigation facilities and any other threat to the security of civil aviation.
- The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organisation and designated as annexes to the Convention to the extent that such security provisions are applicable to the Contracting Parties and they shall require that operators of aircraft of their registry, or operators of aircraft who have their principal place of business or permanent residence in their territory, and the operators of airports in their territory, act in conformity with such aviation security provisions.



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ARTICLE - 16

AMENDMENT

- 1. If either Contracting Party considers it desirable to amend any provisions of the present Agreement, it may at any time request consultation with the other Contracting Party. Such consultation may be through discussions or by correspondence, and shall begin within a period of sixty (60) days from the date of receipt of the request. Any amendments so agreed shall come into force when they have been confirmed by an exchange of diplomatic notes.
- 2. Amendments of the Annex may be made by direct agreement between the aeronautical authorities of the Contracting Parties and confirmed by an exchange of diplomatic notes.
- 3. If a general multilateral convention or agreement concerning air transport comes into force in respect of both Contracting Parties, the present Agreement shall be amended so as to conform with the provisions of such convention or agreement.

ARTICLE - 17

SETTLEMENT OF DISPUTES

If any dispute arises relating to the interpretation or application of the present Agreement, the aeronautical authorities of the Contracting Parties shall endeavour to settle it by negotiations between themselves, failing which the dispute shall be referred to the Contracting Parties for settlement.

ARTICLE - 18

TERMINATION

Either Contracting Party may at any time give notice to the other Contracting Party of its decision to terminate the present Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organisation. In such case, the present



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Agreement shall be terminated twelve (12) 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, the notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organisation.

ARTICLE - 19 REGISTRATION

The present Agreement and any amendment thereto shall be registered with the International Civil Aviation Organisation.

ARTICLE - 20 ENTRY INTO FORCE

The present Agreement shall enter into force on the date of signature.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed the present Agreement.

Done at <u>Seoul</u> on this 16th day of <u>MayCh</u> 1992 in six originals, two each in the Korean, the Hindi and the English languages, all the texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

[MADHAVSINH SOLANKI] External Affairs Minister

For the Government of India

[LEE SANG OCK] Minister of Foreign Affairs

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For the Government of the Republic of Korea



ANNEX

Section - 1

Routes to be operated by the designated airlines of the Republic of Korea in both directions:

Points of Origin

Points in the Republic of Korea

Intermediate Points

- Bangkok or Hongkong

Points of Destination

Bombay, New Delhi

Beyond Points

- Cairo
- One point in Iran or Iraq or Jordan or Yemen or Syria or Qatar or Bahrain.
 - One point in Italy or Spain or Portugal or Greece.

Section - 2

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

Points of Origin

Points in India

Intermediate Points

Bangkok or Hongkong

Points of Destination

Seoul, Pusan

Beyond Points

1. Tokyo

2. Los Angeles

Notes:

- 1. The designated airlines of both Contracting Parties may on all or any flights, omit calling at any of the above points provided that the agreed services on the routes begin at the points of origin in the respective countries.
- 2. The aeronautical authorities of either Contracting Party shall select only one intermediate point during any particular schedule period for use by its designated airlines.
- The designated airlines of either Contracting Party shall not serve two points in the territory of the other Contracting Party on the same flight.