

MEMORANDUM OF UNDERSTANDING

**Government of India and the Government of the United
Kingdom of Great Britain and Northern Ireland.**

New Delhi, 13 April 2005

MEMORANDUM OF UNDERSTANDING

1. Delegations representing the aeronautical authorities of the Government of India and the Government of the United Kingdom of Great Britain and Northern Ireland met in New Delhi on 12-13 April 2005 to discuss arrangements governing air services between their two countries. The talks were held in a friendly and cordial atmosphere. Lists of the two delegations are attached at Annexure 1.

Air Services Agreement

2. The two delegations recognized the need to update the existing Air Services Agreement (ASA) between India and the UK and decided that the process of updating the ASA will be continued through correspondence with a view to concluding a new Agreement as soon as possible.

3. However, pending a full revision of the ASA, the following amendments have been decided in the existing ASA:

(i) Article VI re Tariffs

The UK side noted that paragraphs (B) to (E) of Article VI of the existing ASA are inconsistent with UK and European Competition Law. In view of this, both sides decided not to apply or to seek to rely upon paragraphs (B) to (E) of Article VI of the existing ASA.

(ii) New Article on Code Sharing Arrangements

Code sharing rights will be allowed as per the article attached as Annexure 2. This article will form a part of the ASA.

Requirements of European Community Law

4. The UK delegation explained that it is obliged by European Community law to include certain standard provisions, in particular on designation of European Community airlines, in all its bilateral arrangements. It explained the meaning of these provisions and urged the Indian delegation to accept them. It explained that if these provisions were not accepted, any new arrangements between the UK and India could only be applied on a provisional basis and would be subject to the approval of the European Commission.

5. The Indian delegation, while taking note of the request of the UK side, advised that it needed more time to study these clauses. It was not possible to immediately confirm the incorporation of these clauses as these are under consideration of the Government of India. However, the entire issue would be discussed in the near future with the European Commission as part of the proposal for a European Union level Horizontal Agreement.

Slots

6. In terms of the Memorandum of Understanding signed between the two sides on 17 September 2004, both delegations reiterated that they would, within applicable legal and practical constraints, facilitate availability of slots at their respective airports to enable the designated airlines to operate the capacity entitlements in this Memorandum of Understanding.

Charter Flights

7. The UK side raised the following requests with regard to the operation of charter flights:

- (i) The minimum length of stay for the tourists should be relaxed from the existing 28 days to 45 days.
- (ii) The airlines should not be penalized for any violation of law by the tour operators.
- (iii) Tourists should be allowed to avail themselves of the services operated by various tourists charter operators viz. they should be allowed to come to India on the services of one charter operator and return on the services of the other.

8. The Indian side took note of these requests and assured the UK side that these issues will be resolved prior to the commencement of the next tourist season.

Route Schedule and Capacity/Traffic Rights

9. Both sides decided on the Route Schedule and capacity/traffic rights as given in Annexure 3 in supersession of all earlier arrangements.

10. Both sides decided to review these rights periodically in the light of market demand and in accordance with the principle of fair and equal opportunity.

11. This Memorandum of Understanding supersedes all previous Memoranda of Understanding between the two sides.

Signed in New Delhi on 13 April 2005

Sd/-

For the Government of India

Sd/-

For the Government of the United Kingdom of Great Britain & Northern Ireland

RAGHU MENON
Head of Delegation
Joint Secretary
Ministry of Civil Aviation

PHIL DYKINS
Head of Bilateral Relations
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Division
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Code-sharing Arrangements

1. When operating or holding out the agreed combination and all-cargo services on the specified route(s), any designated airline of either Contracting Party may enter into cooperative marketing arrangements, whether as the operating or marketing airline, with
 - (a) an airline or airlines of the same Contracting Party; or
 - (b) an airline or airlines of the other Contracting Party; or
 - (c) an airline or airlines of a third country.
2. When a designated airline of a Contracting Party performs air services under cooperative marketing arrangements as the operating airline, the total capacity operated by that airline will be counted against the capacity entitlements of the Contracting Party designating the airline.
3. When a designated airline of a Contracting Party performs air services under cooperative marketing arrangements as the marketing airline with an airline of its own country or an airline of the other Contracting Party, the service offered by the marketing airline will not be counted against the capacity entitlements of the Contracting Party designating that airline.
4. When a designated airline of a Contracting Party performs air services under cooperative marketing arrangements as the marketing airline with an airline from a third country, the service offered will be counted against the capacity entitlements of both the marketing airline and operating airline.
5. All airlines operating or holding out the above services must hold the appropriate authority including route rights, traffic rights and capacity entitlement and meet the requirements normally applied to such arrangements.
6. The designated airlines of both Contracting Parties will, when holding services out for sale, in terms of code-share, blocked-space or other joint venture arrangements, make it clear to the purchaser at the point of sale which airline will be the operating airline on each sector of the service and with which airline(s) the purchaser is entering into a contractual relationship.

Route Schedule and Capacity/Traffic Rights

ROUTE SCHEDULE

It was decided that Schedule I and II to the ASA will be deleted and replaced by the following:

Schedule I

Route Schedule for UK Designated Airlines:

Points in the United Kingdom – Any two intermediate Points – Points in India – Points Beyond

Notes:

1. Intermediate points or points beyond may be omitted on any flight provided that the service begins or ends in the United Kingdom.
2. The ability to serve two points in India on the same flight will be mutually determined by the two aeronautical authorities.

Schedule II

Route Schedule for Indian Designated Airlines:

Points in India – Any two intermediate points – Points in the United Kingdom – Points Beyond

Notes

1. Intermediate points or points beyond may be omitted on any flight provided that the service begins or ends in India.
2. The ability to serve two points in the United Kingdom on the same flight will be mutually determined by the two aeronautical authorities.

These arrangements will be applied administratively pending formal amendment of the ASA by an Exchange of Notes.

Capacity and Traffic Rights

(a) Routes London Heathrow– Delhi and London Heathrow- Mumbai

- (i) The designated airline or airlines of the United Kingdom may operate up to a combined total of 56 services per week on the routes London Heathrow-Delhi and London Heathrow– Mumbai and vice versa as follows:

With effect from start of IATA season	Number of Frequencies
Winter 2005	42
Summer 2006	49
Winter 2006	56

(ii) The designated airline or airlines of India may operate up to a combined total of 56 services per week on the routes Delhi – London Heathrow and Mumbai – London Heathrow and vice versa as follows:

With effect from start of IATA season	Number of Frequencies
Winter 2005	42
Summer 2006	49
Winter 2006	56

(b) Routes other than London Heathrow– Delhi and London Heathrow– Mumbai

- (i) From the beginning of the IATA Winter season 2005, the designated airline or airlines of the United Kingdom may operate on any other route or routes between the United Kingdom and India and vice versa, subject to a total capacity limit of 7 services per week to/from each airport in India, except that in the cases of Bangalore and Chennai only, the total capacity limit will be increased to 14 services per week each from the beginning of the IATA Summer Season 2006.
- (ii) From the beginning of the IATA Winter season 2005, the designated airline or airlines of India may operate without capacity limits on any other route between India and the United Kingdom.

Co-Terminalisation

The designated airline or airlines of the United Kingdom may not operate more than 7 services per week as co-terminals and only to/from Kolkata behind Delhi.

The designated airline or airlines of India may not operate more than 7 services per week as co-terminals to two points in the United Kingdom.

Fifth Freedom Services

All United Kingdom and Indian designated airlines may operate all the above services with fifth freedom rights to/from intermediate and beyond points in accordance with their respective route schedules.