

No. 3932

**UNITED STATES OF AMERICA
and
INDIA**

Air Transport Agreement (with Schedule and exchange of notes). Signed at New Delhi, on 3 February 1956

Official texts of the Agreement and Schedule: English and Hindi.

Official text of the exchange of notes: English.

Registered by the United States of America on 12 July 1957.

**ÉTATS-UNIS D'AMÉRIQUE
et
INDE**

Accord (avec annexe et échange de notes) relatif aux transports aériens. Signé à New-Delhi, le 3 février 1956

Textes officiels de l'Accord et de l'annexe: anglais et hindoustani.

Texte officiel de l'échange de notes: anglais.

Enregistré par les États-Unis d'Amérique le 12 juillet 1957.

No. 3932. AIR TRANSPORT AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF INDIA. SIGNED AT NEW DELHI, ON 3 FEBRUARY 1956

The Government of the United States of America and the Government of India, hereinafter described as the contracting parties, being parties to the Convention on International Civil Aviation opened for signature at Chicago on December, 7, 1944,² and, desiring to establish the reciprocal operation of air transport services between their two countries as contemplated by the Convention have accordingly appointed plenipotentiaries who, being duly authorized, have agreed as follows :

Article I

For the purposes of the present Agreement :

(A) The term "aeronautical authorities" shall mean in the case of the United States of America, the Civil Aeronautics Board and any person or agency authorized to perform the functions exercised at the present time by the Civil Aeronautics Board and, in the case of India, the Director General of Civil Aviation and any person or agency authorized to perform the functions exercised at present by the said Director General of Civil Aviation.

(B) The term "designated airline" shall mean an airline that one contracting party has notified the other contracting party, in writing, to be the airline which will operate a specific route or routes listed in the Schedule³ of this Agreement.

(C) The term "territory" in relation to a State shall mean the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or trusteeship of that State.

(D) The term "air service" shall mean any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo.

(E) The term "international air service" shall mean an air service which passes through the air space over the territory of more than one State.

¹ Came into force on 3 February 1956, the date of signature, in accordance with article 17.

² United Nations, *Treaty Series*, Vol. 15, p. 295; Vol. 26, p. 420; Vol. 32, p. 402; Vol. 33, p. 352; Vol. 44, p. 346; Vol. 51, p. 336; Vol. 139, p. 469; Vol. 178, p. 420; Vol. 199, p. 362, and Vol. 252, p. 410.

³ See p. 102 of this volume.

(F) The term "stop for non-traffic purposes" shall mean a landing for any purpose other than taking on or discharging passengers, cargo or mail.

Article 2

Each contracting party grants to the other contracting party rights necessary for the conduct of air services by the designated airlines, as follows : the rights of transit, of stops for non-traffic purposes, and of commercial entry and departure for international traffic in passengers, cargo and mail at the points in its territory named on each of the routes specified in the appropriate paragraph of the Schedule annexed to the present Agreement.

Article 3

Air service on a specified route may be inaugurated by an airline or airlines of one contracting party at any time after that contracting party has designated such airline or airlines for that route and the other contracting party has given the appropriate operating permission. Such other party shall, subject to Article 4, be bound to give this permission provided that the designated airline or airlines may be required to qualify before the competent aeronautical authorities of that party, under the laws and regulations normally applied by these authorities, before being permitted to engage in the operations contemplated by this Agreement.

Article 4

Each contracting party reserves the right to withhold or revoke the operating permission provided for in Article 3 of this Agreement from an airline designated by the other contracting party in the event that it is not satisfied that substantial ownership and effective control of such airline are vested in nationals of the other contracting party, or in case of failure by such airline to comply with the laws and regulations referred to in Articles 11 and 13 of the Convention on International Civil Aviation, or in case of the failure of the airline or the government designating it otherwise to perform its obligations hereunder, or to fulfil the conditions under which the rights are granted in accordance with this Agreement.

Article 5

In order to prevent discriminatory practices and to assure equality of treatment, both contracting parties agree that :

(a) Each of the contracting parties may impose or permit to be imposed just and reasonable charges for the use of public airports and other facilities

under its control. Each of the contracting parties agrees, however, that these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services.

(b) In respect of customs duties, inspection fees and similar charges on supplies of fuel, lubricating oils, spare parts, regular equipment and aircraft stores introduced into or taken on board aircraft of the designated airlines of one contracting party in the territory of the other contracting party and intended solely for use by or in such aircraft and remaining on board on departure from the last airport of call in that territory the designated airlines of the first contracting party shall be accorded treatment not less favourable than that granted by the second contracting party to the airlines of the most favoured nation or to its national airlines engaged in international air services: Provided that neither contracting party shall be obliged to grant to the designated airlines of the other contracting party, exemption or remission of customs duty, inspection fees or similar charges unless such other contracting party grants exemption or remission of such charges to the designated airlines of the first contracting party.

Article 6

There shall be a fair and equal opportunity for the airlines of each contracting party to operate on any route covered by this Agreement.

Article 7

In the operation by the airlines of either contracting party of the international air services described in this Agreement, the interest of the airlines of the other contracting 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 routes.

Article 8

The air services made available to the public by the airlines operating under this Agreement shall bear a close relationship to the requirements of the public for such services.

It is the understanding of both contracting parties that services provided by a designated airline under the present Agreement shall retain as their primary objective the provision of capacity adequate to the traffic demands between the country of which such airline is a national and the countries of ultimate destination of the traffic. The right to embark or disembark on such services international traffic destined for and coming from third countries at a point

or points on the routes specified in this Agreement shall be applied in accordance with the general principles of orderly development to which both contracting parties subscribe and shall be subject to the general principle that capacity should be related :

(a) to traffic requirements between the country of origin and the countries of ultimate destination of the traffic;

(b) to the requirements of through airline operation; and,

(c) to the traffic requirements of the area through which the airline passes after taking account of local and regional services.

Article 9

In a spirit of close collaboration, the contracting parties will, in accordance with Article 12, consult from time to time, or at the request of one of the parties, to determine the extent to which the provisions of this Agreement, particularly Articles 6, 7 and 8 are promoting the orderly and economic development of air transportation by the designated airlines of the two contracting parties. The procedures which may be agreed to from time to time by the contracting parties and which may be expressed in an exchange of diplomatic notes or otherwise shall govern the operation of the provisions of this Agreement.

Article 10

(A) The designated airline or airlines of each contracting party shall supply to the aeronautical authorities of the other contracting party, at least thirty days in advance, copies of time tables, including any modifications thereof, and all other similar relevant information concerning the operation of their air services under this Agreement.

(B) Each contracting party shall, upon request, cause to be provided to the other contracting party such statistical reports relating to the traffic carried by its designated airline or airlines to, from and over the territory of the other contracting party as may reasonably be required from time to time to carry out in an orderly manner the purposes of this Agreement.

Article 11

Rates to be charged by the airline or airlines of either contracting party for transportation from the territory of one contracting party to a point or points in the territory of the other contracting party referred to in the annexed Schedule shall be reasonable, due regard being paid to all relevant factors, such as cost of operation, reasonable profit, and the rates charged by any other carriers, as