

Am Gien

**Memorandum of Understanding on Civil Aviation
Between India and China**

Pursuant to the technical level talks held between India and China at Beijing on January 23 2005 and bilateral civil aviation consultations held in New Delhi on 16 – 17 March, 2005, civil aviation authorities of the two countries have reached the following agreement:-

1. Amendments to the Agreement

Both delegations agreed to recommend that Article 3 on Designation and Authorization, Article 7 on Representation and Personnel, Article 8 on Transfer of Airline Earnings and Route Schedule of the Agreement would be amended as attached as Appendix. The above amendments of the Agreement may be applicable provisionally upon signature and shall come into force after confirmation through diplomatic channel.

2. All-cargo services

2.1 Traffic rights and capacity entitlement

The designated airlines of both parties are entitled to have unlimited third, fourth and fifth freedom traffic rights with unlimited capacity entitlement for dedicated cargo services.

2.2 Co-terminalization

It is agreed that the designated airlines of both parties may co-terminalize any two points in its own territory and/or any two points in the territory of the other party without any cabotage rights with the exception for airlines designated by India to combine Beijing and Shanghai, Beijing and Guangzhou, Shanghai and Guangzhou.

The Indian delegation requested the Chinese side to consider the removal of the restriction on co-terminalization on Beijing, Shanghai and Guangzhou in due course. The Chinese delegation took note of the Indian request.

3. Combination services

3.1. Capacity entitlement

The designated airlines of each party have the following capacity

entitlement for combination services:

14 weekly frequencies as of 2005 IATA summer season

28 weekly frequencies as of 2005 IATA winter season

42 weekly frequencies as of 2006 IATA summer season

It is agreed that not more than 21 weekly frequencies may be operated by any designated airlines of one party to any destination point in the territory of the other party.

3.2 Fifth freedom traffic rights

The designated airlines of both parties shall enjoy the fifth freedom traffic rights on the intermediate and/or beyond points specified in Route Schedule for combination services respectively subject to not more than 14 weekly frequencies be operated by any designated airlines of either party to any beyond point.

3.3 Co-terminalization

It is agreed that the designated airlines of both parties may co-terminalize any two points in its own territory.

4. Code-sharing Arrangements

4.1 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;
- (b) an airline or airlines of the other Contracting Party; or
- (c) an airline or airlines of a third country

4.2 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 that Contracting Party designating the airline.

4.3 When a designated airline of a Contracting Party performs air services under cooperative marketing arrangements as the marketing airline with the airline of its own country or the airline of the other Contracting Party, the total capacity offered by the former airline will not

be counted against the capacity entitlements of that Contracting Party designating that airline.

4.4 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 total capacity offered will be counted against the capacity entitlements of both the marketing airline and operating airline.

4.5 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.

4.6 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.

4.7 It is agreed that the designated airlines of each party may enter domestic sector code-share arrangement with the designated airlines of the other party for both combination and all-cargo services on any 6 points of call and any 3 additional points in the territory of the other party.

5. Charter operation

Both delegations agreed that charter operations between the two countries would be governed by the charter regulations of the respective country.

6. Leasing operation

Considering the operation needs of airlines to meet market demand, the Chinese delegation proposed the operations with dry-leased and wet-leased aircraft by the designated airlines of both sides be permitted for both combination services and cargo services.

The Indian delegation explained that operations with wet leased aircraft both for combination and cargo operations are not permitted in India due

to safety oversight considerations and took note of the Chinese suggestion.

Both delegations agreed that such services may, however, be operated with dry leased aircraft.

7. Operations with foreign pilots

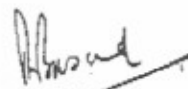
Subject to the provisions of Article 7, both delegations agreed that the designated airlines of either party may employ foreign pilots for the operation of both combination services and cargo services on the specified routes.

8. Visa for operating and cabin crew

As regards visa for operating/cabin crew of the Indian designated airlines, the Chinese delegation indicated that pre-arrangement should be made between the concerned Indian Authorities and the Ministry of Foreign Affairs of China for establishing a system of entry based on General Declaration on the principle of reciprocity.

This MOU shall take effect from the date of signature. .

Signed in New Delhi on 11th April, 2005, in English.



For the Government of
The Republic of India



For the Government of
The People's Republic of China

Section I
Route Schedule For All-cargo Services

A. The airline(s) designated by the Government of India shall be entitled to operate scheduled air services in both directions on the following routes:

Any points in India – any intermediate points – any points in China – any beyond points

B. The airline(s) designated by the Government of the People's Republic of China shall be entitled to operate scheduled air services in both directions on the following routes:

Any points in China – any intermediate points – any points in India – any beyond points

Section II
Route Schedule For Combination Services

A. The airline(s) designated by the Government of India shall be entitled to operate scheduled air services in both directions on the following routes:

Any points in India – any 3 intermediate point – any 6 points in China at its discretion – any 3 beyond points with not more than 2 points in one region

B. The airline(s) designated by the Government of the People's Republic of China shall be entitled to operate scheduled air services in both

directions on the following routes:

Any points in China – any 3 intermediate points – any 6 points in India at its discretion – any 3 beyond points with not more than 2 points in one region

NOTE:

1. Intermediate points and beyond points and the exercise of traffic rights to/from these points shall be agreed upon by the two aeronautical authorities.
2. The aeronautical authorities of one Contracting Party shall notify in writing to the aeronautical authorities of the other Contracting Party the points in the territory of the other party, the intermediate points and the beyond points decided, in due time.

ARTICLE 3

Designation and Authorization

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines to operate the agreed services on the route specified in the Route Schedule.
2. The substantial ownership and effective control of the airline(s) designated by each Contracting Party shall remain vested in such Contracting Party or its nationals.
3. The aeronautical authorities of the other Contracting Party may require the airline(s) designated by the first Contracting Party to satisfy them that it is qualified to fulfill the conditions prescribed under the laws and regulations normally and reasonably applied to the operation of

international air services by the said authorities.

4. On receipt of such designation, the other Contracting Party shall, subject to the provisions of paragraphs 2 and 3 of this Article, grant to the airline(s) so designated the appropriate operating authorization.

ARTICLE 7

Representation and Personnel

1. For the purpose of the agreed services on the specified route, the designated and non-designated airline(s) of each Contracting Party shall have the right, on reciprocal basis, to set up representation and sales offices within the territory of the other Contracting Party. The staff of the representation and sales offices referred to in this paragraph shall be subject to the laws and regulations in force in the country where such representation and sales offices are located.

2. The staff members of the representation and sales offices of the designated and non-designated airline(s) of each Contracting Party shall be nationals of either Contracting Party, unless otherwise agreed.

3. Each Contracting Party shall to the maximum extent practicable ensure the safety of the representation and sales offices and the staff members of the designated and non-designated airline(s) of the other Contracting Party, and safeguard, within its territory, the aircraft, stores and other properties of the said airline(s) for use in the operation of agreed services.

4. Each Contracting Party shall extend assistance and facilities to the representation and sales offices and the staff members of the

designated and non-designated airline(s) of the other Contracting Party necessary for the efficient operation of the agreed services.

5. The crew members of the designated airline(s) of either Contracting Party on flights into and out of the territory of the other Contracting Party shall be nationals of the Contracting Party designating such airline(s). If a designated airline of either Contracting Party desires to employ crew member of any other nationality on flights into and out of the territory of the other Contracting Party, prior approval shall be obtained from that other Contracting Party.

ARTICLE 8

Transfer of Airline Earnings

Either Contracting Party undertakes to grant the designated and non designated airline(s) of the other Contracting Party the right for free transfer, at the official rate of exchange, of the excess of receipt over expenditure achieved on its territory in connection with the carriage of passengers, baggage, cargo and mail by the said designated and non-designated airline(s). The transfer of such funds shall be made in any convertible currency and in accordance with the foreign exchange regulations of the Contracting Party in the territory of which the revenue accrued. Whenever the payment system between the Contracting Parties is governed by a special agreement, that agreement shall apply.