

MEMORANDUM OF UNDERSTANDING

1. Delegations representing the Government of India and the Government of the Federal Republic of Germany met in New Delhi on 24-25 May 2005 to discuss arrangements governing air services between their two countries. The discussions were held in a friendly and cordial atmosphere. The lists of the two delegations are attached at Annex A and Annex B.

Air Services Agreement

2. The two delegations recognized the need to update the existing Air Services Agreement (ASA) between India and the Federal Republic of Germany and agreed that the process of updating the ASA will be undertaken through correspondence.
3. However, pending a full revision of the ASA, the following amendments have been agreed in the existing ASA:

- (i) Article III re Designation

It was agreed that both sides shall be permitted to designate one or more airlines to operate the agreed services, both passenger and cargo.

- (ii) Article IX re Capacity

Both sides agreed not to apply paragraphs (1) to (3) of Article IX of the existing ASA.

- (iii) Article XII re Tariffs

Both sides agreed not to apply paragraphs (2) to (5) of Article XII of the existing ASA.

- (iv) Code-Sharing Arrangements

It was agreed that code-sharing arrangements would be subject to the provisions of the article attached as Annex C. This article will form a part of the ASA.



Requirements of European Community Law

4. The German delegation emphasized the need to incorporate the standard Community Clauses as handed over in writing (in particular concerning designation, tariffs, ground handling and taxation) into the ASA, in line with their obligations under the European Community Law and urged the Indian delegation to accept them. It explained that if these provisions were not accepted, any new arrangements between the Federal Republic of Germany 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 German 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.

Capacity Entitlements and Traffic Rights – Passenger/Combination Services

6. It was agreed that:
 - (i) The existing Route Schedule would be amended to provide for:
 - (a) Grant of access to Hyderabad, Goa and Kochi as additional points of call in India, without intermediate 5th freedom traffic rights, for the designated airlines of the Federal Republic of Germany.
 - (b) Grant of access to three additional points of call (to be specified by India) in the Federal Republic of Germany, without intermediate 5th freedom traffic rights, for the designated airlines of India.
 - (c) Grant of access to any point beyond for the designated airlines of both sides including the exercise of 5th freedom traffic rights to/from these beyond points by the designated airlines of both sides on all their services.
 - (ii) The designated airlines of each side would be permitted to operate a total of 50 frequencies per week in each direction, with an aircraft with capacity not exceeding that of a B747, in a phased manner, as follows:

<u>Effective :</u>	<u>Number of Frequencies per week</u>
Winter 2005/06	42
Summer 2006	50



- (iii) Within the above capacity entitlements, the designated airlines of the Federal Republic of Germany will be permitted to operate a maximum of 7 frequencies to/through any point of call in India, excluding Delhi. The designated airlines of the Federal Republic of Germany will be permitted to operate a maximum of 20 frequencies to/through Delhi, in a phased manner, as follows :

<u>Effective</u>	<u>Number of Frequencies per week</u>
Winter 2005/06	14
Summer 2006	17
Winter 2006/07	20

- (iv) The permission granted to Lufthansa, one of the designated airlines of the Federal Republic of Germany, to operate 5 additional frequencies (2 to Bangalore and 3 to Hyderabad) on a provisional basis up to 31 May 2005 would be extended further till the end of the Summer 2005 time table period.

Capacity Entitlements and Traffic Rights – Freighter Services

7. The designated airlines of both sides would be permitted to operate as many frequencies as they wish, with any aircraft type, from any point(s) in their home country, via any point(s), to any point(s) in the territory of the other country and beyond to any point(s) and vice versa, including with traffic rights.

Slots

8. Both delegations agreed that they would, within applicable legal and practical framework, offer their good services in order to facilitate availability of slots at their respective airports to enable the designated airlines of the other side to operationalise their capacity entitlements.
9. The two sides took note of the Agreement concluded by Air India and Lufthansa on 03 May 2005.



10. The German delegation stated that their designated cargo carriers should be permitted to carry staff members for non-commercial purposes on the cargo flights if reported in the necessary flight declaration.

The German delegation also stated that cargo attendants necessary for special shipment should be treated equally.

The Indian delegation agreed that due consideration would be given to the proposal of the German delegation.

11. The delegations decided that the amendments to the ASA, Route Schedule and other arrangements agreed to under this Memorandum of Understanding shall come into effect upon signature.
12. The delegations agreed to meet again in mid 2006 to further discuss air services' matters, including the use of Airbus A380 aircraft.

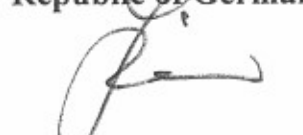
Signed in New Delhi on 25 May 2005

for the Government of India



RAGHU MENON

**for the Government of the Federal
Republic of Germany**



THILO SCHMIDT

LIST OF INDIAN DELEGATION

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|----|--|---------------|
| 1. | Mr. Raghu Menon
Joint Secretary,
Ministry of Civil Aviation | Leader |
| 2. | Mr. Satendra Singh
Director General of Civil Aviation | Member |
| 3. | Mr. R.K. Singh
Director,
Ministry of Civil Aviation | Member |
| 4. | Mr. M.P. Gavai
Director (ITP),
Ministry of External Affairs | Member |
| 5. | Mr. V.K. Verma
Commercial Director,
Air India | Member |
| 6. | Mrs. S. Lalwani
Director (P & IR)
Air India | Member |



DELEGATION OF THE FEDERAL REPUBLIC OF GERMANY

- | | | |
|-----|---|---------------------------|
| 1. | Mr. Thilo Schmidt
Deputy Director General
Civil Aviation
Federal Ministry of Transport,
Building and Housing | Head of Delegation |
| 2. | Dr. Wolfgang Klapper
Deputy Director
International Transport and Tourism
Policy Federal Foreign Office | Member |
| 3. | Mr. Gerd Boosen
Deputy Director Air Transport,
Federal Ministry of Transport
Building and Housing | Member |
| 4. | Dr. Oliver Lamprecht
Counsellor
German Embassy, New Delhi | Member |
| 5. | Ms. Anne Gropper-Muller
Interpreter, Federal Ministry of
Transport, Building and Housing | Member |
| 6. | Mr. Heinz Decker
Air Transport Department
German Airports Association | Member |
| 7. | Mr. Peter Schnolzer
International Relations and Government
Affairs Deutsche Lufthansa AG | Member |
| 8. | Ms. Ursula Sperber
International Relations and Government
Affairs, Lufthansa Cargo AG | Member |
| 9. | Mr. Werner Heesen
Representative India
Deutsche Lufthansa AG | Member |
| 10. | Ms. Doris Franke
International Relations and
Government Affairs LTU | Member |
| 11. | Mr. Josef Kohl
International Relations and
Government Affairs Condor | Member |
| 12. | Mr. Udo Stern
Blue Wings Airline | Member |




Code-sharing Arrangements

1. When operating or holding out the agreed passenger, 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 the 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, provided that third country code-share rights have already been exchanged by the third country with the other Contracting Party.

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 the operating airline.

5. All airlines operating or holding out the above services must hold the appropriate authority including route rights, traffic rights and capacity entitlements 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.

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