



AGREEMENT
BETWEEN
THE GOVERNMENT OF INDIA
AND
THE GOVERNMENT OF DJIBOUTI
RELATING TO AIR SERVICES

The Government of India and the Government of Djibouti 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 promote their mutual relations in the field of civil aviation and to conclude an agreement for the purpose of establishing air services between their respective territories;

Have agreed as follows:

ARTICLE 1

DEFINITIONS

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

- a) The term "aeronautical authorities" means, in the case of India, the Director General of Civil Aviation, and in the case of Djibouti, the Director General of Civil Aviation, or in both cases, any person or body authorized to perform the functions currently exercised by the said authorities;
- b) The term "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 Convention or of the Annexes under Article 94 or 90 thereof in so far as those Annexes and amendments have become effective for both Contracting parties;
- c) The term "designated airline" means an airline which has been designated and authorised in accordance with Article 3 of this 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 not-traffic purposes" have the meanings respectively assigned to them in Article 96 of the Convention;

f) The term "this Agreement" includes the Annex hereto and amendment to it for to this Agreement; and

g) The term "user charges" means a charge made to airlines by the competent authority or permitted by them to be made for the provision of airport property or facilities or of air navigation facilities, including related services and facilities, for aircraft, their crews, passengers and cargo.

ARTICLE 2

Grant of Rights

(1) Each contracting party grants to the other contracting party the rights specified in this Agreement for the purpose of establishing scheduled international air services on the routes specified in the appropriate Section of the schedule annexed to this Agreement. Such services and routes, are hereinafter called "the agreed services" and "the specified routes" respectively.

(2) Subject to the provisions of this Agreement, the airline(s) designated by 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 an agreed service on the specified route, the airline(s) designated by each contracting party shall also enjoy the right to embark and disembark, in the territory of the other Contracting Party at the point(s) specified for that route in the Schedule to this Agreement, international traffic in passengers and cargo including mail, separately or in combination.

(3) Subject to the provisions of paragraphs (3) and (4) of Article 3 of this Agreement, the airline(s) of each contracting party, other than those designated under article 4 of this Agreement, shall also enjoy the rights specified in subparagraphs (a) and (b) of paragraph (2) of this Article.

(4) Nothing in paragraph (2) of this article shall be deemed to confer on the designated airline(s) of one Contracting Party the privilege of taking on board, in

the territory of the other Contracting Party, passengers and cargo including mail destined for another point in the territory of that other Contracting Party.

ARTICLE-3

Designation of and Authorisation of Airlines:

(1) Each contracting Party shall have the right to designate in writing to the other Contracting Party upto two airlines for the purpose of operating the agreed services on the specified routes and to withdraw or alter such designation.

(2) On receipt of such a designation the other Contracting Party shall, subject to the provisions of paragraphs (3) and (4) of this Article, without delay grant to the airline(s) designated the appropriate operating authorization(s).

(3) The aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally 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 the grant of the operating authorization(s) referred to in paragraph (2) of this Article, or to impose such conditions as it may deem necessary on the exercise by a designated airline of the rights specified in Article 2 (2) of this Agreement, in any case where the said Contracting Party is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals. For the purpose of this paragraph, the expression "substantial ownership and effective control" means that in any case where the designated airline operates the agreed services by entering into any agreement (excluding financial lease agreements) with the 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:-

- i) effective control in the management of the designated airline; and
 - ii) ownership and effective control of the major part of the fleet of aircraft and equipment of the designated airline.
- (5) When an airline has been designated and authorized it may begin to operate the agreed services, provided that the airline complies with the applicable provisions of this Agreement.

ARTICLE – 3 (A)

Cooperative Services Arrangement

The designed airline of each Contracting Party shall be allowed by the other Contracting Party to operate or hold out the agreed services by entering into cooperative services arrangements including code-sharing and joint venture arrangements, with:

- (a) an airline of either Contracting Party; and/or
- (b) an airline of any third country where the airlines of both Contracting Parties cannot reach an agreement on such arrangements.

Provided that every airline which is a party to such arrangement holds the appropriate operating authority and meet the requirements normally applied to such arrangements; and

Provided further that the in case of arrangements involving an airline of a third country, such third country authorizes or allows comparable arrangements between the designed airline of the other Contracting Party and any other airline holding appropriate operating authority from such third country.

For the purpose of determining the utilization of the capacity entitlements in case of operations under cooperative services arrangements, it will be reckoned as if the services arrangements, it will be reckoned as if the services were operated individually by the participating airlines.

Note:- The term 'Appropriate operating authority' means route rights, operational rights and traffic rights and does not include the privilege to operate or hold out services under cooperative services arrangements.

ARTICLE-4

Revocation or Suspension of Operating Authorisations

(1) Each Contracting Party reserves to itself the right to revoke or suspend the operating authorization granted to the airline designated by the other Contracting Party or impose such conditions as it may deem necessary on the exercise of the rights specified in Article 2 (2) of this Agreement-

(a) in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of such Contracting Party; or

(b) in case of failure by that airline to comply with the laws and/or regulations normally applied by the Contracting Party granting those rights; or

(c) in case the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.

(2) Unless immediate revocation or suspension of the operating authorization or imposition of the conditions mentioned in paragraph (1) of this Article is essential to prevent further; infringement of the laws and/or regulations or the provisions of this Agreement, such right shall be exercised only after consultation with the aeronautical authorities of the other Contracting Party in accordance with Article 15 of this Agreement.

ARTICLE 5

User Charges

(1) Neither Contracting Party shall impose or permit to be imposed on the designated airline(s) of the other Contracting Party user charges higher than those imposed on their own airlines operating similar international air services.

(2) Each Contracting Party shall encourage consultations on user charges between its competent charging authorities and airlines using the services and facilities provided by those charging authorities, where practicable, through those airlines' representative organizations. Reasonable notice of any proposals for changes in user charges may be given to such users to enable them to express their views before changes are made.

ARTICLE 6

Customs Duties and Procedures

(1) Aircraft operated on international air services by the designated airline(s) of either Contracting Party, as well as their regular equipment, supplies of fuels and lubricants and aircraft stores already on board, introduced into or taken on board such aircraft and intended solely for use by or in such aircraft shall, with respect to all Customs duties, inspection fees and other similar charges be accorded in the territory of the other Contracting Party, treatment not less favourable than that granted by the other Contracting party to its own airline(s) operating scheduled international air services or to the airlines of the most favoured nation.

(2) The same treatment shall be accorded to spare parts entered into the territory of either Contracting Party for the maintenance or repair of aircraft used on the international services by the designated airline(s) of the other Contracting Party.

(3) Neither Contracting Party shall be obliged to grant to the designated airline(s) 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 airline(s) of the first Contracting Party.

(4) 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 such territory.

(5) Materials referred to in paragraphs (1), (2) and (4) of this Article may be required to be kept under Customs supervision or control.

ARTICLE 7

Representation

(1) The designated airline of one Contracting Party shall be allowed, on the basis of reciprocity, to maintain in the territory of the other Contracting Party their representatives, and commercial, operational and technical staff, as required, in connection with the operation of the agreed services.

(2) These staff requirements may, at the option of the designated airline, be satisfied by its own personnel or by using the services of another organization, company or airline operating in the territory of the other Contracting Party, and authorized to perform such services in the territory of that Contracting Party.

(3) The representatives and staff shall be subject to the laws and regulations in force of the other Contracting Party and consistent with such laws and regulations, such Contracting Party shall, on the basis of reciprocity and with the minimum of delay, grant the necessary work permits, employment visas or other similar documents to the representatives and staff referred to in paragraph (1) of this article.

(4) Based on the principle of reciprocity, each Contracting Party grants to the designated airline(s) of the other Contracting Party the right to engage in the sale of air transportation in its territory directly and, at its discretion, through its agents. Each designated airline shall have the right to sell and any person shall be free to purchase such transportation in local currency or in any freely convertible other currency.

ARTICLE 8

Applicability of Laws

(1) The laws and regulations of one Contracting Party governing entry into and departure from its territory of aircraft engaged in international air navigation, or the operation and navigation of such aircraft while within its territory, shall be applied to aircraft of the designated airline of the other Contracting Party.

(2) The laws and regulations of one Contracting Party governing entry into, stay in and departure from its territory of passengers, crew and cargo including mail such as those regarding passports, customs, currency and health and quarantine shall apply to passengers, crew, cargo and mail carried by the aircraft of the designated airline of the other Contracting Party while they are within the said territory.

(3) Neither Contracting Party shall give preference to its own or to any other airline over a designated airline of the other Contracting Party engaged in similar international air services in the application of its customs, immigration, quarantine and similar regulations.

(4) Passengers in direct transit across the territory of either Contracting Party shall be subject to no more than a very simplified control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

ARTICLE 9

Principles Governing Operation of the Agreed Services

(1) There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to operate the agreed services on the specified routes between their respective territories.

(2) In operating the agreed services, the designated airline(s) of each Contracting Party shall take into account the interests of the designated airline(s) of the other Contracting Party so as not to affect unduly the services which the latter provide(s) on the whole or part of the same route(s).

(3) The capacity to be provided on the agreed services by the designated airlines shall bear a close relationship to the estimated air transport requirements of the traveling public between the territories of the Contracting Parties.

(4) Based upon the principles enshrined in the preceding paragraphs, the capacity to be provided and the frequency of services to be operated by the designated airlines of each Contracting Party shall be agreed between the aeronautical authorities of the Contracting Parties.

(5) Any increase in the capacity to be provided and/or frequency of services to be operated by the designated airlines of either Contracting Party shall be based primarily on the increased requirements of traffic between the territories of the Contracting parties and shall be subject to agreement between the two aeronautical authorities. Pending such agreement or settlement, the capacity and frequency entitlement already in force shall prevail.

ARTICLE 10

Provision of operating Information

(1) The aeronautical authorities of each Contracting Party may require the designated airline(s) of the other Contracting Party to file for their consideration and approval, at least sixty days prior to the inauguration of the agreed services, information relating to the type of service and its frequency, the type of aircraft to be used and the flight schedules. Similar information shall also be supplied at least 30 days in advance as and when any changes are to be introduced regarding operation of the agreed services.

(2) The designated airline(s) shall also furnish any other information as may be required to satisfy the aeronautical authorities of the other contracting Party that the requirements of this Agreement are being duly observed.

ARTICLE 11
Provision of Statistics

(1) The aeronautical authorities of each Contracting party shall provide or cause its designated airline(s) to provide to the aeronautical authorities of the other contracting Party statistics relating to the traffic carried during each month on the agreed services to and from the territory of that other Contracting Party, showing the points of embarkation and disembarkation of such traffic. Such statistics shall be furnished as soon as possible after the end of each month, but not later than 30 days following the month to which they relate.

(2) The aeronautical authorities of each Contracting Party shall, on request, provide or cause its designated airline(s) to provide to the aeronautical authorities of the other Contracting Party statistics relating to true origin and destination of traffic carried to and from the territory of that other Contracting Party for a period, not exceeding one IATA traffic season, as specified in the request.

ARTICLE 12
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 these 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 to be charged by the designated airline(s) of one Contracting Party for carriage to or from the territory of the other Contracting Party shall be established at reasonable levels, due regard being paid to all relevant factors, including cost of operation, reasonable profit, and the tariffs of other airlines.

(3) The tariffs referred to in paragraph (1) of this Article shall, if possible, be agreed between the designated airlines of the two Contracting Parties and such

agreement shall, whenever possible, be reached using the procedures of the International Air Transport Association.

(4) 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.

(5) The 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 (4) of this Article, those tariffs shall be considered as approved. In the event of the period for submission being reduced, as provided for in paragraph (4), the aeronautical authorities may agree that the period within which any disapproval must be notified shall be less than thirty (30) days.

(6) If a tariff cannot be agreed in accordance with paragraph (3) of this Article, or; if, during the period applicable in accordance with paragraph (5), the aeronautical authorities of one Contracting Party gives the aeronautical authorities of the other Contracting Party notice of disapproval of a tariff agreed in accordance with the provision in paragraph (3), the aeronautical authorities of the two Contracting Parties shall endeavour to establish the tariff by mutual agreement.

(7) If the aeronautical authorities cannot agree on any tariff submitted to them under paragraph (4) of this Article, or on the establishment of any tariff under paragraph (6), the dispute shall be settled in accordance with the provisions of Article 16 of this agreement.

(8) A tariff established in accordance with the 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.

ARTICLE 13
Transfer of Earnings

- (1) Each Contracting Party grants to the designated airline(s) of the other Contracting Party the right to remit to its head office, the excess of receipts over expenditure earned in the territory of the first Contracting Party. Such remittances shall be made in any convertible currency in accordance with the foreign exchange regulations of the Contracting Party in the territory of which the revenue accrued.
- (2) 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.

ARTICLE 14
Aviation Security

- (1) Consistent with their rights and obligation 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, and 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 Supperssion of Unlawful Acts of Violence

at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988.

(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 unlawful 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.

(3) The Party shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention on International Civil Aviation, to the extent that such security provisions are applicable to the Parties. 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.

(4) Each contracting Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in paragraph (3) above required by the other Contracting Party for entry into, departure from or while within, the territory of that other Contracting Party. Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give sympathetic consideration to any request from the other contracting Party for reasonable special security measures to meet a particular threat.

(5) When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of such aircraft, their passengers and crew, airports or air navigation facilities occurs, the Contracting Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

(6) Each Contracting Party shall take measures, as it may find practicable, to ensure that an aircraft subjected to an act of unlawful seizure or other acts of unlawful interference which has landed in its territory is detained on the ground unless its departure is necessitated by the overriding duty to protect human life. Wherever practicable, such measures shall be taken on the basis of mutual consultations.

ARTICLE 15

Consultation and Amendment

(1) Either Contracting Party may at any time request consultations on the implementation, interpretation, application or amendment of this Agreement. Such consultation, which may be between aeronautical authorities and which may be through discussions or by correspondence, shall begin within a period of sixty (60) days of the date on which the other Contracting Party receives a written request.

(2) Any modification to this Agreement agreed to as a result of the consultations shall come into force when confirmed by an exchange of diplomatic notes.

(3) Modifications to the routes specified in the Annex may, however, be made by direct agreement between the aeronautical authorities of the Contracting Parties and shall come into force on the date determined by them.

ARTICLE 16

Settlement of Disputes

If any dispute arises relating to the interpretation or application of this 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 17

Applicability of multilateral Air Conventions

- (1) To the extent to which they are applicable to the air services established under this Agreement, the provisions of the Convention shall remain in force in their present form between the Contracting Parties for the duration of this Agreement, as if they were an integral part of the agreement, unless both Contracting Parties ratify any amendment to the Convention, which shall have duly come into force, in which case the Convention as amended shall remain in force for the duration of this agreement.
- (2) If a general multilateral air convention comes into force in respect of both Contracting Parties, the provisions of such convention shall prevail.

ARTICLE 18

Termination

Either Contracting Party may at any time give notice in writing to the other Contracting Party of its desire to terminate this Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organization. If such notice is given, this Agreement shall terminate twelve 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 acknowledgment of receipt by the other Contracting Party, the notice shall be deemed to have been received fourteen days after the receipt of the notice by the International Civil Aviation Organization.

ARTICLE 19
Entry into Forces

This Agreement shall come into force on the date of signature. In witness whereof, the undersigned, being duly authorized by their respective governments, have signed this Agreement.

Done at New Delhi this the nineteenth day of May, 2003 in two originals each in Hindi, English and French languages, all the texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.



For the Government
of India



For the Government of
Djibouti