

Guidelines for publication/sharing of information pertaining to Air Services Agreement entered into by Republic of India

Air Services Agreement/Air Transport Agreement ('ASA') is a treaty deriving basis under Article 6 of the Chicago Convention providing for the legal framework for scheduled international air operations between two countries.

Broadly, the ASA is based on the principles of sovereignty of nations, nationality of carriers and reciprocity in terms of commercial opportunities for the designated airlines of each contracting party. Prior to any operation of international air services to any other country, the governments negotiate the ASA with the destination country.

Agreement Division of the Ministry of Civil Aviation, being the International Co-operation Division, is the nodal point to deal with all the aspects of the ASA entered into with foreign countries.

As regards the ASA(s) entered into by India, Ministry of Civil Aviation is managing the database of all the ASA(s) which are uploaded on the website of Ministry of Civil Aviation accessible at the address <https://www.civilaviation.gov.in/> for general information to the public. However, it is clarified that no commercial decision be undertaken on the basis of the information uploaded as the ASA(s) as they are regularly updated and may not reflect the current accurate status/text.

Supplemental agreements like MoU's, Record of Discussion(s) and exchange of diplomatic notes contain information viz. capacity and available frequency which are crucial from the standpoint of eligible airlines undertaking international operations. Therefore, to balance and safeguard the commercial interests/confidentiality whilst ensuring transparency, relevant information may be disclosed to Indian carriers who fulfill the eligibility requirements for undertaking international operations as per extant regulations subject to necessary safeguards.

For Indian carriers who fulfill the eligibility requirements for undertaking international operations as per extant regulations, the information would be provided by this Ministry to such eligible carriers, subject to their signing of a confidentiality undertaking before gaining access to the information. Such undertaking shall recognize that access to such information is for the purpose of developing an application for available capacity and/or developing an application for determination on capacity for renewal and the information may be used strictly for developing applications to this Ministry for traffic rights allocation.

Pursuant to the confidentiality undertaking, Indian carriers will be allowed access to obtain the information only relevant to their application.

The process to be followed for implementation of the aforesaid guidelines will be, inter-alia, as under:-

- i. The text of the ASA's entered into by India will be regularly uploaded on the website of Ministry of Civil Aviation.

- ii. The information viz. frequency and capacity entitlements, under supplemental agreements shall be exempted from the uploading and disclosure. However, upon request in writing made to the Ministry of Civil Aviation by an eligible Indian carrier, complying with the eligibility conditions for international operations as per extant regulations, only relevant information may be disclosed.
- iii. Such disclosure as in clause (ii) would be subject to entering into a confidentiality undertaking in respect of such disclosed information and would strictly comply with the intention with which the same is disclosed.
- iv. Revisions may be made in these guidelines from time to time.
- v. Ministry of Civil Aviation may within its discretion shall be free to classify any information as confidential, without assigning any reasons. Further, Ministry of Civil Aviation may include any information to be disclosed within the purview of confidentiality undertaking, without assigning any reasons.
