Air Services Agreement

between

The Government of India

and

The Government of Nepal
The Government of India and the Government of Nepal (hereinafter referred to as the "Parties");

Being Parties to the Convention on International Civil Aviation opened for signature at Chicago on 7 December, 1944;

Desiring to promote international air services between their respective territories;

Desiring to promote an international aviation system based on competition among airlines; and

Desiring to ensure the highest degree of safety and security in international air services and reaffirming their grave concern about acts or threats against the security of aircraft, which jeopardize the safety of persons or property, adversely affect the operation of air services and undermine public confidence in the safety of civil aviation;

Have agreed as follows:
Article 1

Definitions

For the purposes of this Agreement, unless the context otherwise requires, the term:

(1) "aeronautical authorities" shall mean, in the case of Nepal, Ministry of Tourism and Civil Aviation and in the case of India, 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;

(2) "Agreement" means this Agreement, its Annex and any amendments thereto;

(3) "Convention" means the Convention on International Civil Aviation, opened for signature at Chicago on 7 December, 1944, and includes any amendment that has entered into force under Article 94(a) of the Convention and has been ratified by both Parties, and any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as such Annexes or amendments are at any given time effective for both Parties;

(4) "air service", "international air service", "airline" and "stop for non-traffic purposes", shall have the same meaning as assigned to them in Article 96 of the Convention;

(5) "designated airline" means an airline designated and authorised in accordance with Article 3 (Designation and Authorisation of Airlines) of this Agreement;

(6) "tariff" means any fare, rate or charge for the carriage of passengers, baggages and/or cargo (excluding mail) in air service charged by airlines, including their agents, and the conditions governing the availability of such fare, rate or charge;

(7) "territory" shall have the same meaning as assigned to it in Article 2 of the Convention; and

(8) "user charges" means a charge imposed on airlines for the provision of airport, air navigation or aviation security facilities or services, including related services and facilities for aircraft, their crews, passengers, baggage and cargo.
Article 2

Grant of Rights

1. Each Party grants to the other Party the rights specified in this Agreement for the purpose of operating scheduled international air services on the routes specified in the appropriate section or part of the Annex to this Agreement. Such services and routes shall hereinafter be called “the agreed services” and “the specified routes”, respectively.

2. Subject to the provisions of this Agreement, the airline(s) designated by each Party shall enjoy the following rights:

(a) to fly without landing across the territory of the other Party;
(b) to make stops in the territory of the other Party for non-traffic purposes; and
(c) while operating an agreed service at the points specified for that route in the Annex to this Agreement, the airline(s) designated by each Party shall also enjoy the right to embark and disembark in the territory of the other Party, international traffic in passengers and cargo including mail, separately or in combination.

3. The airline(s) of each Party, other than those designated under Article 3 of this Agreement, shall also enjoy the rights specified in clauses (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 Party the privilege of taking on board, in the territory of the other Party, passengers and cargo including mail destined for another point in the territory of the other Party.

5. If because of special and unusual circumstances, a designated airline of one Party is unable to operate a service on its normal routing, the other Party shall use its best efforts to facilitate the continued operation of such service through appropriate temporary rearrangement of routes as is mutually decided by the Parties.

6. The designated airlines of one Party shall have the right to use airways, airports and other facilities provided by the other Party on a non-discriminatory basis.
Article 3

Designation and Authorisation of Airlines

1. Each Party shall have the right to designate an airline or airlines for the purpose of operating the agreed services on the specified routes and to withdraw or alter such designations. Such designations shall be made in writing and transmitted to the other Party through diplomatic channels and shall identify whether the airline is authorised to conduct the type of air services specified in the Annex.

2. Upon receipt of such designation and application from the designated airline(s) of either Party, in the form and manner prescribed for the purpose, the aeronautical authorities of the other Party shall grant the appropriate operating authorisation with minimum procedural delay, provided that:

   (a) substantial ownership and effective control of that airline are vested in the Party designating the airline or its nationals;

   (b) the designated airline is qualified to meet the conditions prescribed under the laws and regulations normally applied to operation of international air services by the Party considering the application; and

   (c) the Party designating the airline is maintaining and administering the standards set forth in Article 9 (Safety) and Article 10 (Aviation Security).
Article 4

Revocation or Suspension of Operating Authorisation

1. Either Party may revoke or suspend the operating authorisation granted to an airline designated by the other Party or impose such conditions as it may deem necessary in any case where:

(a) substantial ownership and effective control of that airline are not vested in the other Party or its nationals;

(b) that airline has failed to comply with the laws and regulations referred to in Article 6 (Applications of Laws) of this Agreement; or

(c) the other Party is not maintaining and administering the standards set out in Article 9 (Safety).

2. Unless immediate action is essential to prevent further non-compliance with clauses (b) and (c) of paragraph 1 of this Article, the rights established by this Article shall be exercised only after consultation with the other Party.

3. This Article does not limit the rights of either Party to withhold, revoke, limit or impose conditions on the operating authorisation of an airline of the other Party in accordance with the provisions of Article 10 (Aviation Security).
Article 5

Principles governing operation of Agreed Services

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

2. The capacity to be provided and the frequency of services to be operated by the designated airline(s) of each Party shall be agreed between both Parties.

3. Any increase in the capacity to be provided and the frequency of services to be operated by the designated airlines of each Party shall be subject to agreement between both Parties. Pending such an agreement or settlement, the capacity and frequency entitlements already in force shall prevail.
Article 6

Application of Laws

1. While entering, within, or leaving the territory of one Party, its laws, regulations and procedures relating to the operation and navigation of aircraft shall be complied with by the designated airlines of the other Party.

2. While entering, within, or leaving the territory of one Party, its laws, regulations and procedures relating to the admission into or departure from its territory of passengers, baggage, crew or cargo on aircraft (including regulations relating to entry, clearance, aviation security, immigration, passports, customs, currency, health, sanitary and quarantine or, in the case of mail, postal regulations) shall be complied with by, or on behalf of, such passengers, crew or shippers of cargo of the designated airlines of the other Party.

3. Neither Party shall give preference to its own or to any other airline over a designated airline of the other Party engaged in similar international air services in the application of the laws and regulations and procedures provided for in this Article.

4. Passengers, baggage and cargo in direct transit across the territory of either Party and not leaving areas of the airport reserved for such purpose shall be subject to no more than a simplified control, except in respect of security measures against violence, air piracy, narcotics control etc.
Article 7

User Charges

1. User charges that may be imposed by the competent charging authorities of each Party on the designated airline(s) of the other Party shall be just, reasonable, non-discriminatory, and equitably apportioned among all categories of users. Such user charges shall be assessed on the designated airline(s) of the other Party on terms not less favourable than the terms available to any other airline at the time the charges are assessed.

2. User charges imposed on the designated airline(s) of the other Party may reflect, but shall not exceed, the full cost to the competent charging authorities of providing the appropriate airport, environmental, air navigation and aviation security facilities and services at the airport or within the airport system. Such full cost may include a reasonable return on assets, after depreciation. Facilities and services for which charges are made shall be provided on an efficient and economic basis.

3. Each Party shall encourage consultations between the competent charging authorities in its territory and the designated airline(s) using the services and facilities. Each Party shall encourage the competent charging authorities and the airlines to exchange such information as may be necessary to permit an accurate and transparent review of the reasonableness of the charges in accordance with the principles stated in paragraphs (1) and (2) of this Article. Each Party shall encourage the competent charging authorities to provide users with reasonable notice of any proposal for changes in the user charges to enable the users to express their views before changes are implemented.

4. Neither party shall be held, in dispute resolution procedures pursuant to Article 20 (Settlement of Disputes), to be in breach of a provision of this Article, if:
   (i) it has undertaken a review of the charge or practice that is the subject of complaint by the other Party within a reasonable time; and
   (ii) following such a review, it has taken all steps within its power to remedy any charge or practice that is inconsistent with this Article.
Article 8

Customs Duties and Charges

1. Each Party shall, on the principle of reciprocity, exempt the designated airline(s) of the other Party to the fullest extent possible under its national law from customs duties, excise taxes, inspection fees and other national duties and charges on aircraft, i.e., lubricating oils, consumable technical supplies, spare parts including engines, regular aircraft equipment, aircraft stores (including but not limited to such items of food, beverages and liquor, tobacco and other products destined for sale or to be used solely in connection with the operation or servicing of aircraft) and other items such as printed materials, any printed material which bears the insignia of the company printed thereon and usual publicity material intended to be distributed free of charge by the designated airline(s).

2. The exemptions under this Article shall be granted only if the items referred to in paragraph 1 are –

   (a) introduced into the territory of one Party by or on behalf of the designated airline(s) of the other Party;

   (b) retained on board aircraft of the designated airline(s) of one Party upon arrival in or leaving the territory of the other Party; or

   (c) taken on board aircraft of the designated airline(s) of one Party in the territory of the other Party for use in operating the agreed services.

3. The exemptions under this Article shall apply regardless of the fact whether or not such items are used or consumed wholly within the territory of the Party granting the exemption, provided the ownership of such items is not transferred in the territory of the said Party.

4. The regular airborne equipment, as well as the materials and supplies normally retained on board the aircraft of the designated airline(s) of either Party, may be unloaded in the territory of the other Party only with the approval of the customs authorities of that Party. In such a case, they may be placed under supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with the customs regulations.
Article 9
Safety

1. Either Party may request consultations concerning the safety standards maintained in respect of an airline designated by the other Party relating to aeronautical activities, aircrews, aircraft and operation of the designated airline(s). Such consultations shall take place within 30 days of the request or any longer period as may be agreed between the Parties.

2. If, following such consultations, one Party finds that safety standards in the case referred to in paragraph (1) that meet the standards established at that time in accordance with the Convention are not effectively maintained and administered in respect of airline(s) designated by the other Party, the other Party shall be notified of such findings and the steps considered necessary to conform with these minimum standards, and the other Party shall take appropriate corrective action.

3. Each party reserves the right to suspend or limit the operating authorization of an airline(s) designated by the other Party in the event the other Party does not take appropriate corrective action within 30 days.

4. Notwithstanding the obligations mentioned in Article 33 of the Convention, it is agreed that any aircraft operated by the designated airline of one Party on services to or from the territory of the other Party may, while within the territory of the other Party, be made the subject of an examination by the authorized representatives of the other Party on board and around the aircraft to check both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment (in this Article called "ramp inspection"), provided this does not lead to unreasonable delay.

5. If any such ramp inspection or series of ramp inspections gives rise to:
   - serious concerns that an aircraft or the operation of an aircraft does not comply with the minimum standards established at that time pursuant to the Convention; or
   - serious concerns that there is a lack of effective maintenance and administration of safety standards established at that time pursuant to the Convention;

the Party carrying out the inspection shall, for the purposes of Article 33 of the Convention, be free to conclude that the requirements under which the certificate or licences in respect of that aircraft or in respect of the crew of that aircraft had been issued or rendered valid or that the requirements under which that aircraft is operated are not equal to or above the minimum standards established pursuant to the Convention.

6. In the event that access for the purpose of undertaking a ramp inspection of an aircraft operated by the designated airline of one Party in accordance with paragraph (4) of this Article is denied by a representative of that airline, the other Party shall be free to infer that serious concerns of the type referred to in paragraph (5) of this Article arise and draw the conclusions referred to in that paragraph.
7. Each Party reserves the right to suspend or vary the operating authorization of the designated airline or airlines of the other Party immediately in the event the first Party concludes, whether as a result of a ramp inspection, a series of ramp inspections, a delay of access for ramp inspection, consultation or otherwise, that immediate action is essential to the safety of an airline operation.

8. Any action by one Party in accordance with paragraphs (3) or (7) of this Article shall be discontinued once the basis for taking that action ceases to exist.
Article 10

Aviation Security

1. In accordance with their rights and obligations under international law, both 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 Parties shall in particular act in conformity with the provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on September 14, 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 23, 1971 as well as any other Convention or protocol on aviation security to which both Parties become members.

2. Upon request, both Parties shall provide each other with all necessary assistance to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, of their passengers and crew, of airports and air navigation facilities, and address any other threat to the security of civil air navigation.

3. Both Parties shall, in their mutual relations, act in conformity with all aviation security standards and appropriate recommended practices established by the International Civil Aviation Organization and designated as Annexes to the Convention; they shall require that operators of aircraft of their registry, operators of aircraft which 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 Party agrees to observe the security provisions required by the other Party for entry into and departure from the territory of that other Party and to take adequate measures to protect aircraft and to inspect passengers, crew, and their baggage and carry-on items, as well as cargo and aircraft stores, prior to and during boarding or loading. Each Party shall also give positive consideration to any request from the other Party for special security measures to meet a particular threat.

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

6. When a Party has reasonable grounds to believe that the other Party has departed from the provisions of this Article, the aeronautical authorities of that Party may request immediate consultations with the aeronautical authorities of the other Party. Failure to reach a satisfactory agreement within 30 days from the date of such request shall constitute grounds to withhold, revoke, limit, or impose conditions on the operating authorisation of the designated airline(s) of that Party. When required by an emergency, either Party may take interim action prior to the expiry of 15 days.

7. Any action taken in accordance with paragraph (6) shall be discontinued upon compliance by the other Party with the provisions of this Article.
Article 11

Recognition of Certificates and Licences

1. Certificate of airworthiness, certificates of competency and licences issued or rendered valid by one Party and still in force shall be recognised as valid by the other Party for the purpose of operating the agreed services on the routes specified in Annex provided that the requirements under which such certificate or licences were issued or rendered valid are equal to or above the minimum standards which are or may be established pursuant to be Convention.

2. If the privileges or conditions of the licences referred to in paragraph 1 above, or in respect of an aircraft used in the operation of the agreed services permit a difference from the minimum standards established under the Convention and which differences have been filed with the International Civil Aviation Organisation, the other Party may request consultations between the aeronautical authorities with a view to clarifying the practice in question.

3. Each Party reserves the right, however, to refuse to recognise for the purpose of flight above its own territory, certificates of competency and licences granted to its nationals by the other party.
Article 12

Commercial Opportunities

1. The airline(s) of each Party shall have the right to establish offices in the territory of the other Party for promotion and sale of air services and other ancillary products and facilities required for the provision of air services.

2. The airline(s) of each Party shall be entitled, in accordance with the laws and regulations of the other Party relating to entry, residence and employment, to bring in and maintain in the territory of the other Party managerial, sales, technical, operational and other specialist staff required for the provision of air services and other ancillary products and facilities. Such staff requirements may, at the option of the airline, be satisfied by its own personnel of any nationality or by using the services of any other airline, organisation or company operating in the territory of the other Party and authorised to perform such services in the territory of such other Party.

3. Any airline of each Party may engage in the sale of air services and its ancillary products, services and facilities in the territory of the other Party directly and, at the airline's discretion, through its agents. For this purpose, the airline shall have the right to use its own transportation documents and any person shall be free to purchase such transportation and its ancillary products, services and facilities in the currency of the territory or in freely convertible currencies.

4. The airline(s) of each Party shall have the right to convert and transfer freely in any convertible currency, on demand, local revenues in excess of sums locally disbursed earned by such airlines in connection with the sale of air transportation and other ancillary products, services and facilities as well as interest earned on such revenues (including interest earned on deposits awaiting transfer). Conversion and remittance shall be permitted promptly without restrictions or taxation in respect thereof at the rate of exchange applicable to current transactions and remittance on the date the airline makes the initial application for remittance.

5. The airline(s) of each Party shall be permitted to pay for local expenses, including purchase of fuel, in the territory of the other Party in local currency. At their discretion, the airline(s) of each Party may pay for such expenses in the territory of the other Party in freely convertible currencies in accordance with the national regulations of the other Party.

6. Notwithstanding anything contained in this Article, the exercise of rights under this Article shall be in accordance with the applicable domestic rules and regulations consistent with the purposes of this Agreement. If one Party imposes restrictions on the transfer of local revenues in excess of sums locally disbursed by the designated airlines of the other Party, the latter shall have the right to impose reciprocal restrictions on the designated airlines of the first Party.
Article 13
Co-operative Marketing Arrangements

1. When operating or holding out the agreed services on the specified routes whether as the operating or marketing airline, the designated airline(s) of each Party may enter into co-operative marketing arrangements, such as code-share, block space or any other joint venture arrangement, with

(a) the designated airline(s) of the same Party, or

(b) the designated airline(s) of the other Party.

2. The operating airline(s) involved in the co-operative marketing arrangements shall hold the underlying traffic rights including the route rights and the capacity entitlements and meet the requirements normally applied to such arrangements.

3. All marketing airline(s) involved in the co-operative arrangements shall hold the underlying route rights and meet the requirements normally applied to such arrangements.

4. The total capacity operated by the air services performed under such arrangements shall be counted only against the capacity entitlement of the Party designating the operating airline(s). The capacity offered by the marketing airline(s) on such services shall not be counted against the capacity entitlement of the Party designating that airline.

5. In addition to the operating airline(s), the aeronautical authorities of each side may require the marketing airline(s) to file schedules for approval and also provide any other documents before commencement of air services under the co-operative marketing arrangements.

6. When holding out services for sale under such arrangements, the concerned airline or its agent shall make it clear to the purchaser at the point of sale as to which airline shall be the operating airline on each sector of the service and with which airline(s) the purchaser is entering into a contractual relationship.

7. Before providing code sharing services, the code sharing partners shall agree as to which party shall be responsible for security, safety, facilitation, liability and other consumer related matters. Such an agreement shall be filed with the aeronautical authorities of both Parties before implementation of the code-share arrangements.
Article 14

Approval of Schedules

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

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

Article 15

Provision of Statistics

1. The aeronautical authorities of each Party shall provide or cause its designated airline(s) to provide to the aeronautical authorities of the other Party statistics relating to the traffic carried during each month on the agreed services to and from the territory of that other 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 Party shall, on request, provide or cause its designated airline(s) to provide to the aeronautical authorities of the other Party statistics relating to true origin and destination of traffic carried to and from the territory of that other Party.
Article 16

Tariff

1. The tariffs in respect of the agreed services operated by the designated airline(s) of each Party shall be established by each designated airline based upon its commercial considerations in the market place at reasonable levels, due regard being paid to all relevant factors, including the cost of operation and reasonable profit.

2. The tariffs established under paragraph (1) shall not be required to be filed by the designated airline(s) of one Party with the aeronautical authorities of the other Party.

3. Notwithstanding the foregoing, each Party shall have the right to intervene so as to:
   (a) prevent tariffs whose application constitutes anti-competitive behavior which has or is likely to or intended to have the effect of crippling a competitor or excluding a competitor from a route;
   (b) protect consumers from tariffs that are excessive or restrictive due to the abuse of a dominant position; and
   (c) protect airlines from tariffs that are predatory or artificially low.

4. For the purposes set out in paragraph (3) of this Article, the aeronautical authorities of one Party may require the designated airlines of the other Party to provide information relating to the establishment of the tariffs.

5. If one Party believes that the tariff charged by designated airline(s) of the other Party is inconsistent with the considerations set forth in paragraph (3) of this Article, it shall notify the other Party of the reasons for its dissatisfaction as soon as possible and request consultations which shall be held not later than 30 days after receipt of the request. If the Parties reach an agreement with respect to the tariff for which a notice of dissatisfaction has been given, each Party shall use its best efforts to put that agreement into effect. In the absence of such an agreement, the previously existing tariff shall continue to be in effect.
Article 17

Multilateral Agreements

1. In implementing this Agreement, the Parties shall act in conformity with the provisions of the Convention in so far as those provisions are applicable to international air services.

2. If, after entry into force of this Agreement, both Parties become party to a multilateral agreement that addresses matters covered by this Agreement, either Party may request consultations to determine whether this Agreement should be revised to take into account the multilateral agreement.

Article 18

Consultations

1. Either Party may, at any time, make a request in writing for consultation on the interpretation, application, implementation or amendment of this Agreement or compliance with this Agreement.

2. Unless otherwise agreed by the Parties, such consultations shall begin within a period of 60 days from the date on which the other Party receives the request.

Article 19

Amendment

1. This Agreement may be amended by written agreement of the Parties.

2. Any amendment so agreed shall enter into force in accordance with the provisions of Article 23 of this Agreement.

3. Notwithstanding paragraph (2), the Parties may agree to give immediate effect to an amendment to the Annex to this Agreement.
Article 20

Settlement of Disputes

1. Any dispute arising under this Agreement that is not resolved by formal consultations may be referred, by agreement of the Parties, to some person or body for decision. If the Parties do not so agree, the dispute shall, at the request of either Party, be submitted to arbitration in accordance with the procedures set forth below.

2. Arbitration shall be by a tribunal of three arbitrators to be constituted as follows:

(a) Within 30 days after the receipt of a request for arbitration, each Party shall name one arbitrator. Within 60 days after these two arbitrators have been named, they shall by agreement appoint a third arbitrator, who shall act as President of the arbitral tribunal;

(b) If either Party fails to name an arbitrator, or if the third arbitrator is not appointed in accordance with clause (a) of this paragraph, either Party may request the President of the Council of the International Civil Aviation Organization to appoint the necessary arbitrator or arbitrators within 30 days. If the senior most Vice President who is not disqualified on that ground shall make the appointment. In the event that either the President or the senior most qualified Vice President appoints the third arbitrator under this paragraph, that third arbitrator shall not be a national of either of the Parties.

3. Except as otherwise agreed, the arbitral tribunal shall determine the limits of its jurisdiction in accordance with this Agreement and shall establish its own rules of procedure. The tribunal, once formed, may recommend interim relief measures pending its final determination. At the direction of the tribunal or at the request of either of the Parties, a conference to determine the precise issues to be arbitrated and the specific procedures to be followed shall be held not later than 15 days after the tribunal is fully constituted.

4. Except as otherwise agreed or as directed by the tribunal, each Party shall submit a memorandum within 45 days of the time the tribunal is fully constituted. Replies shall be due 60 days later. The tribunal shall hold a hearing at the request of either Party or on its own initiative within 15 days after replies are due.

5. The tribunal shall attempt to render a written decision within 30 days after completion of the hearing or, if no hearing is held, after the date both replies are submitted. The decision of the majority of the tribunal shall prevail.

6. Either Party may make a request for clarification on the decision within 15 days after it has been rendered and the clarification shall be issued within 15 days of such request.

7. Each Party shall, to the extent consistent with its national law, give full effect to any decision or award of the arbitral tribunal.
B. The expenses of the arbitral tribunal, including the fees and expenses of the arbitrators, shall be shared equally by the Parties. Any expenses incurred by the President of the Council of the International Civil Aviation Organization in connection with the procedure set out in clause (b) of paragraph (2) of this Article shall be considered to be part of the expenses of the arbitral tribunal.

Article 21

Termination

Either Party may, at any time, give notice in writing to the other Party of its decision to terminate this Agreement. Such notice shall be sent simultaneously to the International Civil Aviation Organization. This Agreement shall terminate at midnight at the place of receipt of the notice immediately before the first anniversary of the date of receipt of the notice by the other Party, unless the notice is withdrawn by agreement of the Parties before the expiry of this period. In the absence of acknowledgement of receipt by the other 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 22

Registration with ICAO

This Agreement and all amendments thereto shall, upon signature, be registered with the International Civil Aviation Organization.

Article 23

Entry into Force

This Agreement shall enter into force on the date of the later note in an exchange of diplomatic notes between the Parties confirming that each Party has completed the necessary internal procedures for entry into force of this Agreement and its Annex.
IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

DONE at .................. this ........... day of ............. (month and year) in duplicate, in the English language, which shall be the authentic text. Translation of the Agreement into Hindi and ............. languages shall be prepared and shall be considered equally authentic when agreed upon by an exchange of diplomatic notes that confirm their conformity with the English language text. In the event of any divergence of interpretation, the English text shall prevail.

For the Government of India

For the Government of Nepal
ANNEX

Route Schedule

Section I

Routes for the airlines designated by the Government of India:

| Route I | | | | |
|---------|---|----------------|----------------|
| Points of Origin | Intermediate Points | Points in Nepal | Beyond Points |
| Points in India | Any point in the SAARC Region | Kathmandu Pokhara Gautam Buddha (Bhairahawa) Biratnagar Nepalgunj Janakpur Dhangadhi | (i) Any point in the SAARC Region (ii) Any three points except points in the Middle-East. |

| Route II | | | | |
|---------|---|----------------|----------------|
| Points of Origin | Intermediate Points | Points in Nepal | Beyond Points |
| Ahmedabad Amritsar Aurangabad Bhubaneswar Calcut Cochin Gaya Goa Guwahati Jaipur Khajuraho Lucknow Patna Port Blair Thrivananthapuram Tiruchirapalli Varanasi Visakhapatnam Bagdogra Dehradun Gorakhpur | Any point in the SAARC Region | Any point in Nepal | Any point in the SAARC Region |
Agreed Minutes

Minutes of the meeting held on 8th and 9th September 2009 between Airports Authority of India and Civil Aviation Authority of Nepal to discuss the proposed agenda and LOA.

Following officials participated in the meeting.

From CAA Nepal:
1. Mr. Keshab R. Khanal, Director General
2. Mr. Mahesh K. Basnet, Deputy Director, ATM
3. Mr. Ashok K. Subedi, Manager, ANS Safety and Standard Department
4. Capt. K.B. Paudel Khetri, Sr. Commander, Nepal Airlines Corporation

From AAI
1. Mr. V.P. Agrawal, Chairman
2. Mr. Vinod K. Yadava, Executive Director, ATM
3. Mr. D. Ghosh, General Manager, (Standards and Procedures)
4. Mr. A.K. Jain, Joint General Manager, ATM

Chairman of AAI, Shri V.P. Agrawal welcomed the DGCA, CAA Nepal and other delegates. The meeting was convened in a friendly and cordial atmosphere at RG Bhawan, AAI Headquarter at New Delhi. Director General of C/ Nepal Mr. K.R. Khanal presented the agenda of CAAN and the delegation team from both sides agreed on the following agenda items,

Agenda No 1: - ATS Routes

1.1 L-626

Proposal by CAAN

- As per the recent decision of Government, Nepal has agreed to promulgate ATS route L-626 within Nepalese FIR (KATHMANDU-BHARATPUR-PALPA-SURKHET-MAHENDRANAGAR-PANTANAGAR-ONISA). Regarding this route, we have following concerns,
  - As the MEA of the route in Delhi FIR is FL180, aircraft bound for Delhi might have problem for descend (required distance for comfortable descend from FL 180 is at least 60 NM from Delhi)
  - Consideration about weather and emergency deviation (because of restricted airspace adjacent to the route.)

Decision

- Once the aircraft is in contact with Delhi ACC. Aircraft can be descended from FL180 at approximately 60 from DPN subject to traffic.
- In the event of emergency and weather deviation, PIC shall coordinate with ATC.
Proposal by CAAN

- If feasible, W85 route should be opened for international flights (possible extension of L626).

**Decision**

Since this route passes through military airspace, it will be considered in coordination with IAF within one month.

Proposal by CAAN

- Retention of B345: ATS route B345 should be kept for low level flights (possibly for cross-border operations) and for aircrafts which are not capable of flying RNP-10 (FL260 or below). This route should be kept for high level flights (FL320 or above/bi-directional) for over flying aircrafts as this route extends up to Lhasa.

**Decision**

- B345 is unidirectional route. Hence bidirectional route proposal is not feasible due to traffic complexity in Varanasi TMA.
- Retention of ATS route B345 is acceptable.
- For low level flights to Bhairahawa, a new route from APIPU to Bhairahawa will be considered in coordination with IAF within one month.

Proposal by CAAN

1.2 A473 as future requirement

- India has proposed an amendment of ICAO Basic ANP for addition of ATS route L626 and deletion of ATS route A473. Nepal still wishes to put ATS route A473 as future requirement, at least until satisfactory implementation of L626.

**Decision**

- A473 may be deleted as ATS route L626 is under promulgation in Nepalese airspace.

Proposal by CAAN

1.3 Flight to Varanasi/ Bangalore/ Mumbai (south-bound flights) are using G336/G590, which is the only bidirectional route. Due to communication problem, sometimes, there is a problem due to reciprocating traffic. So, we request a separate route via BHP NB for south bound traffic.

**Decision**

Due restricted airspace and air traffic congestion in ATS route G590, route from BHP towards south bound traffic is not appropriate. As there are not much south-bound traffic from Kathmandu, existing routing shall continue till the appropriate routing is established.

1.4 Direct routing

Proposal by CAAN

- Kathmandu-Hong Kong
  - Existing Route: (KTM-BRT-RAJ-CTG-LNSO - 1770 NM)
  - Proposed Route: (KTM-BBD-Guwahati-Silchar-Imphal-Kunming - 1669 NM).
  - As this route could be the shortest routing from Delhi to Hong Kong and vice versa, Nepal emphasizes to make a joint proposal of Nepal and India for the establishment of this route.
This route was initially proposed in EMARSSH project as Himalaya-2 and 3, to exist as future requirement in the ICAO Asia Pacific ATS Route Network.

- **Kathmandu-Bangalore-Kathmandu**
  - Existing Route: Kathmandu - Varanasi-Kharagpur - Bhopal - Hyderabad - Bangalore
  - Proposed Route: Kathmandu - Varanasi - Kharagpur - Nagpur - Hyderabad - Bangalore
  - This will be the shortest route, resulting in enormous benefit of 113 NM, providing opportunity for airlines to operate flight in this sector.

- **Kathmandu-Colombo-Kathmandu**
  - Existing Route: Kathmandu - Kolkata - Visakhapatnam - Chennai - Colombo
  - Proposed Route: Kathmandu - Patna - Gaya - Ranchi - Kinki - Visakhapatnam - Chennai - Colombo
  - This proposed route was used by Indian Airlines aircraft when leased by RNAIC.

- **Kolkata-Nepalgunj-Indek**
  - This route was proposed as Himalaya-1 in the EMARSSH project for long haul international flights originating from South East Asia. Pakistan has given positive indication for implementation of this route. Therefore, Nepal wishes to implement this route with the help of India.

**Decision**

*Direct routing to Hong Kong, Bangalore, Colombo and Himalayan tron (CCU-NG1-INDEK) passed through military areas or uses domestic routes. So, it will be considered in coordination with I within one month.*

**Agenda No. 2: Coordination issues**

**Proposal by CAAN**

i) Aircraft facing problem for descend while coming to Kathmandu,

- Varanasi/ Kolkata Instructions: Descend in coordination with Kathmandu.
- Most of the inbound traffic is released at APPIU/ IPLAS at cruising level.
- Kathmandu is not in position to issue descend clearance in Indian airspace.
- Sometimes aircraft enter Kathmandu FIR at high levels making difficult for approach and landing.

The only solution for above problem,

- As aircraft inbound from Varanasi and Delhi are radar covered and are under jurisdiction of Kolkata or Varanasi, traffic should be released after due separation at TCP at assigned level.
- Kolkata should coordinate positively with Varanasi and Kathmandu before releasing the traffic to Kathmandu TCP at assigned level.

**Decision**

"(Existing Varanasi coordination procedure will be continued.
- Once Varanasi/ Kolkata ACC inform to aircraft that they have no traffic for descend in respective jurisdiction, Kathmandu controller may give descend clearance to those flights.
- To avoid steep descend after IPLAS, aircraft maintaining higher level on ATS route R581/ G463, be descened between MONDA and IPLAS by Kolkata ACC, subject to traffic.

**Agenda No. 3: Cross-Border Flight**

**Proposal by CAAN**

- Flight Operation from Regional Hub Airports of Nepal to designated airports of India:
  - Government of India opened 18 airports including 5 metro cities for flights between two countries. It materialize the concept of cross-border flight operation, direct ATS routes should be established.
Some of the proposed sectors and routes might be,
- Biharahawa – Varanasi-Gaya (Direct) The agreed route is via Lucknow. A direct routing saves around 100 NM, we wish to propose direct routing if it's possible due to restricted area, we propose routing via DR point avoiding restricted area.
- Biharahawa – Lucknow
- Pokhara - Biharahawa – Lucknow – Jayapur Khajurao
- Pokhara-Biharahawa-Gaya (Direct)
- Pokhara- Simara – Patna-Gaya
- Biratnagar- Janakpur – Patna- Gaya
- Biratnagar – Gaya (direct)

Decision

-Cross-border flight operations from Biharahawa-Varanasi/ Gaya (direct), and Lucknow-APIPU-Biharahawa will be considered in coordination with ICAO by CAAN for one month.
-Following routing for cross-border operation is acceptable but coordination with ICAO by CAAN for route promulgation is required.

<table>
<thead>
<tr>
<th>S.No</th>
<th>Route From/ To</th>
<th>Route Details</th>
<th>TCP (For ATS purposes only)</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>New Route</td>
<td>BIRATNAGAR –</td>
<td>BRT-JKP-PPT</td>
<td>JALES (FIR boundary) 25° 38' 10&quot; N 085° 51' 51&quot; E</td>
</tr>
<tr>
<td>2.</td>
<td>New Route</td>
<td>POKHARA – PATNA</td>
<td>PHR-BHP-SMR-G336 – PPT</td>
<td>BIRGA (FIR boundary) 26° 53' 55&quot; N 085° 00' 30&quot; E</td>
</tr>
<tr>
<td>3.</td>
<td>New Route</td>
<td>POKHARA – GAYA</td>
<td>PHR-BHP-SMR-G336 – PPT-GGC</td>
<td>BIRGA (FIR boundary) 26° 53' 55&quot; N 085° 00' 30&quot; E</td>
</tr>
<tr>
<td>4.</td>
<td>New Route</td>
<td>BHAIHARAWA – VARANASI (Extending upto GAYA)</td>
<td>BWA-BMA5- LKK-R460– BBN</td>
<td>LUMBI (FIR boundary) 27° 25' 59&quot; N 083° 11' 03&quot; E</td>
</tr>
</tbody>
</table>

Agenda No. 4:– Information on protected airspace penetrating Indian airspace

Proposal by CAAN

-Protected airspace of some of the domestic routes to be established and some existing Departure and Approach Procedures mentioned below to penetrate Indian airspace.
-India to give no objection

- (SIMARA-BIRATNAGAR direct route)
- (SIMARA-JANAKPUR-BIRATNAGAR)
- Approach/Departure/Holding Procedures of Biharahawa, Biratnagar, Nepalgunj, Janakpur, Simara Airports
The designing approach and departure procedures, all the primary area will be in Nepalese airspace, India should give no objection if the secondary area passes through Indian airspace.

Decision

-Some portion of secondary area of the Instrument procedures (which is generally drawn for obstacle analysis of the border airports is penetrating Indian airspace. This issue will be considered in consultation with IA within one month.

Agenda No 5:- ADC/FIC
Proposal by CAAN

Existing procedures - Aircraft to get ADC / FIC prior to enter Indian Airspace from Indian Authority. If there communication problem, flights are delayed due to unavailability of ADC/FIC.

Proposal- Schedule flights should be exempted from the mandatory requirement of obtaining daily ADC/FI through suitable mechanism.

Existing procedures to obtain ADC/FIC be applied only for non-scheduled and charter flights.

Decision

-ADC/FIC is a security requirement, so any deviation is not feasible. But, ATS units shall arrange to get ADC/FIC promptly, once the flight plan is received.

Agenda No. 6:- ENTRY/EXIT POINTS:- FIR BOUNDARY Points as mentioned in LOA be established as Transfer Control Points.

Decision

-FIR boundary points given in LOA as TCP are agreeable.

Agenda No. 7:- Search & Rescue
Proposal by CAAN

- In the event of SAR operations both countries will coordinate each other as required and assist SAR Operations when requested.
- India will provide COSPAS-SARSat data relating to aircraft operating within Nepalese FIR
- Possible cooperation that can be extended by India to Nepal for CVR/FDR Decoding and Read-out

Decision

-Proposal for cooperation in the field of Search and rescue is agreeable.

Agenda No. 8:- Exchange of visit and Training
Proposal by CAAN

- Mutual exchange of visit of ATS and other Technical personnel
ATS Planning Manual para 2.3.7, states - "Agreements for supervisory and operating controllers to visit adjacent ATC units will provide an opportunity to discuss mutual problems at the working level and can help to resolve differences. Such visits also promote good fellowship and confidence when relying on one's neighbors for help in an emergency."

- Training: Nepal seeks Indian help to train Technical personnel (ANS) of Nepal to meet training requirements in the ANS field

Decision

- Exchange of visit of ATC and technical personal is acceptable. Regarding training and cooperations in the fie. of CNS/ATM, PBN procedures, Fire services, Aviation Management and GAGAN project will be pursued for mutual cooperation.

Agenda No 9: Communication Requirement

Proposal by CAAN

- to convert existing IDD hotlines for ATS direct speech into V-SAT communication as per ICAO requirements between Kathmandu – Varanasi, Kolkata, Delhi & vice versa

- to extend one of the V-SAT terminal to Kathmandu airport from the VSAT network of Indian airports, or

- to extend a separate V-SAT terminal direct from VSNL to Kathmandu Airport for 64 kbps voice lease line which routes the line into three airports Varanasi, Kolkata & Delhi.

Decision

- Extending of VSAT terminal of AAI at Kathmandu is technically viable. It may be pursued mutually.

Agenda No. 10: Letter of Agreement between Civil Aviation Authority of Nepal and Airports Authority of India

Decision

- LOA has been finalized.

Signed in: Airports Authority of India, RG Bhawan, New Delhi on 9th September 2009

V.P. Agrawal
Chairman
AIRPORTS AUTHORITY
OF INDIA

Keshab R. Khanal
Director General
CIVIL AVIATION AUTHORITY
OF NEPAL