

## Memorandum of Consultations

Representatives of the Government of the United States of America and the Government of India have reached an *ad referendum* agreement on the text of an Open Skies bilateral Air Transport Agreement (the "Agreement"), attached hereto, that would establish a new air transport relationship between the United States and India. The discussions were conducted in a positive and cordial atmosphere. Members of the two delegations are listed in Attachment A of this Memorandum.

The two delegations noted that the new Open Skies Agreement has the potential to spur greater trade, investment, tourism, and cultural exchange between the United States and India.

The Indian delegation expressed concern that the operation by carriers of one party of code sharing services with third-country carriers (pursuant to Article 8, paragraph 7 of the Agreement) might establish capacity entitlements for third-country carriers that exceed those contained in the air transport agreements between the other party and such third countries. In response, the United States delegation affirmed that code sharing services between the airlines of either Party and third-country carriers would not create an obligation for either Party to approve or permit the operation of capacity beyond that contained in the relevant aviation agreements with third countries.

Both delegations acknowledged that either Party may require airlines operating within its territory to submit to its aeronautical authorities statistics relating to the traffic carried on services provided under the Agreement.

With respect to the safety article, the delegations reaffirmed their governments' obligations under Articles 16 and 33 of the Chicago Convention.

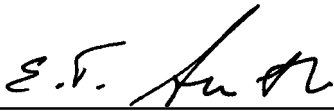
Both delegations noted their common understanding that the exercise of rights under Articles 8 and 9 of the Agreement must be in accordance with applicable domestic rules and regulations, provided that they are administered in a non-discriminatory fashion consistent with the purposes of the Agreement.

On the issues of change of gauge operations and operational flexibility, the

Indian delegation expressed concern that the flexibility provided for in Annex I, Sections 2 and 3, and in Annex II, Section 1(B), would allow airlines to establish seventh-freedom operations that would not otherwise be permitted under the Agreement. The U.S. delegation emphasized that the provisions on change of gauge and operational flexibility are not intended to authorize airlines to exercise otherwise impermissible seventh-freedom rights and noted the specific requirement that such services necessarily involve a traffic stop in the territory of the Party designating the carrier.

The two sides indicated that their respective aeronautical authorities intend to permit operations consistent with the terms of the Agreement on the basis of comity and reciprocity pending its entry into force.

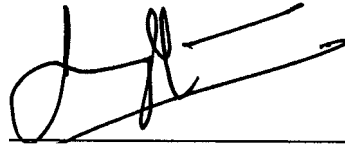
For the Government of the United States of America:



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Edward T. Smith  
Director  
Office of Aviation Negotiations  
U.S. Department of State

For the Government of India:



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Raghu Menon  
Joint Secretary  
Ministry of Civil Aviation

Washington, DC,  
January 15, 2005

ATTACHMENT A

**U.S.-India Open Skies Negotiations  
January 13-15, 2005  
Washington, DC**

***U.S. Delegation***

Mr. Edward T. Smith, Head of Delegation  
Director, Office of Aviation Negotiations  
U.S. Department of State

Mr. Paul Gretch  
Director, Office of International Aviation  
U.S. Department of Transportation

Mr. David Modesitt  
Chief, Europe Division, Office of International Aviation  
U.S. Department of Transportation

Mr. Brian Grimm  
Office of Aviation Negotiations  
U.S. Department of State

Mr. Keith Glatz  
Office of International Aviation  
U.S. Department of Transportation

Ms. Monica Hakimi  
Office of the Legal Adviser  
U.S. Department of State

Mr. Peter Bloch  
Office of the General Counsel  
U.S. Department of Transportation

Ms. Puja Lakhani  
Office of the General Counsel  
U.S. Department of Transportation

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Mr. Eugene Alford  
Office of International Trade Administration  
U.S. Department of Commerce

Ms. Eileen Kane  
Office of India, Nepal, Sri Lanka, Bhutan, and Maldives Affairs  
U.S. Department of State

Ms. Saba Abashawl  
Houston Airport System

Mr. Russ Bailey  
Air Line Pilots Association

Ms. Cecilia Bethke  
Air Transport Association

Mr. Jonathan Blank  
Baltimore/Washington International Airport

Mr. Paul Doell  
National Air Carrier Association

Mr. Don Fields  
Metropolitan Washington Airports Authority

Mr. Michael Francesconi  
UPS

Mr. Mark Gerchick  
US Airways

Mr. Mike Goldman  
Dallas/Ft. Worth International Airport

Mr. Dmitri Karimov  
United Airlines

Ms. Charlene Kennedy  
Delta Air Lines

A handwritten signature in black ink, appearing to be 'D. Karimov', written in a cursive style.

Mr. Joe Le Pochat  
American Airlines

Mr. Tom Lydon  
Evergreen Airlines

Mr. Howard Mann  
Airports Council International - North America

Mr. Greg Moix  
San Francisco Airport Commission

Mr. Kevin Montgomery  
Polar Air Cargo

Mr. David Short  
FedEx

Mr. Jol Silversmith  
Houston Airport System

Mr. Daniel Skwarek  
Northwest Airlines

Ms. Nancy Sparks  
FedEx

Mr. David Thomas  
Baltimore/Washington International Airport

Mr. Daniel Weiss  
Continental Airlines

A handwritten signature in black ink, appearing to be a stylized 'D' followed by a horizontal line and a small flourish.

U.S.-India Open Sides Negotiations  
January 13-15, 2005  
Washington, DC

*India Delegation*

Mr. Raghu Menon, Head of Delegation  
Joint Secretary  
Ministry of Civil Aviation

Mr. P.K.Chattopadhyay  
Joint Director General of Civil Aviation  
Ministry of Civil Aviation

Mr. R.K. Singh  
Director  
Ministry of Civil Aviation

Ms. Renu Pall  
Director  
Ministry of External Affairs

Mr. Ashok Sajjanhar  
Acting Deputy Chief of Mission  
Embassy of India

Mr. V. Venkateswara Rao  
Counsellor  
Embassy of India

Ms. Shirin Lalwani  
Director, International Relations  
Air India

Ms. Madhu Shroff  
Manager, International Relations  
Air India

A handwritten signature in black ink, consisting of a stylized initial 'R' followed by a horizontal line and a diagonal stroke.