COMMISSION OF THE EUROPEAN COMMUNITIES

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2008/0121 (CNS)

Proposal for a

COUNCIL DECISION

on the signing and provisional application of the Agreement between the European Community and the Republic of India on certain aspects of air services

Proposal for a

COUNCIL DECISION

on the conclusion of the Agreement between the European Community and the Republic of India on certain aspects of air services

(presented by the Commission)

EXPLANATORY MEMORANDUM

1 Context of the proposal

Grounds for and objectives of the proposal

Following the judgements of the Court of Justice in the so-called "Open Skies" cases, on 5 June 2003 the Council granted the Commission a mandate to open negotiations with third countries on the replacement of certain provisions in existing agreements with a Community agreement[1] (the "horizontal mandate"). The objectives of such agreements are to give all EU air carriers non-discriminatory access to routes between the Community and third countries, and to bring bilateral air service agreements between Member States and third countries in line with Community law.

General context

International aviation relations between Member States and third countries have traditionally been governed by bilateral air services agreements between Member States and third countries, the Annexes to such agreements and other related bilateral or multilateral arrangements.

Traditional designation clauses in Member States' bilateral air services agreements infringe Community law. They allow a third country to reject, withdraw or suspend the permissions or authorisations of an air carrier that has been designated by a Member State but that is not substantially owned and effectively controlled by that Member State or its nationals. This has been found to constitute discrimination against Community carriers established in the territory of a Member State but owned and controlled by nationals of other Member States. This is contrary to Article 43 of the Treaty which guarantees nationals of Member States who have exercised their freedom of establishment the same treatment in the host Member State as that accorded to nationals of that Member State.

There are further issues, such as obligatory commercial agreements between airlines where compliance with Community law should be ensured through amending or complementing existing provisions in bilateral air services agreements between Member States and third countries.

Existing provisions in the area of the proposal

The provisions of the Agreement supersede or complement the existing provisions in the 26 bilateral air services agreements between Member States and India.

Consistency with the other policies and objectives of the Union

The Agreement will serve a fundamental objective of the Community external aviation policy by bringing existing bilateral air services agreements in line with Community law.

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[1] Council Decision 11323/03 of 5 June 2003 (restricted document)

2 Consultation of interested parties and impact assessment

Consultation of interested parties

Consultation methods, main sectors targeted and general profile of respondents

Member States as well as the industry were consulted throughout the negotiations.

Summary of responses and how they have been taken into account

Comments made by Member States and the industry have been taken into account.

3 Legal elements of the proposal

Summary of the proposed action

In accordance with the mechanisms and directives in the Annex to the ”horizontal mandate”, the Commission has negotiated an Agreement with the Government of the Republic of India that replaces certain provisions in the existing bilateral air services agreements between Member States and India. Article 2 of the Agreement replaces the traditional designation clauses with a Community designation clause, permitting all Community carriers to benefit from the right of establishment. Article 4 brings provisions in bilateral agreements which are clearly anti-competitive (obligatory commercial agreements between airlines) in line with EU competition law.

When negotiating the Agreement with the Government of the Republic of India, it was emphasised that the Agreement shall not affect the volume or balance of traffic rights. To this effect the terms of a letter to be sent by the European Community and its Member States to India following the signature of the "horizontal agreement" were defined. This letter, which was endorsed by the Member States within the Special Committee, is being sent to the Council together with this proposal.

Legal basis

EC Treaty Art. 80(2), 300(2)

Subsidiarity principle

The proposal is entirely based on the “horizontal mandate” granted by the Council taking into account the issues covered by Community law and bilateral air services agreements.

Proportionality principle

The Agreement will amend or complement provisions in bilateral air services agreements only to the extent necessary to ensure compliance with Community law.

Choice of instruments

The Agreement between the Community and the Government of the Republic of India is the most efficient instrument to bring all existing bilateral air services agreements

between Member States and India into conformity with Community law.

4 Budgetary implication

The proposal has no implication for the Community budget.

5 Additional information

Simplification

The proposal provides for simplification of legislation.

The relevant provisions of bilateral air services agreements between Member States and the Republic of India will be superseded or complemented by provisions in one single Community agreement.

Detailed explanation of the proposal

In accordance with the standard procedure for the signature and conclusion of international agreements, the Council is asked to approve the proposed decisions in Attachment on the signing and provisional application and on the conclusion of the Agreement between the European Community and the Republic of India on certain aspects of air services.

Proposal for a

COUNCIL DECISION

on the signing and provisional application of the Agreement between the European Community and the Republic of India on certain aspects of air services

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Council authorised the Commission on 5 June 2003 to open negotiations with third countries on the replacement of certain provisions in existing bilateral Agreements with a Community Agreement.

(2) On behalf of the Community, the Commission has negotiated an Agreement with the Government of the Republic of India on certain aspects of air services in accordance with the mechanisms and directives in the Annex to the Council Decision authorising the Commission to open negotiations with third countries on the replacement of certain provisions in existing bilateral Agreements with a Community Agreement.

(3) Subject to its possible conclusion at a later date, the Agreement negotiated by the Commission should be signed and provisionally applied.

HAS DECIDED AS FOLLOWS:

Article 1

The signing of the Agreement between the European Community and the Republic of India on certain aspects of air services is hereby approved on behalf of the Community, subject to the conclusion of the said Agreement.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Community subject to its conclusion.

Article 3

Pending its entry into force, the Agreement shall be applied provisionally from the first day of the first month following the date on which the parties have notified each other of the completion of the necessary procedures for this purpose[2].

Article 4

The President of the Council is hereby authorised to make the notification provided for in Article 7(2) of the Agreement.

Done at Brussels,

For the Council
The President

[2] The date from which the Agreement will be provisionally applied will be published in the Official Journal of the European Union by the General Secretariat of the Council.

2008/0121 (CNS)

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on the conclusion of the Agreement between the European Community and the Republic of India on certain aspects of air services

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission[3],

Having regard to the opinion of the European Parliament[4],

Whereas:

(1) The Council authorised the Commission on 5 June 2003 to open negotiations with third countries on the replacement of certain provisions in existing bilateral Agreements with a Community Agreement.

(2) On behalf of the Community, the Commission has negotiated an Agreement with the Government of the Republic of India on certain aspects of air services in accordance with the mechanisms and directives in the Annex to the Council Decision authorising the Commission to open negotiations with third countries on the replacement of certain provisions in existing bilateral Agreements with a Community Agreement.

(3) The Agreement was signed on behalf of the Community on […] subject to its possible conclusion at a later date, in conformity with Council Decision …/…/EC of […][5].

(4) The Agreement should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

1. The Agreement between the European Community and Government of the Republic of India on certain aspects of air services is hereby approved on behalf of the Community.

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3 OJ C , , p. .
4 OJ C , , p. .
5 OJ C , , p. .

2. The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to make the notification provided for in Article 7(1) of the Agreement.

Done at Brussels,

For the Council
The President

ANNEX

AGREEMENT

between the European Community and the Government of the Republic of India

on certain aspects of air services

THE EUROPEAN COMMUNITY

of the one part, and

THE REPUBLIC OF INDIA

of the other part

(hereinafter referred to as 'the Parties')

NOTING that bilateral air service agreements have been concluded between several Member States of the European Community and the Republic of India containing provisions contrary to Community law.

NOTING that the European Community has exclusive competence with respect to several aspects that may be included in bilateral air service agreements between Member States of the European Community and third countries,

NOTING that under European Community law Community air carriers established in a Member State have the right to non-discriminatory access to air routes between the Member States of the European Community and third countries,

HAVING REGARD to the agreements between the European Community and certain third countries providing for the possibility for the nationals of such third countries to acquire ownership in air carriers licensed in accordance with European Community law,

RECOGNISING that certain provisions of the bilateral air service agreements between Member States of the European Community and the Republic of India, must be brought into conformity with European Community law in order to establish a sound legal basis for air services between the European Community and the Republic of India and to preserve the continuity of such air services,

NOTING that under European Community law air carriers may not, in principle, conclude agreements which may affect trade between Member States of the European Community and which have as their object or effect the prevention, restriction or distortion of competition,

RECOGNISING that provisions in bilateral air service agreements concluded between Member States of the European Community and the Republic of India which i) require or favour the adoption of agreements between undertakings, decisions by associations of undertakings or concerted practices that prevent, distort or restrict competition between air carriers on the relevant routes; or ii) reinforce the effects of any such agreement, decision or concerted practice; or iii) delegate to air carriers or other private economic operators the responsibility for taking measures that prevent, distort or restrict competition between air

carriers on the relevant routes, may render ineffective the application of the competition rules applicable to undertakings,

RECOGNISING that where a Member State has designated an air carrier whose regulatory control with regard to safety oversight is exercised and maintained by another Member State, the rights of the Republic of India under the safety provisions of the agreement between the Member State that has designated the carrier and the Republic of India shall apply equally in relation to that other Member State,

NOTING that the bilateral air services agreements listed in Annex 1 are based on the general principle that the designated airlines of the parties shall have fair and equal opportunities in operating the agreed services on the specified routes,

NOTING that it is not a purpose of this agreement, to increase the total volume of air traffic between the European Community and the Republic of India, to affect the balance between Community air carriers and air carriers of the Republic of India, or to negotiate amendments to the provisions of existing bilateral air service agreements concerning traffic rights.

HAVE AGREED AS FOLLOWS:

ARTICLE 1

General Provisions

1. For the purposes of this Agreement, 'Member States' shall mean Member States of the European Community.

2. References in each of the agreements listed in Annex 1 to nationals of the Member State that is a party to that agreement shall be understood as referring to nationals of the Member States of the European Community.

3. References in each of the agreements listed in Annex 1 to air carriers or airlines of the Member State that is a party to that agreement shall be understood as referring to air carriers or airlines designated by that Member State.

4. The granting of traffic rights will continue to be carried out through bilateral arrangements.

ARTICLE 2

Designation by a Member State

1. The provisions in paragraphs 2 and 3 of this Article shall supersede the corresponding provisions in the articles listed in Annex 2 (a) and (b) respectively, in relation to the designation of an air carrier by the Member State concerned, its authorisations and permissions granted by the Republic of India, and the refusal, revocation, suspension or limitation of the authorisations or permissions of the air carrier, respectively.

2. On receipt of a designation by a Member State, the Republic of India shall grant the appropriate authorisations and permissions with minimum procedural delay, provided that:

   i. the air carrier is established in the territory of the designating Member State under the Treaty establishing the European Community and has a valid Operating Licence in accordance with European Community law;

   ii. effective regulatory control of the air carrier is exercised and maintained by the Member State responsible for issuing its Air Operators Certificate and the relevant aeronautical authority is clearly identified in the designation; and

   iii. the air carrier is owned and shall continue to be owned directly or through majority ownership by Member States and/or nationals of Member States, and/or by other states listed in Annex 3 and/or nationals of such other states, and shall at all times be effectively controlled by such states and/or such nationals.

3. The Republic of India may refuse, revoke, suspend or limit the authorisations or permissions of an air carrier designated by a Member State where:

   i. the air carrier is not established in the territory of the designating Member State under the Treaty establishing the European Community or does not have a valid Operating Licence in accordance with European Community law;

   ii. effective regulatory control of the air carrier is not exercised or not maintained by the Member State responsible for issuing its Air Operators Certificate, or the relevant aeronautical authority is not clearly identified in the designation;

   iii. the air carrier is not owned, directly or through majority ownership, or it is not effectively controlled by Member States and/or nationals of Member States, and/or by other states listed in Annex 3 and/or nationals of such other states,

   iv. the air carrier is already authorised to operate under a bilateral agreement between the Republic of India and another Member State and by exercising traffic rights under this Agreement on a route that includes a point in that other Member State, it would be circumventing restrictions on the traffic rights imposed by that other agreement; or

   v. the air carrier designated holds an Air Operators Certificate issued by a Member State with which the Republic of India does not have a bilateral air services agreement and that Member State has denied traffic rights to the Republic of India.

In exercising its right under this paragraph, the Republic of India shall not discriminate between European Community air carriers on the grounds of nationality.

ARTICLE 3

Safety

1. The provisions in paragraph 2 of this Article shall complement the corresponding articles listed in Annex 2 (c).

2. Where a Member State has designated an air carrier whose regulatory control is exercised and maintained by another Member State, the rights of the Republic of India under the safety provisions of the agreement between the Member State that has designated the air carrier and the Republic of India shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other Member State and in respect of the operating authorisation of that air carrier.

ARTICLE 4

Compatibility with competition rules

1. Notwithstanding any other provision to the contrary, nothing in each of the agreements listed in Annex 1 shall (i) favour the adoption of agreements between undertakings, decisions by associations of undertakings or concerted practices that prevent, distort or restrict competition; (ii) reinforce the effects of any such agreement, decision or concerted practice; or (iii) delegate to private economic operators the responsibility for taking measures that prevent, distort or restrict competition.

2. The provisions contained in the agreements listed in Annex 1 that are incompatible with paragraph 1 of this Article shall not be applied.

ARTICLE 5

Annexes to the Agreement

The Annexes to this Agreement shall form an integral part thereof.

ARTICLE 6

Review, revision or amendment

The Parties may, at any time, review, revise or amend this Agreement by mutual consent.

ARTICLE 7

Entry into force and provisional application

1. This Agreement shall enter in force when the Parties have notified each other in writing that their respective internal procedures necessary for its entry into force have been completed.

2. Notwithstanding paragraph 1, the Parties agree to provisionally apply this Agreement from the first day of the month following the date on which the Parties have notified each other of the completion of the procedures necessary for this purpose.

3. Agreements and other arrangements between Member States and the Republic of India which, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally are listed in Annex 1 (b). This Agreement shall apply to all such Agreements and arrangements upon their entry into force or provisional application.

ARTICLE 8

Termination

1. In the event that an agreement listed in Annex 1 is terminated, all provisions of this Agreement that relate to the agreement listed in Annex 1 concerned shall terminate at the same time.

2. In the event that all agreements listed in Annex 1 are terminated, this Agreement shall terminate at the same time.

IN WITNESS WHEREOF, the undersigned, being duly authorised, have signed this Agreement.

Done at [….] in duplicate, on this […] day of […, …] in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish, Swedish and Hindi languages.

FOR THE EUROPEAN COMMUNITY: FOR THE REPUBLIC OF INDIA:

ANNEX 1

List of agreements referred to in Article 1 of this Agreement

(a) Air service agreements between the Government of India and Member States of the European Community which, at the date of signature of this Agreement, have been concluded, signed and/or are being applied provisionally

– Agreement between **the Austrian Federal Government and the Government of India** relating to Air Services signed at New-Delhi on 26 October 1989;

Modified by Memorandum of Understanding done at Vienna on 17 June 1997, hereinafter referred to "India-Austria MoU" in Annex 2;

Modified by Supplementary Memorandum of Understanding done at Vienna on 27 January 2000;

Last modified by Agreed Minutes done at New Delhi on 23 March 2001.

– Agreement between **the Government of the Kingdom of Belgium and the Government of India** relating to Air Services signed at New-Delhi on 6 April 1967, hereinafter referred to “India – Belgium Agreement” in Annex 2;

Last modified by Memorandum of Understanding done at Brussels on 18 May 2005, hereinafter referred to "India-Belgium MoU" in Annex 2;

– Agreement between **the Government of the Republic of Bulgaria and the Government of the Republic of India** relating to air services done at New Delhi on 16 June 1992, hereinafter referred to “India – Bulgaria Agreement” in Annex 2;

– Agreement between **the Government of the Republic of Cyprus and the Government of India** relating to air services done at Nicosia on 18 December 2000, hereinafter referred to “India – Cyprus Agreement” in Annex 2;

– Air Transport Agreement between **the Government of the Czech Republic and the Government of the Republic of India** signed at Delhi on 16 October 1997, hereinafter referred to “India – Czech Republic Agreement” in Annex 2;

– Agreement between **the Government of the Kingdom of Denmark and the Government of India** relating to Air Services signed at New Delhi on 19 December 1995, hereinafter referred to “India – Denmark Agreement” in Annex 2;

Last modified by Memorandum of Understanding done at New Delhi on 30 November 2006 hereinafter referred to "India-Denmark MoU" in Annex 2;

– Air Services Agreement between **the Government of the Republic of Finland and the Government of India** signed at New Delhi on 18 July 1995, hereinafter referred to “India – Finland Agreement” in Annex 2;

Last modified by Memorandum of Understanding signed in New Delhi on 18 May 2006 hereinafter referred to "India-Finland MoU" in Annex 2;

– Agreement between **the Government of the French Republic and the Government of India** relating to Air Services signed at New Delhi on 16 July 1947, hereinafter referred to “India – France Agreement” in Annex 2;

Modified by Memorandum of Understanding done at New Delhi on 20 May 1960;

Modified by Memorandum of Understanding done at New Delhi on 26 November 1997;

Last modified by Memorandum of Consultations done at Paris on 23 February 2005;

– Agreement between **the Federal Republic of Germany and the Government of India** relating to Air Services signed at New Delhi on 31 May 1963, hereinafter referred to “India – Germany Agreement” in Annex 2;

Modified by Agreed Minutes done at Bonn on 20 October 1989;

Modified by Memorandum of Understanding done at New Delhi on 10 May 1994;

Modified by Memorandum of Understanding done at Berlin on 6 February 2001;

Last modified by Memorandum of Understanding done at New Delhi on 25 May 2005, hereinafter referred to "India-Germany MoU" in Annex 2;

– Agreement between **the Government of the Hungarian People’s Republic and the Government of India** relating to Air Services signed at New Delhi on 23 February 1966, hereinafter referred to “India – Hungary Agreement” in Annex 2;

– Agreement between **the Government of Italy and the Government of India** relating to Air Services signed at Rome on 16 July 1959 hereinafter referred to “India – Italy Agreement” in Annex 2;

Modified by Agreed Minutes done at New Delhi on 27 June 1986;

Modified by Agreed Minutes done at New Delhi on 22 April 2002;

Modified by Memorandum of Understanding done at Rome on 4 February 2003;

Last modified by Memorandum of Understanding done at New Delhi on 15 February 2006, hereinafter referred to "India-Italy MoU" in Annex 2;

– Agreement between **the Government of the Republic of Latvia and the Government of the Republic of India** relating to Air Services signed at New Delhi on 20 October 1997, hereinafter referred to “India – Latvia Agreement” in Annex 2;

– Agreement between **the Government of the Republic of Lithuania and the Government of the Republic of India** relating to Air Services signed at New Delhi on 20 February 2001, hereinafter referred to “India – Lithuania Agreement” in Annex 2;

– Agreement between **the Government of the Grand Duchy of Luxembourg and the Government of the Republic of India** relating to air services signed in New

Delhi on 8 January 2001, hereinafter referred to “India – Luxembourg Agreement” in Annex 2;

– Agreement between **the Government of the Republic of Malta and the Government of India** relating to Air Services signed at Malta on 5 October 1998, hereinafter referred to “India – Malta Agreement” in Annex 2;

– Agreement between **the Government of the Netherlands and the Government of India** relating to Air Services signed at New Delhi on 24 May 1951, hereinafter referred to “India – Netherlands Agreement” in Annex 2;

Modified by Memorandum of Understanding done at New Delhi on 10 January 1992;

Last modified by Memorandum of Understanding done at The Hague on 17 May 2005, hereinafter referred to "India-Netherlands MoU" in Annex 2;

– Agreement between **the Government of the Polish People’s Republic and the Government of the Republic of India** relating to Air Services signed at New Delhi on 25 January 1977, hereinafter referred to “India – Poland Agreement” in Annex 2;

Modified by Memorandum of Understanding done at New Delhi on 30 September 2003;

Last modified by the exchange of diplomatic notes of 20 April 2006 and 22 August 2006;

– Air Services Agreement between **the Government of the Republic of Portugal and the Government of the Republic of India** signed at New Delhi on 6 February 1997, hereinafter referred to “India – Portugal Agreement” in Annex 2;

– Air Services Agreement between **the Government of Romania and the Government of India** done at New Delhi on 4 December 1993, hereinafter referred to “India – Romania Agreement” in Annex 2;

– Agreement between **the Government of the Slovak Republic and the Government of India** relating to Scheduled Air Services signed at Bratislava on 9 October 1996, hereinafter referred to “India – Slovakia Agreement” in Annex 2;

– Agreement between **the Government of the Republic of Slovenia and the Government of India** relating to Scheduled Air Services signed at New Delhi on 16 February 2004, hereinafter referred to “India – Slovenia Agreement” in Annex 2;

– Air Transport Agreement between **the Government of Spain and the Government of the Republic of India** signed at New Delhi on 10 April 1987, hereinafter referred to “India – Spain Agreement” in Annex 2;

Last modified by Memorandum of Understanding done at New Delhi on 08 November 2006 hereinafter referred to "India-Spain MoU" in Annex 2;

– Agreement between **the Government of the Kingdom of Sweden and the Government of India** relating to Air Services signed at New Delhi on 19 December 1995, hereinafter referred to “India – Sweden Agreement” in Annex 2;

Last modified by Memorandum of Understanding done at New Delhi on 30 November 2006 hereinafter referred to "India-Sweden MoU" in Annex 2;

– Agreement between **the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of India** relating to Air Services signed at New Delhi on 1 December 1951, hereinafter referred to “India – UK Agreement” in Annex 2;

Modified by Agreed Minutes done at New Delhi on 22 April 2002;

Modified by Agreed Record done at London on 21 June 2002;

Modified by Memorandum of Understanding done at London on 17 September 2004;

Modified by Memorandum of Understanding done at New Delhi on 13 April 2005;

Last modified by Memorandum of Understanding done at London on 26 August 2005 hereinafter referred to "India-UK MoU";

(b) Air service agreements and other arrangements initialled or signed between the Government of India and Member States of the European Community which, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally

– Air Transport Agreement between **the Government of the Hellenic Republic and the Government of the Republic of India** initialled at Athens on 23 October 1997, hereinafter referred to “India – Greece Agreement” in Annex 2;

Last modified by Agreed Minutes done at Athens on 30 March 2007.

– Air Transport Agreement between **the Government of Ireland and the Government of India** signed at [*place*] on [*date*], hereinafter referred to “India – Ireland Agreement” in Annex 2;

ANNEX 2

List of articles in the agreements listed in Annex 1 and referred to in Articles 2 to 5 of this Agreement

(a) Designation by a Member State:

- Article 3, of the India – Austria Agreement;
- Article 3, paragraphs 1 to 5, of the India – Belgium Agreement;
- Article III of the India – Bulgaria Agreement;
- Article 3, of the India – Cyprus Agreement;
- Article 3, of the India – Czech Republic Agreement;
- Article 3, of the India – Denmark Agreement;
- Article 3, of the India – Finland Agreement;
- Article 2, of the India – France Agreement;
- Article 3(i), of the India – Germany MoU;
- Article 3, of the India – Greece Agreement;
- Article 3, of the India – Hungary Agreement;
- Article 3, of the India – Ireland Agreement;
- Article 4.1 of the India – Italy MoU;
- Article 3, of the India – Latvia Agreement;
- Article 3, of the India – Lithuania Agreement;
- Article 3, of the India – Luxembourg Agreement;
- Article 2, of the India – Netherlands Agreement;
- Article IV, of the India – Poland Agreement;
- Article 3, of the India – Portugal Agreement;
- Article 3, of the India – Romania Agreement;
- Article 3, of the India – Slovakia Agreement;
- Article 3, of the India – Slovenia Agreement;
- Article 2.5(i), of the India – Spain MoU;

– Article 3, of the India – Sweden Agreement;

– Annex B, Article 4, of the India – UK MoU;

(b) Refusal, revocation, suspension or limitation of authorisations or permissions:

– Article 4, of the India – Austria Agreement

– Article 3, paragraph 6, of the India – Belgium Agreement;

– Article IV of the India – Bulgaria Agreement;

– Article 4, of the India – Cyprus Agreement;

– Article 4, of the India – Czech Republic Agreement;

– Article 4, of the India – Denmark Agreement;

– Article 4, of the India – Finland Agreement;

– Article 9, of the India – France Agreement;

– Article 4, of the India – Germany Agreement;

– Article 4, of the India – Greece Agreement;

– Article 4, of the India – Hungary Agreement;

– Article 4, of the India – Ireland Agreement;

– Article 4, paragraphs 4 to 6, of the India – Italy Agreement;

– Article 4, of the India – Latvia Agreement;

– Article 4, of the India – Lithuania Agreement;

– Article 4, of the India – Luxembourg Agreement;

– Article 4, of the India – Malta Agreement;

– Article 8, of the India – Netherlands Agreement;

– Article V, of the India – Poland Agreement;

– Article 4, of the India – Portugal Agreement;

– Article 4, of the India – Romania Agreement;

– Article 4, of the India – Slovakia Agreement;

– Article 4, of the India – Slovenia Agreement;

– Article 4, of the India – Spain Agreement;

– Article 4, of the India – Sweden Agreement;

– Annex B, Article 5, of the India – UK MoU;

(c) Safety:

– Appendix B, of the India – Denmark MoU;

– Appendix H, of the India – Finland MoU;

– Appendix “C”, of the India – Greece Agreement

– Article 2.5(iv), of the India – Spain MoU;

– Appendix B, of the India – Sweden MoU;

– Annex B, Article 7, of the India – UK MoU.

ANNEX 3

List of other states referred to in Article 2 of this Agreement

(a) **The Republic of Iceland** (under the Agreement on the European Economic Area);

(b) **The Principality of Liechtenstein** (under the Agreement on the European Economic Area);

(c) **The Kingdom of Norway** (under the Agreement on the European Economic Area);

(d) **The Swiss Confederation** (under the Agreement between the European Community and the Swiss Confederation on Air Transport).

ATTACHMENT

Letter from the EC and its Member States to India

Dear…

Further to the signature on … of the Agreement between the European Community and the Republic of India on certain aspects of air services (the "Horizontal Agreement") we have the honour to confirm the following:

1. *The Horizontal Agreement shall not increase the total volume of air traffic rights between the European Community and India, or between individual Member States and India, or affect the balance concerning traffic rights between Community air carriers and air carriers of India under existing bilateral air service agreements.*

2. *In this regard the provisions of Article 2.3.iv of the Horizontal Agreement are intended to ensure that Community air carriers may not use the provisions of the Horizontal Agreement to circumvent existing limitations on traffic rights.*

3. *If, notwithstanding these safeguards, either party considers that the Horizontal Agreement has produced or will produce unforeseen negative effects, it may invoke the procedures set out in Article 6 of the Horizontal Agreement.*

4. *In such cases, both India and the European Community and its Member States will, in the context of their bilateral relations, consider positively any requests with a view to remedying unforeseen negative effects on the basis of the principles of equal opportunities and mutual benefits.*