AGREEMENT BETWEEN THE GOVERNMENT OF INDIA AND THE FEDERAL MILITARY GOVERNMENT OF THE FEDERAL REPUBLIC OF NIGERIA RELATING TO AIR SERVICES
New Delhi, 31 January 1978

The Government of the Republic of INDIA

AND

The Federal Military Government of the Federal Republic of NIGERIA,

HEREINAFTER referred to as the Contracting Parties,

CONSIDERING that Federal Republic of Nigeria and the Republic of India are parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944, and

DESIRING to conclude an Agreement, supplementary to the said Convention, for the purpose of establishing air services between and beyond their respective territories,

HAVE AGREED as follows :

Article 1
INTERPRETATION

For the purpose of the present Agreement and any annex attached thereto, unless the context otherwise requires :

(a) the term "the Convention" means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944 and includes any Annexes adopted under Article 90 of that Convention and any amendments of the Annexes of that Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have been adopted by both Contracting Parties;

(b) the term "aeronautical authorities" means, in the case of the case of the Federal Republic of Nigeria, the Commissioner responsible for matters relating to Civil Aviation or any person or body authorised to perform any functions at present exercised by the said Commissioner or similar functions, and, in the case of the Republic of India, the Director-General of Civil Aviation or any person or body authorised to perform any functions at present exercised by the said Director-General of Civil Aviation or similar functions;

(c) the term "designated airline" means an airline which has been designated and authorised in accordance with Article 3 of the present Agreement;

(d) the term "territory" in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty or protection of that State;

(e) the terms "air service", "international air service", "airline" and "stop for non-traffic purposes" have the meanings respectively assigned to them in Article 96 of the Convention; and

(f) the term "aircraft equipment" , "aircraft stores" and " spare parts" have the meanings respectively assigned to them in Annex 9 of the Convention.

Article 2

RIGHTS AND PRIVILEGES OF DESIGNATED AIRLINES

(1) Each Contracting Party grants to the other Party the rights specified in the present Agreement for the purpose of establishing air services on the route specified in the Annex thereto (hereinafter called "the agreed services" and "the specified routes"). The agreed services may be inaugurated at any time after the provisions of Article 3 have been complied with.

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

(a) to fly without landing across the territory of the other Contracting Party,

(b) to make stops in the territory of the other Contracting Party for non-traffic purposes, and

(c) while operating an agreed service on a specified route, to make stops in the territory of the other Contracting Party at the points specified for that route in the Annex to the

present Agreement, for the purpose of putting down or taking on international traffic in passengers, cargo and mail, originating in or destined for the territory of the first Contracting Party or of a third country.

(3) Nothing in paragraph 2 of this Article shall be deemed to confer on the airline of one Contracting Party the privilege of taking on, in the territory of the other Contracting Party, passengers, cargo or mail destined for another point in the territory of that other Contracting Party.

(4) The laws, regulations and procedures of one Contracting Party, relating to entry into or departure from its territory, of aircraft or air services operated in international air navigation or to the operation of such aircraft or air services while within its territory shall apply to aircraft and agreed services of the designated airline of the other Contracting Party.

Article 3

DESIGNATION OF AIRLINES

(1) Each Contracting Party shall have the right to designate in writing to the other Contracting Party one airline for the purpose of operating the agreed services on the specified routes.

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

(3) The aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied to the operation of international air services by such authorities in conformity with the provisions of the Convention.

(4) Each Contracting Party shall have the right to refuse to grant the operating authorisation referred to in paragraph (2) of this Article or to impose such conditions as it may deem necessary on the exercise by the designated airline of the rights specified in Article 2 of the present Agreement, in any case where the said Contracting Party is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals.

(5) When an airline has been so designated and authorised, it may begin at any time to operate the agreed service provided that a

tariff has been established in accordance with the provisions of Article 11 and the provisions of Article 10 have been complied with.

Article 4

VALIDITY OF CERTIFICATES

(1) Certificates of airworthiness, certificates of competency and licenses issued or validated by either Contracting Party and which have not expired, shall be recognized as valid by the other Contracting Party for the purposes of operating the air routes specified in the Annex hereto.

(2) Each Contracting Party reserves the right to refuse to recognise as valid for the purposes of operating the said air routes over its own territory, certificates of competency and licenses issued to its own national by the other Contracting Party.

Article 5

REVOCATION AND SUSPENSION OF RIGHTS

(1) Each Contracting Party shall have the right to revoke an operating authorisation or to suspend the exercise of the rights specified in Article 2, of the present Agreement by any airline designating by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of these rights in any of the following cases :

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

(b) Failure by the airline to comply with the laws or regulations of the Contracting Party granting these rights;

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

(2) Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph (1) of this Article is essential to prevent further infringements of laws, or regulations, such right shall be exercised only after consultation with the other Contracting Party.

Article 6

EXEMPTION FROM CUSTOMS DUTIES, ETC

(1) Aircraft operated on international services by the designated

airline of either Contracting Party, as well as their regular equipments supplies of fuels and lubricants, and aircraft stores (including food, beverages and tobacco) on board such aircraft shall be exempt from all customs duties, inspection fees and other similar charges on arriving in the territory of the other Contracting Party, provided such equipments and supplies remain on board the aircraft upto such time as they are re-exported or are used on the part of the journey performed over that territory.

(2) There shall also be exempt from the same duties, fees, and charges with the exception of charges corresponding to the service performed :

(a) aircraft stores taken on board in the territory of a Contracting Party, within limits fixed by the authorities of the said Contracting Party, and for use on board outbound aircraft engaged in an international service of the other Contracting Party;

(b) spare parts introduced into the territory of either Contracting Party for the maintenance or repairs of aircraft used on international services by the designated airline of the other Contracting Party;

(c) fuel and lubricants destined to supply outbound aircraft operated on international services by the designated airline of the other Contracting Party; even when these supplies are to be used on the part of the journey performed over the territory of the Contracting Party in which they are taken on board.

(3) Materials referred to in sub-paragraph (a), (b) and (c) above may be required to be kept under customs supervision or control.

Article 7

TREATMENT OF REGULAR AIRBORNE EQUIPMENT, ETC

The regular airborne equipment as well as the materials and supplies retained on board the aircraft of either Contracting Party may be unloaded in the territory of the other Contracting Party only with the approval of the Customs authorities of that territory. In such case, they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with Customs regulations.

Article 8
MODE OF OPERATION

(1) There shall be fair and equal opportunity for the designated airline of each Contracting Party to operate the agreed service on the specified routes.

(2) The inauguration and subsequent operation of the agreed services on the specified routes shall be strictly within the limits set out in the Annex to this Agreement or as it may be amended from time to time.

Article 9
CAPACITY AND FREQUENCY

(1) The capacity to be provided, the frequency of services to be operated and the nature of air service that is, transiting through or terminating in the territory of the other Contracting Party shall be agreed between the designated airlines in accordance with the principles laid down in Article 8 and the provisions of this Article and such agreement shall be subject to the approval of the aeronautical authorities of the two Contracting Parties.

(2) Any increase in the capacity to be provided or frequency of services to be operated by the designated airline of either Contracting Party shall be agreed, in the first instance, between the designated airlines and shall be subject to the approval of the aeronautical authorities on the basis of the estimated requirements of traffic between the territories of the two Parties and any other traffic to be jointly agreed and determined. Pending such agreement or settlement, the capacity and frequency entitlements already in force shall prevail.

(3) If the designated airlines of the Contracting Parties fail to agree on any matter on which their agreement is required under the provisions of this Article, the aeronautical authorities of the Contracting Parties shall endeavour to reach agreement thereon.

(4) The capacity to be provided, the frequency of services to be operated and the nature of air service, that is, transiting through or terminating in the territory of the other Contracting Party as agreed to in accordance with the provisions of this Article shall be specified in an exchange of letters between the aeronautical authorities of the Contracting Parties.

Article 10

FILING OF FLIGHT SCHEDULES, ETC

Each Contracting Party shall cause its designated airline to communicate to the aeronautical authorities of the other Contracting Party, as long in advance as practicable, prior to the inauguration of the agreed services, the type of aircraft to be used, the flight schedules, tariffs and all other relevant information concerning the operation of the agreed services including such functional information as may be required to satisfy the aeronautical authorities that the requirements of the present Agreement are being duly observed. The requirements of this Article shall likewise apply to any changes concerning the agreed services.

Article 11

TARIFFS

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

(2) The tariffs referred to in paragraph (1) of this Article, together with the rates of agency commission applicable, shall, if possible, be agreed by the designated airlines of both the Contracting Parties, in consultation with other airlines operating over the whole or part of the route, and such agreement shall, where possible, be reached through the rate-fixing machinery of the International Air Transport Association.

(3) The tariffs so agreed shall be submitted for the approval of the aeronautical authorities of the Contracting Parties at least sixty (60) days before the proposed date of their introduction. In special cases, this time limit may be reduced subject to the agreement of the said authorities.

(4) If the designated airlines cannot agree on any of these tariffs, or if for some other reasons a tariff cannot be fixed in accordance with the provisions of paragraph (2) of this Article, or if during the first thirty (30) days of the sixty (60) days' period referred to in paragraph (3) of this Article one Contracting Party gives the other Contracting Party notice of its dissatisfaction with any tariff agreed in accordance with the provisions of paragraph (2) of this Article, the aeronautical authorities of the Contracting Parties shall try to determine the tariff by agreement between themselves.

(5) If the aeronautical authorities cannot agree on the approval of any tariff submitted to them under paragraph (3) of this Article or on the determination of any tariff under paragraph (4), the dispute shall be settled in accordance with the provisions of Article 15 of the present Agreement.

(6) Subject to the provisions of paragraph (5) of this Article, no tariff shall come into force if the aeronautical authorities of either Contracting Party have not approved it.

(7) The tariffs established in accordance with the provisions of this Article shall remain in force until new tariffs have been established in accordance with the provisions of the present Article.

Article 12

STATEMENTS OF STATISTICS

(1) The aeronautical authorities of either Contracting Party shall supply to the aeronautical authorities of the other Contracting Party at the latter's request such periodic or other statements of statistics as may be reasonably required for the purpose of reviewing the capacity provided in the agreed services by the designated airline of the first Contracting Party.

(2) Such statements shall include all information required to determine the amount of traffic carried by the airline on the agreed services and the origin and destination as well as the points of embarkation and disembarkation of such traffic.

Article 13

TRANSFER OF EXCESS RECEIPTS

Each Contracting Party grants to the designated airline of the other Contracting Party the right of transfer at the official rate of exchange of the excess of receipts over expenditure earned by the airline in its territory in connection with the carriage of passengers, mail and cargo, subject to prevailing regulations in the territory of each Contracting Party. Whenever the payments system between the Contracting Parties is governed by a special agreement, this special agreement shall apply.

Article 14

CONSULTATIONS AND MODIFICATIONS

(1) In a spirit of close cooperation, the aeronautical authorities of the Contracting Parties shall consult each other from time to time with a view to ensuring the implementation of, and satisfactory

compliance with the provisions of the present Agreement and the Schedules annexed thereto.

(2) Consultations may be requested at any time by either Contracting Party for the purpose of initiating any amendments to the present Agreement. Consultations may also be required on matters concerning the interpretation and application of the present Agreement if either Contracting Party considers that an exchange of views within the meaning of paragraph (1) of this Article has been without success. Such consultations shall be either by discussion or by correspondence and shall begin within a period of sixty days from the date of the request. Any modification of the present Agreement as a result of such consultations shall come into effect after the respective constitutional requirements have been fulfilled and when it has been confirmed by an exchange of notes.

Article 15

SETTLEMENT OF DISPUTES

(1) If any dispute arises relating to the interpretation or application of the present Agreement, the aeronautical authorities of the Contracting Parties shall endeavour to settle it by negotiations between themselves, failing which dispute shall be referred to the Contracting Parties for settlement.

(2) If the Contracting Parties fail to reach a settlement by negotiation, they may agree to refer the dispute for decision to some person or body; if they do not so agree, the dispute shall at the request of either Contracting Party be submitted for decision to a tribunal of three arbitrators, one to be nominated by each Contracting Party and third to be appointed by the two so nominated. Each of the Contracting Parties shall nominate an arbitrator within a period of sixty (60) days from the date of receipt by either Contracting Party from the other of a notice through diplomatic channels requesting arbitration of the dispute by such a tribunal and the third arbitrator shall be appointed within a further period of sixty (60) days. If either of the Contracting Parties fails to nominate an arbitrator within the period specified or if the third arbitrator is not appointed within the period specified, the International Civil Aviation Organisation may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. In each case, the third arbitrator shall be a national of a third State and shall act as President of the arbitral tribunal.

(3) The Contracting Parties shall comply with any decision given under paragraph (2) of this Article.

(4) Each Contracting Party will be responsible for the cost of its designated arbitrator and subsidiary staff provided and both Contracting Parties shall share equally all such further expenses involved in the activities of the tribunal including those of the President.

(5) If, and so long as either Contracting Party or a designated airline of either Contracting Party fails to comply with a decision given under this Article, the other Contracting Party may limit, withhold or revoke any rights or privileges which it has granted by virtue of the present Agreement to the Contracting Party in default or to the designated airline.

Article 16

EFFECT OF MULTILATERAL AGREEMENTS

The present Agreement and its schedules shall be amended so as to conform with any multilateral treaties which may become binding on both Contracting Parties.

Article 17

REGISTRATION OF AGREEMENT WITH I.C.A.O.

The present Agreement, its annex, and any exchange of Notes amending either the Agreement or its annex shall be registered with the International Civil Aviation Organisation.

Article 18

TERMINATION

(1) The present Agreement shall be concluded for an indefinite period of time, subject to the provisions of paragraph (2) below.

(2) Either Contracting Party may at any time give notice to the other Contracting Party of its decision to terminate the present Agreement; such notice shall be simultaneously communicated to the International Civil Aviation Organization. In such case the Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of acknowledgment of receipt by the other Contracting Party, notice shall be deemed to have been

received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

Article 19

ENTRY INTO FORCE

(1) The present Agreement shall be subject to ratification by the Contracting Parties and Instruments of Ratification shall be exchanged through diplomatic channels.

(2) The present Agreement and its annex shall come into force provisionally from the date of signature and definitively on the date of exchange of instruments of ratification thereof.

(3) If instruments of ratification are not exchanged within twelve (12) months from the date of signature, either Contracting Party may terminate this Agreement by giving twelve (12) months' notice in writing to the other Contracting Party.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments have signed the present Agreement.

DONE at New Delhi this 31st day of January, 1978 in duplicate in the English and Hindi languages both texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

Sd/-
For the Government of the
Republic of India

Sd/-
For The Federal Military
Government of The Federal
Republic of Nigeria

ANNEX
ROUTE SCHEDULE
SECTION 1

ROUTE TO BE OPERATED BY THE DESIGNATED AIRLINE OF THE FEDERAL MILITARY GOVERNMENT OF THE FEDERAL REPUBLIC OF NIGERIA

Column 1	Column 2	Column 3	Column 4
Points of Origin	Intermediate Points	Points in India	Points Beyond
Nigeria	Aden, Jeddah, Cairo, Addis Ababa	Bombay or Calcutta	To be agreed later.

(1) Intermediate points and points beyond not specified in this section may be served provided traffic rights are not exercised between such points and the point served in the territory of the other Contracting Party.

SECTION 2

ROUTE TO BE OPERATED BY THE DESIGNATED AIRLINE OF THE GOVERNMENT OF THE REPUBLIC OF INDIA

Column 1	Column 2	Column 3	Column 4
Points of Origin	Intermediate Points	Points in Nigeria	Points Beyond
India	Aden, Nairobi, Cairo, Tripoli.	Lagos or Kano	To be agreed later.

(1) Intermediate points and points beyond not specified in this section may be served provided traffic rights are not exercised between such points and the point served in the territory of the other Contracting Party.