

**CIVIL AVIATION**

**Information**

**Memorandum of Agreement  
Between the  
UNITED STATES OF AMERICA  
and INDIA**

Signed at New Delhi December 16, 2013



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966  
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

**INDIA**

**Civil Aviation: Information**

*Memorandum of agreement signed at  
New Delhi December 16, 2013;  
Entered into force December 16, 2013.*

**MEMORANDUM OF AGREEMENT**

**BETWEEN THE**

**DEPARTMENT OF HOMELAND SECURITY,  
TRANSPORTATION SECURITY ADMINISTRATION  
UNITED STATES OF AMERICA**

**AND THE**

**BUREAU OF CIVIL AVIATION SECURITY  
MINISTRY OF CIVIL AVIATION  
GOVERNMENT OF INDIA**

**REGARDING THE SHARING OF U.S. SENSITIVE SECURITY INFORMATION  
AND PROTECTED AVIATION SECURITY INFORMATION OF INDIA**

*Whereas*, the Transportation Security Administration (TSA) of the U.S. Department of Homeland Security (DHS/TSA), and the Bureau of Civil Aviation Security (BCAS), Ministry of Civil Aviation (MOCA) of the Government of India, hereafter referred to as the "Parties," have as a common objective the promotion and development of cooperation in civil aviation security;

*Whereas*, the Parties seek to make the best use of their respective best practices, eliminate unnecessary duplication of work and obtain the most efficient and cost effective results through cooperative activities;

*Whereas*, the Parties recognize that effective consultation and cooperation in this endeavor may require access to covered information and material on a reciprocal and voluntary basis;

*Whereas*, the Parties desire to increase the exchange of information in areas pertinent to the identification of civil aviation security threats and to enhance their respective efforts to combat such threats; and

THEREFORE, HAVE AGREED AS FOLLOWS:

**ARTICLE I. OBJECTIVE**

This Memorandum of Agreement (the "Agreement") establishes the framework within which the Parties may share Sensitive Security Information (SSI) and Protected Aviation Security Information, as defined herein, and sets forth the procedures for the handling and protection of such information and material exchanged between the DHS/TSA and the BCAS/MOCA in order to facilitate their respective efforts to identify and address threats to international civil aviation security systems, and to share best practices to enhance their respective aviation security

systems, procedures, and operations. For this purpose, the Parties may, subject to the availability of appropriated funds and necessary resources, exchange such information and material consistent with the objective of and the terms set forth in this Agreement.

## ARTICLE II. DESIGNATED COORDINATING OFFICES

- A. The designated office at the DHS/TSA for the coordination and management of this Agreement, and the office to which all requests for SSI and related material under this Agreement shall be made, is:

Assistant Administrator  
Office of Global Strategies  
Transportation Security Administration  
601 South 12th Street  
Arlington, Virginia 20598-6038 U.S.A.

Telephone no. +1 571 227 4887  
Fax no. +1 571 227 2577

- B. The designated office at the BCAS/MOCA for the coordination and management of this Agreement, and the office to which all requests for Protected Aviation Security Information and related material under this Agreement shall be made, is:

Commissioner of Security (Civil Aviation)  
Bureau of Civil Aviation Security  
Ministry of Civil Aviation

New Delhi-110003

Telephone no. +91-11-23311516  
Fax no. +91-11- 23311492

## ARTICLE III. DEFINITIONS

For purposes of this Agreement, the following terms have the meanings set forth below:

- A. Covered Information and Material: Information and material that:
1. The DHS/TSA designates as "Sensitive Security Information (SSI)" in accordance with part 1520 of title 49 of the U.S. Code of Federal Regulations; and
  2. The BCAS/MOCA designates as "Protected Aviation Security Information" all aviation security related information that is classified as Restricted in accordance with the laws of India.
- B. Sensitive Security Information (SSI): Information obtained or developed in the conduct of security activities, including research and development, the disclosure of which

DHS/TSA has determined would constitute an unwarranted invasion of privacy, reveal trade secrets or privileged or confidential information obtained from any person, or be detrimental to the security of transportation.

- C. Protected Aviation Security Information: Information and material received, collected, collated, obtained or developed for aviation security, the unauthorized disclosure of which may cause serious damage to civil aviation security, breach of trust, invasion of privacy or privilege, or reveal trade secrets or intellectual property, and which is for official use only.
- D. Originating Party: Party that provides the Covered Information and Material to the other Party in accordance with the terms and conditions of this Agreement.
- E. Receiving Party: Party that receives the Covered Information and Material from the Originating Party in accordance with the terms and conditions of this Agreement.
- F. Third Party: Any government, person, firm, institution, organization, or other entity that is not a Party to this Agreement, not including the respective national ministries, departments or governmental agencies of the Parties that have a specific need to know the information in order to perform or assist in a lawful and authorized governmental function related to national security.

#### **ARTICLE IV. SCOPE OF WORK**

Covered Information and Material may be exchanged between the Parties under this Agreement in furtherance of the objective set out in Article I. The information may be in oral, visual, electronic, magnetic or documentary form, or in the form of material. The sharing of information may be on reciprocal basis; however, neither Party shall be compelled to share any information under this Agreement.

Specific areas of Covered Information and Material to be exchanged under this Agreement may include, but are not necessarily limited to, the following:

- A. Information relating to standards and procedures for passenger, baggage, catering and cargo screening, as well as airport and aircraft security;
- B. Information and experience related to operational processes in civil aviation security generally, including information related to the evaluation of new and advanced security equipment in an airport environment and information related to aviation security surveys, assessments, and inspections, as appropriate.
- C. Information related to equipment tests, best practices, standards and guidelines in the area of civil aviation security; and
- D. Information related to security architecture, technological innovations, interactive workshops, and measures for capacity building; and

- E. Information regarding threats to civil aviation security.

**ARTICLE V. SECURITY STANDARDS FOR COVERED INFORMATION AND MATERIAL**

- A. To the extent permissible and in accordance with its laws and regulations, the Receiving Party shall protect Covered Information and Material received from the Originating Party against disclosure, not permitted under this Agreement, to Third Parties in accordance with the terms set forth in Article VI and to a degree equivalent to that afforded by the Originating Party.
- B. The Receiving Party shall ensure that the Covered Information and Material it receives from the Originating Party is used only for the objectives provided in Article 1 of this Agreement, unless the Originating Party gives its explicit and prior written consent to use the particular Covered Information and Material for another specific objective.
- C. In the event of a compromise, or disclosure or use of Covered Information and Material contrary to the terms of this Agreement, as well as any possible or suspected compromise or disclosure or use of Covered Information and Material contrary to the terms of this Agreement, the Receiving Party shall immediately notify the Originating Party of such compromise, disclosure or use, or possible or suspected compromise, disclosure, or use, and the Receiving Party shall conduct an investigation to determine the circumstances surrounding the event. The results of the investigation and information regarding measures taken to mitigate the incident and prevent recurrence shall be forwarded to the Originating Party.
- D. To the extent practicable, each Party shall promptly notify the other Party of any proposed or actual changes to its laws and regulations that could affect the handling and protection of Covered Information and Material under this Agreement. In such cases, the Parties shall consult, and if appropriate, consider possible amendments to this Agreement, in accordance with Article VIII. All Covered Information and Material shall continue to be handled and protected as described in this Agreement, unless otherwise approved in writing by the Originating Party.

**ARTICLE VI. SECURITY PROCEDURES FOR COVERED INFORMATION AND MATERIAL**

- A. Release of Covered Information and Material
  - 1. The release of SSI by DHS/TSA to the BCAS/MOCA is subject to the prior approval of the TSA Assistant Administrator for the Office of Global Strategies.
  - 2. The release of Protected Aviation Security Information by the Bureau of Civil Aviation Security (BCAS)/MOCA to TSA is subject to the prior approval of the Joint Secretary, Ministry of Civil Aviation, in charge of civil aviation security.
- B. Access to Covered Information and Material

1. The Receiving Party shall not disclose Covered Information and Material to any individual not authorized to receive such information under the terms of this Agreement, including any Third Party, unless, in the case of SSI, the Assistant Secretary of TSA in writing authorizes such disclosure or, in the case of Protected Aviation Security Information, the Commissioner of Security (Civil Aviation), Bureau of Civil Aviation Security, in writing authorizes such disclosure.
2. Covered Information and Material may be made available by the Receiving Party only to Third Parties determined by an authorized official of the DHS/TSA, in the case of SSI, or by an authorized official of the BCAS/MOCA, in the case of Protected Aviation Security Information, to be eligible for access to the information and determined by the Receiving Party to have a specific need to know the information in order to perform or assist in a lawful and authorized governmental function related to national security; and notwithstanding paragraph B.2 of this Article, the Receiving Party shall not disclose Covered Information and Material to: (a) any person holding the citizenship of a third country, except in the case of a person who is employed by the Government of India or the Government of the United States of America and who has a specific need to know the information as set forth above; and/or (b) any international organization.

C. Storage of Covered Information and Material

When not in use and at the end of the day, all documents, records and other media containing Covered Information and Material shall be stored by the Receiving Party in a locked container, desk, or room, or if the information is stored in a computer, the computer shall be locked / password-protected to ensure that no Covered Information and Material is compromised.

D. Marking Covered Information and Material

Covered Information and Material shall be marked by the Receiving Party by placing a protective marking conspicuously on the top, and the distribution limitation on the bottom of:

1. The outside of any front and back cover, including a binder cover;
2. Any title page; and
3. Each page of the document.

The protective marking (header) for SSI is:

**SENSITIVE SECURITY INFORMATION**

The protective marking (header) for Protected Aviation Security Information is:

**PROTECTED AVIATION SECURITY INFORMATION**

The distribution limitation statement (footer) for SSI is:

**SENSITIVE SECURITY INFORMATION**

WARNING: THIS RECORD CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER 49 C.F.R. PARTS 15 AND 1520. NO PART OF THIS RECORD MAY BE DISCLOSED TO PERSONS WITHOUT A "NEED TO KNOW," AS DEFINED IN 49 C.F.R. PARTS 15 AND 1520, EXCEPT WITH THE WRITTEN PERMISSION OF THE ADMINISTRATOR OF THE TRANSPORTATION SECURITY ADMINISTRATION OR THE SECRETARY OF TRANSPORTATION. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER ACTION. FOR U.S. GOVERNMENT AGENCIES, PUBLIC DISCLOSURE IS GOVERNED BY 5 U.S.C. 552 AND 49 C.F.R. PARTS 15 AND 1520.

The distribution limitation statement (footer) for Aviation Security Information is:

**PROTECTED AVIATION SECURITY INFORMATION**

WARNING: THIS DOCUMENT CONTAINS RESTRICTED INFORMATION OF THE GOVERNMENT OF INDIA AND IS PROVIDED ONLY TO INDIVIDUALS WHO HAVE A "NEED TO KNOW." DO NOT PASS ON THE DOCUMENT, OR DISCLOSE ANY INFORMATION CONTAINED IN IT, TO A THIRD PARTY WITHOUT WRITTEN APPROVAL OF THE COMMISSIONER OF SECURITY (CIVIL AVIATION), BUREAU OF CIVIL AVIATION SECURITY. DO NOT READ OR WORK ON THIS DOCUMENT IN PUBLIC AREAS. THE DOCUMENT MUST BE STORED IN A SECURE CABINET WHEN NOT IN USE; DESTRUCTION OF THIS MATERIAL SHOULD BE ONLY BY SHREDDING, PULPING OR INCINERATION. UNAUTHORIZED DISCLOSURE MAY RESULT IN CIVIL PENALTY, CRIMINAL PROSECUTION, OR OTHER ACTION.

**E. Electronic Transmission of Covered Information and Material**

**1. Transmittal via e-mail or the internet**

Any record containing Covered Information and Material shall be password-protected by the Receiving Party before it is transmitted electronically via e-mail or internet. No Covered Information and Material may be placed in the body of an e-mail; it shall be transmitted as a password-protected attachment. The document being transmitted shall be properly marked with the required header and footer, as listed in Article VI.D. above.

**2. Transmittal via fax**

Unless otherwise restricted by the Originating Party, Covered Information and Material may be sent by the Receiving Party via non-secure fax. Where a non-secure fax is used, the sender must coordinate with the recipient to ensure that the materials faxed will not be left unattended or subjected to possible unauthorized disclosure on the receiving end.

**F. Mailing Covered Information and Material**

Covered Information and Material shall be mailed by the Receiving Party in a manner that offers reasonable protection of the sent material, such as an opaque, unmarked envelope, and sealed in such a manner as to prevent inadvertent opening and show evidence of tampering. Covered Information and Material may be mailed by the U.S. or the Indian Postal Services' First Class Mail or an authorized commercial delivery service. Covered Information and Material may be entered into an inter-office mail system by the Receiving Party provided it is afforded sufficient protection to prevent disclosure and use contrary to the terms of this Agreement (for example, in a sealed envelope).

#### G. Copying Covered Information and Material

Reproduction of documents containing Covered Information and Material should be kept to a minimum and made only by government employees.

#### H. Destruction of Covered Information and Material

Covered Information and Material shall be destroyed by the Receiving Party when no longer needed by the Receiving Party, and its continued retention is not otherwise required under records retention laws and regulations of the Receiving Party. Destruction shall be accomplished as follows:

1. "Hard Copy" materials shall be destroyed by shredding, burning, pulping, or pulverizing, so as to ensure destruction beyond recognition and reconstruction. Shredders shall produce cross-cut particles that are at least no larger than 1½" by 3/16". After destruction, materials may be disposed of with normal waste.
2. Electronic records shall be destroyed by any method that will destroy the record completely, so as to preclude recognition or reconstruction of the information. Electronic storage media should be sanitized appropriately by overwriting or degaussing.

### **ARTICLE VII. FINANCIAL PROVISIONS**

Each Party shall bear all costs associated with its participation and the participation of its own personnel in any work performed, or with the exchange of information or other material, under this Agreement. It is understood that all activities conducted pursuant to this Agreement are subject to the availability of appropriated funds and necessary resources.

### **ARTICLE VIII. AMENDMENTS**

This Agreement may be amended in writing by mutual agreement of the Parties.

**ARTICLE IX. RESOLUTION OF DISAGREEMENTS**

Any disagreement regarding the interpretation or application of this Agreement shall be resolved by consultations between the Parties and shall not be referred to any international tribunal or third party for settlement.

**ARTICLE X. ENTRY INTO FORCE AND TERMINATION**

- A. This Agreement shall enter into force on the date of the last signature and shall remain in force until terminated.
- B. This Agreement may be terminated at any time by either Party by providing sixty (60) days notice in writing to the other Party. Termination of this Agreement shall not affect existing obligations of the Parties under Articles V, VI, VII, and IX. Each Party shall have one hundred and twenty (120) days to close out its activities following termination of this Agreement
- C. Notwithstanding the termination of this Agreement, all Covered Information and Material provided under this Agreement shall continue to be protected in accordance with the provisions set forth herein.

**ARTICLE XI. AUTHORITY**

The DHS/TSA and the BCAS/MOCA agree to the provisions of this Agreement as indicated by the signature of their duly authorized representatives.

FOR THE TRANSPORTATION SECURITY  
ADMINISTRATION  
DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES OF AMERICA

Nancy J. Powell  
Nancy Powell  
Ambassador  
United States Embassy to India

DATE: Dec 16, 2013

PLACE: Delhi

FOR THE BUREAU OF CIVIL  
AVIATION SECURITY  
MINISTRY OF CIVIL AVIATION  
GOVERNMENT OF INDIA

B.B. Dash  
B.B. Dash  
Commissioner, Bureau of Civil  
Aviation Security

DATE: 16.12.13

PLACE: New Delhi