

AGREEMENT
BETWEEN
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA
AND
THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA
RELATING TO CIVIL AIR TRANSPORT

The Government of the People's Republic of China and the Government of the Republic of South Africa (hereinafter referred to as "the Contracting Parties");

Desiring to facilitate friendly contacts between their two peoples and develop mutual relations between the two countries in the field of civil aviation;

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

Have agreed on the establishment and operation of air services between and beyond their respective territories as follows;

ARTICLE 1
DEFINITIONS

For the purpose of this Agreement, unless the context otherwise requires:

- (1) "aeronautical authorities" means, in the case of the People's Republic of China, the General Administration of Civil Aviation of China, or any person or agency authorized to perform any function presently exercised by the said Administration; and in the case of the Republic of South Africa, the Minister responsible for civil aviation or any person or

agency authorized to perform any particular function provided for in this Agreement.

- (2) “Agreement” means this Agreement and its Annex as well as any amendment to this Agreement and/or its Annex made in accordance with Article 19 of this Agreement.
- (3) “airline” means any air transport enterprise offering or operating international air services.
- (4) “designated airline” means an airline which has been designated and authorized in accordance with Article 3 of this Agreement;
- (5) “aircraft” means civil aircraft.
- (6) “air service”, “international air service”, “airline” and “stop for non-traffic purposes” have the meaning respectively assigned to them in Article 96 of the Convention on International Civil Aviation opened for signature at Chicago on December 7, 1944;
- (7) “capacity” means;
 - (a) in relation to an aircraft, the payload of that aircraft available on a route or section of a route;
 - (b) in relation to an air service, the capacity of the aircraft used on such service multiplied by the frequency operated by such aircraft over a given period on a route or section of a route.
- (8) “tariff” means the prices to be paid for the carriage of passengers, baggage and cargo and the conditions under which those prices apply, including prices and conditions for agency and other auxiliary service, but excluding prices and conditions for the carriage of mail.
- (9) “Route Schedule” means the Route Schedule annexed to this Agreement or as amended in accordance with the provisions of Article 19 of this Agreement. The Route Schedule forms an integral part of this Agreement.
- (10) “specified route” means the route specified in the Route Schedule.
- (11) “agreed services” means scheduled international air services on the routes specified in the Annex to this Agreement for the transport of

passengers, baggage, cargo and mail in accordance with agreed capacity entitlements;

- (12) “regular equipment” means articles, other than stores and spare parts of a removable nature, for use on board an aircraft during flight, including first aid and survival equipment;
- (13) “spare parts” means articles of a repair or replacement nature for incorporation in an aircraft, including engines;
- (14) “user charges” means charges made to airlines for the provision for aircraft, their crews and passengers of airport and air navigation facilities, including related services and facilities;
- (15) Unless the context otherwise indicates, words in the singular number include the plural, and word in the plural number include the singular.

ARTICLE 2

GRANT OF RIGHTS

- (1) Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement to enable the designated airline of the other Contracting Party to establish and operate international air services on the route specified in the Annex.
- (2) Subject to the provisions of this Agreement, the designated airline of each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following rights:
 - (a) to fly without landing across the territory of the other Contracting Party along the air route(s) prescribed by the aeronautical authorities of the other Contracting Party;
 - (b) to make stops for non-traffic purposes at point(s) on the specified route in the territory of the other Contracting Party, subject to the approval of the aeronautical authorities of the other Contracting Party; and
 - (c) to make stops at the point(s) on the specified route in the territory of the other Contracting Party for the purpose of taking on board and discharging international traffic in passengers, baggage, cargo and

mail, originating in or destined for the first Contracting Party.

- (3) The right of the designated airline of one Contracting Party to take on board and discharge at point(s) in the territory of the other Contracting Party international traffic to or from a third country shall be agreed upon between the aeronautical authorities of the two Contracting Parties.
- (4) Nothing in paragraph (2) shall be deemed to confer on the designated airline of one Contracting Party the right of taking on board in the territory of the other Contracting Party, passengers, baggage, cargo and mail, carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

ARTICLE 3

AIRLINE DESIGNATION AND AUTHORIZATION

- (1) Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines to operate the agreed services on the specified route, and to withdraw or alter such designations.
- (2) The substantial ownership and effective control of the airline designated by each Contracting Party shall remain vested in such Contracting Party or its nationals.
- (3) The aeronautical authorities of the other Contracting Party may require the airline designated by the first Contracting Party to satisfy them that it is qualified to meet the conditions and the obligations prescribed under the laws and regulations normally and reasonably applied to the operation of international air services by such authorities.
- (4) On receipt of such designation, the other Contracting Party shall, subject to the provisions of paragraphs (2) and (3) of this Article, grant to the airline so designated the appropriate authorization without unreasonable delay.
- (5) The designated airline of one Contracting Party may commence, when it has acquired operating authorization, operation of the agreed services in accordance with the relevant provisions of this Agreement from the date prescribed in such authorization.

ARTICLE 4
REVOCATION, SUSPENSION OF AUTHORIZATION
OR IMPOSITION OF CONDITION

- (1) Each Contracting Party shall have the right to withhold, revoke or suspend the operating authorization referred to in Article 3 or to impose such conditions as it may deem necessary on the exercise by the said designated airline of the rights specified in Article 2 of this Agreement, in any of the following cases:
 - (a) where it is not satisfied that substantial ownership and effective control of the said designated airline are vested in the other Contracting Party designating that airline or its nationals; or
 - (b) where the said designated airline fails to comply with the laws and regulations of the first Contracting Party referred to in Article 5 of this Agreement; or
 - (c) where the said designated airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.
- (2) Unless immediate revocation, suspension of rights or imposition of conditions prescribed in paragraph (1) of this Article is essential to prevent further infringement of laws and regulations by the said designated airline, such rights shall be exercised only after consultation with the other Contracting Party.

ARTICLE 5
APPLICATION OF LAWS AND REGULATIONS

- (1) The laws and regulations of one Contracting Party relating to the admission to, stay in, departure from its territory of aircraft engaged in navigation and the international operation shall be applicable to the aircraft of the designated airline(s) of the other Contracting Party, while entering, staying in, departing from or operating and navigating in the

territory of the first Contracting Party.

- (2) The laws and regulations of one Contracting Party relating to admission to, stay in or departure from its territory of passengers, crew, baggage, cargo or mail, such as laws and regulations relating to entry, clearance, immigration, passports, customs and quarantine, shall be applicable to the passengers, crew, baggage, cargo or mail carried by the aircraft of the designated airline of the other Contracting Party while entering, staying in and departing from the territory of the first Contracting Party.
- (3) Other relevant laws and regulations relating to aircraft and provisions in respect of civil aviation of one Contracting Party shall be applicable to the designated airline of the other Contracting Party while operating the agreed services in the territory of the first Contracting Party.
- (4) Passengers, baggage, cargo and mail in direct transit and not leaving the area of the airport reserved for such purpose shall be subject to no more than a simplified control.
- (5) Neither Contracting Party may grant any preference to its own or any other airline over the designated airline of the other Contracting Party in the application of the laws and regulations referred to in this Article.

ARTICLE 6

CAPACITY PROVISIONS

- (1) There shall be a fair and equal opportunity for the designated airlines of the Contracting Parties to operate the agreed services on the specified route.
- (2) In operating the agreed services the designated airline of each Contracting Party shall take into account the interests of the designated airline of the other Contracting Party so as not to affect unduly the services provided by the latter on the whole or part of the same route.
- (3) The agreed services supplied by the designated airlines of the Contracting Parties shall provide at a reasonable load factor capacity adequate to meet the traffic requirements for the carriage of passengers, baggage, cargo and mail between the territories of the Contracting Parties.

- (4) Provision for taking on board and discharging passengers, baggage, cargo and mail by the designated airline of one Contracting Party at point(s) on the specified route other than point(s) in the territory of either Contracting Party shall be made in accordance with the general principles that capacity shall be related to:
 - (a) traffic requirements to and from the territory of the Contracting Party which has designated the airline;
 - (b) traffic requirements of the country or region other than the Contracting Parties through which the agreed service passed, taking account of other air services established by airline(s) of the State or that region;
 - (c) the requirements of through airline operation.

ARTICLE 7

COMMERCIAL ARRANGEMENTS

- (1) Capacity, frequency and flight schedule shall be agreed upon between the aeronautical authorities of the Contracting Parties.
- (2) Matters relating to sales agency and ground handling for the operation of the agreed services shall be agreed upon between the designated airlines of the Contracting Parties and approved by the aeronautical authorities of both Contracting Parties.
- (3) The designated airline of either Contracting Party may, according to traffic requirements, apply for operation of extra section on the specified route. The application for such flight shall be submitted to the aeronautical authorities of the other Contracting Party, at least five working days before its proposed operation, and the flight can be operated only after approval has been obtained.

ARTICLE 8

TARIFFS

- (1) The tariffs applicable to the agreed services on the specified route shall

be established at reasonable levels, due regard being paid to all relevant factors including cost of operation, reasonable profit, characteristics of service (such as speed and standard of accommodation) and tariffs applicable to the services of other airlines(s) on any section of the specified route.

- (2) The tariffs referred to in paragraph (1) of this Article shall be agreed upon between the designated airlines of both Contracting Parties, in consultation when necessary and possible with other airline(s) operating over the same route or section. The tariffs so agreed shall be submitted to their respective aeronautical authorities at least sixty days prior to the proposed date of introduction of these tariffs and become effective after their approval by the aeronautical authorities of both Contracting Parties.
- (3) If the designated airlines of the Contracting Parties fail to agree on the tariffs, the aeronautical authorities of the Contracting Parties shall determine the tariffs through consultation.
- (4) If the aeronautical authorities of the Contracting Parties fail to agree on the approval of any tariff submitted to them under paragraph (2) of this Article or on the determination of any tariff under paragraph (3) of this Article, the matter shall be referred to the Contracting Parties for settlement in accordance with the provisions of Article 18 of this Agreement.
- (5) Pending determination of a new tariff in accordance with the provisions of this Article, the tariffs already in force shall prevail.

ARTICLE 9

TECHNICAL SERVICES AND RATE OF CHARGE

- (1) Each Contracting Party shall provide regular airport(s), alternate airport(s) and air navigation facilities in its territory and relevant services including communications, navigational, meteorological and other auxiliary facilities and services for the operation of the agreed services by the designated airline of the other Contracting Party.
- (2) The designated airline of each Contracting Party shall be charged for the use of airports and air navigation facilities of the other Contracting Party at fair and reasonable rates prescribed by the appropriate

authorities of the other Contracting Party. Such rate shall not be higher than those applicable to any airline of other States for the services and the use of similar airports and air navigational facilities in the territory of the other Contracting Party.

ARTICLE 10

PROVISION OF STATISTICAL DATA

The aeronautical authorities of either Contracting Party shall furnish to the aeronautical authorities of the other Contracting Party, at their request, statistical data as may be reasonably required for the purpose of reviewing the capacity provided by the agreed services operated by the designated airline of the first Contracting Party on the specified route. Such data shall include all information required to determine the amount of traffic carried by the said designated airline on the agreed services.

ARTICLE 11

REPRESENTATION AND PERSONNEL

- (1) For the operation of the agreed services on the specified route, the designated airline of each Contracting Party shall have the right, on the reciprocal basis, to set up representation at the point(s) on the specified route within the territory of the other Contracting Party.
- (2) Each Contracting Party grants to a designated airline of the other Contracting Party the right to engage in the sale of air transportation in its territory directly and, at the airline's discretion, through its agents.
- (3) The designated airline of one Contracting Party shall have the right to pay for local expenses in the territory of the other Contracting Party in local currency, or provided this accords with local currency regulations, in freely convertible currencies.
- (4) The staff members of the representation of the designate airline of each Contracting Party in the territory of the other Contracting Party shall be nationals of either Contracting Party, the number of such staff shall be determined between the aeronautical authorities of both Contracting Parties. Such staff shall be subject to the laws and regulations of the

other Contracting Party.

- (5) Each Contracting Party shall extend assistance and facilities to the representation and its staff members of the designated airline of the other Contracting Party necessary for the efficient operation of agreed services.
- (6) The crew members of the designated airline of either Contracting Party on the agreed services shall be nationals of the said Contracting Party. If a designated airline of either Contracting Party desires to employ crew members of any other nationality on the agreed services, prior approval shall be obtained from the other Contracting Party.

ARTICLE 12

CUSTOMS DUTIES AND TAXATION

- (1) When an aircraft operated on the agreed services by the designated airline of one Contracting Party arrives in the territory of the other Contracting Party, the said aircraft and its regular equipment, spare parts (including engines), fuels, oil (including hydraulic fluids, lubricants) and aircraft stores (including food, beverages and tobacco) on board such aircraft shall be exempt on the basis of reciprocity from all customs duties, taxes, inspection fees and other similar fees and charges, provided such equipment and items remain on board the aircraft up to such time as they are re-exported.
- (2) The following equipment and items shall also be exempt on the basis of reciprocity from all customs duties, taxes, inspection fees and other similar fees and charges, with the exception of charges corresponding to the services provided:
 - (a) regular equipment, spare parts (including engines), fuels, oil (including hydraulic fluids, lubricants) and aircraft stores (including food, beverages and tobacco) carried into the territory of the other Contracting Party and intended for use on aircraft operated on the agreed services by the designated airline, even when such equipment and items are to be used on part of the journey performed over the territory of the other Contracting Party;
 - (b) spare parts (including engines) introduced into the territory of the

other Contracting Party for the maintenance or repair of aircraft operated on the agreed services by the designated airline.

- (3) The equipment and items referred to in paragraphs (1) and (2) of this Article may be unloaded in the territory of the other Contracting Party with the approval of the Customs authorities of the other Contracting Party. Such equipment and items shall be kept under the supervision or control of the Customs authorities of the other Contracting Party up to such time as they are re-exported, or otherwise disposed of in accordance with the customs regulations of the other Contracting Party.
- (4) The exemption provided for in paragraphs (1) and (2) of this Article shall also be available where a designated airline of one Contracting Party has contracted with other airline(s), which similarly enjoy(s) such exemptions in the territory of the other Contracting Party, for the loan or transfer in the territory of the other Contracting Party of the equipment and items specified in paragraphs (1) and (2) of this Article.
- (5) Printed ticket stock, air waybills and printed publicity materials introduced by the designated airline of one Contracting Party into the territory of the other Contracting Party, shall be exempt on the basis of reciprocity from all customs duties, taxes, inspection fees and other similar fees and charges.
- (6) Baggage, cargo and mail in direct transit shall be exempt from all customs duties, taxes, inspection fees and other similar fees and charges on the basis of reciprocity with the exception of the charges corresponding to the services provided.

ARTICLE 13

CONVERSION AND REMITTANCE OF REVENUE

- (1) The designated airline of each Contracting Party shall have, on the reciprocal basis, the right to remit its revenue received in the territory of the other Contracting Party to the territory of the first Contracting Party.
- (2) The conversion and remittance of such revenue shall be effected in convertible currencies at the effective rate of exchange prevailing on the date of remittance.

- (3) Each Contracting Party shall facilitate the conversion and remittance of the revenue received in its territory by the designated airline of the other Contracting Party, and assist promptly the said airline in attending to the relevant formalities.
- (4) If the form of payment between the Contracting Parties is governed by a special agreement, such agreement shall apply.

ARTICLE 14

AVIATION SECURITY

- (1) The Contracting 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. The Contracting Parties shall in particular act in conformity with the provisions of the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, and any other multilateral agreements governing civil aviation security binding upon both Contracting Parties.
- (2) The Contracting Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of aircraft and other unlawful acts against the safety of such aircraft, their passengers and crew, airports and air navigation facilities, and any other threat to the security of civil aviation.
- (3) The Contracting Parties shall, in their mutual relations, act in conformity with the Standards and Recommended Practices relating to aviation security established by the International Civil Aviation Organization and designated as Annexes to the Convention on International Aviation to the extent that such Standards and Recommended Practices are applicable to the Contracting Parties. They shall require that operators of aircraft of their registry and operators of aircraft who have their principal place of business or permanent residence in their territory and operators of airport in their territory act in conformity with such aviation security provisions.
- (4) Both Contracting Parties agree that such operators of aircraft may be

required to observe the aviation security provisions established by the other Contracting Party as referred to in paragraph (3) of this Article for entry into, departure from, or while within the territory of that other Contracting Party. Both Contracting Parties shall ensure that adequate measures are effectively applied within its territory to protect the safety of the aircraft prior to and during boarding or loading, and to inspect passengers, crew, baggage, cargo and aircraft stores prior to boarding or loading. Each Contracting Party shall also give sympathetic consideration to any request from the other Contracting Party for reasonable special security measures to meet a particular threat.

- (5) When an incident or threat of unlawful seizure of aircraft or other unlawful acts against the safety of such aircraft, their passengers and crew, airports or air navigation facilities occurs, the Contracting Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat.
- (6) If a Contracting Party has reasonable grounds to believe that the other Contracting Party has departed from the provisions of this Article, the aeronautical authorities of the first Contracting Party may request immediate consultations with the aeronautical authorities of the other Contracting Party. Failure to reach satisfactory agreement within thirty (30) days from the date of such request shall constitute grounds for the application of paragraph (1) of Article 4. If required by an emergency, a Contracting Party may take action in terms of that paragraph prior to the expiry of thirty (30) days. Any action taken in accordance with this paragraph shall be discontinued upon compliance by the other Contracting Party with the security provisions of this Article.

ARTICLE 15

RECOGNITION OF CERTIFICATES AND LICENSES

- (1) Each Contracting Party shall recognize the valid certificate of air worthiness, certificate of competency and licenses issued or validated by the other Contracting Party for the operation of the agreed services on the specified route, provided that the standards of such certificates and licenses are equivalent to or above the minimum standards established from time to time in accordance with the Convention on International Civil Aviation. Each Contracting Party reserves the right to refuse to recognize, for the purpose of flights undertaken pursuant to

rights granted in terms of paragraph (2) of Article 2, certificates of competency and licenses granted to its own nationals by the other State.

- (2) If the privileges or conditions of the licenses or certificates issued or rendered valid by one Contracting Party permit a difference from the standards established in terms of the Convention, whether or not that difference has been filed with the International Civil Aviation Organization, the other Contracting Party may, without prejudice to the rights of the first Contracting Party, request Consultations in accordance with article 17 with the first Contracting Party with a view to satisfying itself that the practice in question is acceptable to it.

ARTICLE 16

AVIATION SAFETY

- (1) Each Contracting Party may request consultations concerning the safety standards maintained by the other Contracting Party relating to aeronautical facilities, air crew, aircraft and operation of the designated airline. If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards and requirements in these areas that are at least equal to the minimum standards which may be established pursuant to the Convention, the other Contracting Party shall be notified of such findings and the steps considered necessary to conform with these minimum standards; and the other Contracting Party shall take appropriate corrective action. Failure by the other Contracting Party to take appropriate action within reasonable time, and in any case within thirty (30) days, shall be grounds for the application of Article 4 of this Agreement.
- (2) When immediate action is essential to the safety of airline operation, a Contracting Party may take action under Article 4 of this Agreement prior to consultations.
- (3) Any action by one Contracting Party in accordance with paragraphs 1 and 2 above, shall be discontinued upon compliance by the other Contracting Party with the safety provisions of this Article.

ARTICLE 17

CONSULTATION

- (1) The Contracting Parties shall, in the spirit of close cooperation and mutual support, ensure the correct implementation of and satisfactory compliance with provisions of this Agreement. To this end, the aeronautical authorities of the Contracting Parties shall consult each other from time to time.
- (2) Either Contracting Party may at any time request consultation with the Contracting Party concerning this Agreement. Such consultation shall begin as soon as possible, and at least within 60 days, subject to paragraph 6 of Article 14, from the date of receipt of the request by the other Contracting Party unless otherwise agreed to.

ARTICLE 18

SETTLEMENT OF DISPUTES

- (1) If any dispute arises between the Contracting Parties relating to the interpretation or implementation of this Agreement, the aeronautical authorities of the two Contracting Parties shall in the first place settle the dispute by negotiation.
- (2) If the aeronautical authorities of the Contracting Parties fail to reach a settlement of the said dispute, the Contracting Parties shall settle such dispute through diplomatic channels.

ARTICLE 19

AMENDMENT AND MODIFICATION

- (1) If either of the Contracting Parties considers it desirable to amend any provision of this Agreement or its Annex, it may at any time request consultation with the other Contracting Party, and such consultation, which may be through discussion or by correspondence, shall begin within a period of 90 days from the date of receipt of the request by the

other Contracting Party, unless both Parties agree to an extension of this period.

- (2) The consultation referred to in paragraph (1) of this Articles may also be held between the aeronautical authorities of the Contracting Parties.
- (3) Any amendment to this Agreement or its Annex shall be effected by an Exchange of Notes, through the diplomatic channel, and shall come into force on a date to be determined by the Contracting Parties, which date shall be dependent upon the completion of the relevant constitutional or legal requirements.

ARTICLE 20

TERMINATION

Either Contracting Party may at any time give notice to the other Contracting Party through the diplomatic channel of its decision to terminate this Agreement. This Agreement shall then terminate 12 months after the date of receipt of the notice by the other Contracting Party unless such notice is withdrawn by agreement between the Contracting Parties before the expiry of this period.

ARTICLE 21

REGISTRY

This Agreement or any amendment thereto shall be registered with the International Civil Aviation Organization.

ARTICLE 22

TITLES

The title of each article of this Agreement is for the purpose of reference and convenience and in no way to define, limit or describe the scope or intent of the provisions of this Agreement.

ARTICLE 23
ENTRY INTO FORCE

This Agreement shall enter into force only when both Contracting Parties have notified each other, through the diplomatic channel, of compliance with the constitutional or legal requirements necessary for the implementation of this Agreement. The date of entry into force shall be the date of the last notification.

IN WITNESS WHEREOF, the undersigned, duly authorized by their respective Governments, have signed and sealed this Agreement.

DONE in duplicate at Cape Town on this second day of February 1999 in the Chinese and English languages, both texts being equally authentic.

FOR THE
GOVERNMENT OF THE
PEOPLE'S REPUBLIC OF CHINA

FOR THE
GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

LIU JIAN FENG

MAC MAHARAJ

ANNEX
ROUTE SCHEDULE

- (1) The route of the agreed services operated by the airlines designated by the Government of the Peoples Republic of China shall be as follows in both directions:

Point in China – three intermediate points to be advised at a later stage – three points in South Africa – two points beyond to be advised at a later stage

- (2) The route of the agreed services operated by the airlines designated by the Government of the Republic of South Africa shall be as follows in both directions:

Points in South Africa – three intermediate points to be advised at a later stage – three points in China – two points beyond to be advised at a later stage

Notes

1. Any point on the above routes may, at the option of the airline concerned, be omitted on any or all flights provided that any service either begin or terminates in the territory of the country designating the airline.
2. Intermediate and beyond points shall be served without fifth freedom traffic rights, unless agreed to by the aeronautical authorities of both Contracting Parties.
3. Points specified in the above Route Schedule shall not include Hong Kong, Macau or points in Taiwan province.