

AIR SERVICES AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE'S
REPUBLIC OF CHINA AND THE GOVERNMENT OF THE FEDERATIVE
REPUBLIC OF BRAZIL

The Government of the People's Republic of China

and

The Government of the Federative Republic of Brazil
(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 field of civil aviation;

Being Parties to the Convention on International Civil Aviation opened for signature at Chicago 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 required:

- 1) the term 'aeronautical authorities' means, in the case of the People's Republic of China, the General Administration of Civil Aviation of China, and in the case of Brazil, the Minister of Aeronautics, or, in both cases any person or body authorized to perform any functions at the present exercised by the above-mentioned authorities;
- 2) the term "this agreement", means this Agreement, the Annex thereto, and any amendments to the Agreement or to the Annex;
- 3) the term 'air service' means any scheduled air service performed by aircraft for the public transport of passengers, baggage, cargo or mail;
- 4) the term 'international air services means an air services which passes through the air space over the territory of more than one State;
- 5) the term "agreed services" means air services on the specified routes for the carriage of passengers, cargo and mail, separately or in combination;
- 6) the term "airline" means any air transport enterprise offering or operating international air services;
- 7) the term "designated airline" means an airline which has been designated and authorized in accordance with Article 3 of this Agreement;
- 8) the term 'stop for non-traffic purposes' means a landing for any purpose other than taking on or discharging passengers, baggage, cargo or mail;
- 9) the term "specified route" means one of the routes specified in the Annex to this Agreement;
- 10) the term '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;
- 11) the term ‘tariff’ means one or more of the following:
- a) the fare charged by any airline for the carriage of passengers and their baggage on air services and the charges and conditions for services ancillary to such carriage;
 - b) the rate charged by an airline for the carriage of cargo (excluding mail) on air services;
 - c) the conditions governing the availability or applicability of any such fare or rate; and
 - d) the rate of commission paid by an airline to an agent in respect of tickets sold or air waybills completed by that agent for carriage on air service;
- 12) 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 Annex adopted under Article 90 for that Convention and any amendment of the Annexes or of the Convention under Articles 90 and 94 thereof, insofar as those Annex and amendments have become effective for both Contracting Parties;
- 13) the term “territory” means the land area, territorial sea and inland water, and air space above them under the sovereignty of a state;
- 14) the term “user charge” means a charge made to airlines for the provision of airport, air navigation or aviation security facilities and services.

ARTICLE 2

Grant of Rights

- 1) Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement to enable its designated airline(s) to establish and operate international air services on the routes specified in the Route Schedule.
- 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 purpose in the territory of the other Contracting Party, at point(s) to be agreed upon between the aeronautical authorities of both Contracting Parties;
 - c) to make stops at the point(s) on the specified routes 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, separately or in combination, originating in or destined for the first Contracting Party; and
 - d) to make stops at the point(s) on the specified routes in third countries for the purpose of taking on board and discharging international traffic in passengers, baggage, cargo and mail, separately or in combination, originating in or destined for the territory of the other Contracting Party.

- 3) Noting in paragraph 2 of this Article shall be deemed to confer on the designated airline(s) of either Contracting Party the right to embark traffic at one point on the specified route in the territory of the other Contracting Party destined for another point in the said territory.

ARTICLE 3

Airline Designation and Authorization

1. Each Contracting Party shall have the right to designate, in writing to the other Contracting Party, airline or airlines to operate the agreed services on the specified route, and to withdrawn or alter such designations.
2. The substantial ownership and effective control of the airline(s) 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 fulfill the conditions prescribed under the laws and regulations normally and reasonably applied by them to the operation of international air services by the said authorities.
4. On receipt of such designation, the other Contracting Party shall, subject to the provisions of paragraph 2 and 3 of this Article, grant to the airline so designated the appropriate operating authorization without unreasonable delay.
5. When an airline has been so designated and authorized, it may commence operation of the agreed service from the date agreed upon between the aeronautical authorities of two Contracting Parties, in accordance with the relevant provisions of this Agreement.

ARTICLE 4

Revocation, Suspension or Imposition of Condition

- 1) Each Contracting Party shall have the right to revoke or suspend the operating authorization granted to the designated airline(s) of the other Contracting Party or to impose such conditions as it may deem necessary for the exercise by the said designated airline(s) of this Agreement, in any of the following cases:
 - a) where it is not satisfied that the substantial ownership and effective control of that airline are vested in the Contracting Party or its nationals, or
 - b) where that airline fails to comply with the laws and regulations of the Contracting Party, or
 - c) where that airline otherwise fails to operate in accordance with the conditions prescribed under this 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 and regulations, such right 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 and departure from its territory of aircraft engaged in the international operation shall be applicable to the aircraft of the designated airline of the other Contracting Party, while entering, within, and departing from the territory of the first Contracting Party.
2. The laws and regulations of one Contracting Party relating to the admission to, stay in, or departure from its territory of passengers, crew, cargo or mail, such as regulations relating to entry, passports, customs and quarantine, shall be applicable to the passengers, crew, cargo or mail carried by the aircraft of the designated airline of the other Contracting Party.
3. In the application to the designated airline(s) of the other Contracting Party of the laws and regulations referred to in this article each Contracting Party shall not grant more favorable treatment to airlines of any other State engaged in similar operation.

ARTICLE 6

Recognition of Certificates and Licences

Certificates of airworthiness, certificates of competency and licences, issued or rendered valid by one Contracting Party and still in force, shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services on the specified routes provided that such certificates or licences were issued or rendered valid in conformity with the standards established under the Convention. Each Contracting Party, however, reserves the right to refuse to recognize, for flights above its own territory, certificates of competency and licences grants to its own nationals by the other Contracting Party.

ARTICLE 7

Capacity Provisions

- 1) There shall be fair and equal opportunity for the designated airlines of the Contracting Parties to operate the agreed services on the specified routes.
- 2) In operating the agreed services, the designated airline of each Contracting Party shall take into account the interest of the designated airline(s) of other Contracting Party so as not to affect unduly the services which the latter provides on the whole or part of the same routes.
- 3) The agreed services provided by a designated airline(s) of the Contracting Parties shall bear a close relationship to the requirements of the public for transportation on the specified routes and shall have as their primary objective the provision, at a reasonable load factor, of capacity adequate to meet the current and reasonably anticipated requirements for the carriage of passengers and cargo, including mail, originating in or destined for the territory of the Contracting Party which has designated the airline. Provision for the carriage of passengers and cargo, including mail, both taken on board and discharged at points on the specified routes other than points in the territory of the Contracting Party which designated

the airline, shall be made in accordance with the general principles 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 region through which the agreed services pass, taking account of local and regional air services;
 - c) the requirements of through airline operation.
- 4) Capacity, frequency, type of aircraft and flight schedule shall be agreed upon between the aeronautical authorities of the Contracting Parties.

ARTICLE 8

Tariffs

1. The tariffs for carriage on agreed services between the territories of the two Contracting Parties shall be established at reasonable levels, due regard being paid to all relevant factors, including the interest of users, cost of operation, reasonable profit, characteristics of service, and, where it is deemed suitable, the tariffs of other airlines operating on all or part of the same route.
2. The tariffs referred to in paragraph 1 of this article shall be agreed upon, whenever possible, between the designated airlines of the Contracting Parties. Unless otherwise determined in the application of paragraph 4 of this Article, each designated airline shall be responsible only to its aeronautical authorities for the justification and reasonableness of the tariffs so agreed.
3. The tariffs so agreed shall be submitted for approval to the aeronautical authorities 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 said authorities. Upon receipt of the submission of the tariffs, the aeronautical authorities shall consider such tariffs without undue delay. No tariff shall come into force if the aeronautical authorities of either Contracting Party are dissatisfied with it. The aeronautical authorities may notify the other aeronautical authorities of an extension of the proposed date of tariff introduction.
4. If a tariff can not be agreed in accordance with the provisions of paragraph 2 this Article, or if during the period applicable in accordance with paragraph 3 of this Article a notice of dissatisfaction has been given, the aeronautical authorities the Contracting Parties shall endeavour to determine the tariff by agreement between themselves. Consultation between the aeronautical authorities will be held in accordance with Article 17 of this Agreement.
5. If the aeronautical authorities can not agree on any tariff submitted to them under paragraph 3 of this Article, or on the determination of any tariff under paragraph 4 of this Article, the dispute shall be settled in accordance with the provisions of Article 18 of this Agreement.
6. When tariffs have been established in accordance with the provisions of this article, those tariffs shall remain in force until new tariffs have been established in accordance with the provisions of this Article or Article 17 of this Agreement.
7. If the aeronautical authorities of one of the Contracting Parties become dissatisfied with an established tariff, they shall so notify the aeronautical authorities of the other Contracting Party and the designated airlines shall attempt, where required, to reach an agreement. If

within the period of the ninety (90) days from the day of receipt of such notification, a new tariff can not be established in accordance with the provisions of paragraph 2 and 3 of this Article, the procedures as set out in paragraph 4 and 5 of this Article shall apply.

ARTICLE 9

Customs Duties

1. Aircraft operated on international air services by the designated airline(s) of one Contracting Party, as well as their regular equipment, spare parts (including engines), fuels, oils (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 on arriving in the territory of the other Contracting Party, 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 the same 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) introduced by or on behalf of the designated airline of one Contracting Party into the territory of the other Contracting Party or take on board the aircraft in the territory of the other Contracting Party and exclusively intended for use or consumption by aircraft engaged in international services, 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 one Contracting Party by or on behalf of the designated airline of the other Contracting Party for the maintenance or repair of aircraft engaged in operation of international services.
3. Printed ticket stock, air waybills and publicity materials introduced into the territory of one Contracting Party by or on behalf of the designated airline of the other Contracting Party, shall be exempt, on the basis of reciprocity, from all the customs duties, taxes, inspection fees and other similar fees and charges.
4. 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.
5. 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 another airline, which similarly enjoys such exemptions in the territory of the other Contracting Party, for the loan or transfer in the said territory of the items specified in paragraph 1 and 2 of this Article.
6. The following supplies of the representation of the designated airline of one Contracting Party in the territory of the other Contracting Party shall, when introduced into the said territory, be exempt from customs duties and other duties and taxes on importation, on the

basis of reciprocity, provided these supplies are intended for the airline's own use and do not exceed reasonable limit:

- 1) office supplies;
 - 2) vehicles for office use;
 - 3) vehicles or special use at airport;
 - 4) vehicles for carriage of passengers, crew members and baggage between the city and airport, excluding cars;
 - 5) electronic booking and communication equipment including their spare parts.
7. Passengers, baggage and cargo in direct transit across the territory of one Contracting Party and not leaving the area of the airport reserved for such purpose, shall at the utmost be subject to a very simplified control. Baggage and cargo in direct transit shall be exempt from duties and taxes, customs duties included.

ARTICLE 10

User Charge

A Contracting Party shall not impose or permit to be imposed on the designated airline of the other Contracting Party user charges higher than those imposed on its own airlines operating similar international air 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 reciprocal basis, to set up representation at the point(s) of call on the specified route within the territory of the other Contracting Party.
2. The staff members of the representation of the designated airline of each 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 in force of the other Contracting Party.
3. Each Contracting Party shall extent assistance and facilities to the representation and its staff members of the designated airline of the Contracting Party necessary for the efficient operation of the agreed services.
4. The crew members of the designated airline of either Contracting Party on flights into and out of the territory of the other Contracting Party shall be nationals of the first Contracting Party. If a designated airlines of either Contracting Party desires to employ crew members of any other nationality on flights into and out of the territory of the other Contracting Party, prior approval shall be obtained from that other Contracting Party.

ARTICLE 12

Commercial Activities

1. Subject to the provisions of Article 11 of this Agreement, the designated airline of one Contracting Party may, in accordance with the laws and regulations of the other Contracting Party relating to entry, residence and employment, bring in and maintain in the territory of the other Contracting Party managerial, sales, technical, operational and other specialist staff required for the operation of the agreed services.
2. Each Contracting Party shall grant to the 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 the licenced agent of its own appointment. Each airline shall have the right to sell such transportation, and any person shall be free to purchase such transportation in the currency of that country or, subject to the national laws and regulations, in freely convertible currencies of other countries.

ARTICLE 13

Conversion and Remittance of Revenues

1. The airline of one Contracting Party shall have the right to convert and remit to its country, on demand, local revenues received in the territory of the other Contracting Party.
2. The conversion and remittance of such revenue shall be permitted without restriction in freely convertible currencies at the rate of exchange applicable to current transactions which is in effect at the time such revenues are presented for conversion and remittance, and shall not be subject to any charges except those normally made by banks for carrying out such conversion and remittance.

ARTICLE 14

Aviation Security

1. Consistent with their rights and obligations under international law, 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. Without limiting the generality of their rights and obligations under international law, the Contracting Parties shall, in particular, act in conformity with the provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft signed at Tokyo on 14 September 1963, the Convention for the Suppression on Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23 September 1971, and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation signed at Montreal on 24 February 1988.
2. The Contracting Parties shall provide, upon request, all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of

such aircraft, their passenger 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 aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention, to the extent that such security provisions are applicable to the Contracting Parties; they shall require that operators of aircraft of their registry or operators of aircraft who have their principle place of business or permanent residence in their territory and the operators of airports in their territory, act in conformity with such aviation security provisions.
4. Each Contracting Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in paragraph 3 above, required by the other Contracting Party for entry into, departure from, or while within the territory of that other Contracting Party. Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft, and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during 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 an incident of unlawful seizure of civil 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 thereof.

ARTICLE 15

Taxation

The revenue and profit received by the designated airline of each Contracting Party within the territory of the other Contracting Party in connection with operation of international services shall be exempt from income tax by the other Contracting Party.

ARTICLE 16

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 airline on the agreed services.

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 the provisions of the Agreement. To this end, and with a view to discussing on any matter related thereto, 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 other Contracting Party concerning the Agreement. Such consultation shall begin as soon as possible, and at least within 60 (sixty) days from the date of receipt of the request by the other Contracting Parties, 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 endeavour to settle the dispute by negotiation.
2. If the aeronautical authorities of the Contracting Parties fail to reach a settlement of the said dispute, it shall be settled 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 between aeronautical authorities and which may be through discussion or by correspondence, shall begin within a period of 90 (ninety) 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. Any amendment or modifications of this Agreement agreed by Contracting Parties shall come into effect on a date to be determined in an exchange of diplomatic Notes, indicating that all necessary internal procedures have been completed by both Contracting Parties.
3. Any amendment or modifications of the Annex to this Agreement shall be agreed upon between the aeronautical authorities, and shall take effect upon confirmation by an exchange of diplomatic Notes.

ARTICLE 20

Termination

Either Contracting Party may at any time after the entry into force of this Agreement give notice in writing through diplomatic channels to the other Contracting Party of its decision to terminate this Agreement; such notice shall be communicated simultaneously to the International Civil Aviation Organization. The Agreement shall terminate 1 (one) year after the date of receipt of the notice by the other Contracting Party, unless the notice is withdrawn by mutual consent before the expiry of that period. In the absence of acknowledgement of receipt by other Contracting Party, the notice shall be deemed to have been received 14 (fourteen) days after the receipt of the notice by the International Civil Aviation Organization.

ARTICLE 21

Registration with ICAO

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

ARTICLE 22

Entry into force

This Agreement shall enter into force on a date to be determined in an exchange of diplomatic Notes indicating that all necessary internal procedure have been completed by both Contracting Parties.

In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed the present Agreement.

Done at Beijing this 11th day of July 1994, in duplicate in the Chinese, Portuguese and English languages, each of which shall be of equal authenticity. In case a different interpretation should arise, the English text shall prevail.

FOR THE GOVERNMENT OF THE
PEOPLE'S REPUBLIC
OF CHINA
Chen Guang Yi
General Direct of Civil
Aviation Administration
of China

FOR THE GOVERNMENT OF THE
FEDERATIVE REPUBLIC
OF BRAZIL
Lélio Viana Lôbo
Minister of the Air Force

ANNEX

I) The Route to be operated by the designated airline(s) of China:

Points in China-two intermediate points-two points in Brazil

II) Route to be operated by the designated airline(s) of Brazil:

Points in Brazil-two intermediate points-two points in China.

NOTES

1. The points to be served on the routes specified above shall be jointly determined by the aeronautical authorities of the two Contracting Parties.
2. The designated airline(s) of either Contracting Party may omit on any or all flights any point on the specified route, provided the agreed services begin and terminate in the territory of the Contracting Parties designating the airline(s).