

No. 332

**UNITED STATES OF AMERICA
and
CHINA**

Air Transport Agreement (with Annex and Exchange of Notes). Signed at Nanking, on 20 December 1946

English and Chinese official texts communicated by the Officer in charge of the New York Office of the United States Mission to the United Nations. The registration took place on 23 December 1948.

**ETATS-UNIS D'AMERIQUE
et
CHINE**

Accord relatif aux transports aériens (avec annexe et échange de notes). Signé à Nankin, le 20 décembre 1946

Textes officiels anglais et chinois communiqués par le Directeur du bureau de New-York de la Mission des Etats-Unis auprès de l'Organisation des Nations Unies. L'enregistrement a eu lieu le 23 décembre 1948.

No. 332. AIR TRANSPORT AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF CHINA. SIGNED AT NANKING, ON 20 DECEMBER 1946

Having in mind the resolution signed under date of December 7, 1944,² at the International Civil Aviation Conference in Chicago, Illinois, for the adoption of a standard form of agreement for provisional air routes and services, and the desirability of mutually stimulating and promoting the sound economic development of air transportation between the United States of America and the Republic of China, the two Governments parties to this Agreement agree that the establishment and development of air transport services between their respective territories shall be governed by the following provisions:

Article 1

The contracting parties grant the rights specified in the Annex hereto necessary for establishing the international civil air routes and services therein described, whether such services be inaugurated immediately or at a later date at the option of the contracting party to whom the rights are granted.

Article 2

(a) Each of the air services so described shall be placed in operation as soon as the contracting party to whom the right has been granted by Article 1 to designate an airline or airlines for the route concerned has authorized an airline for such route, and the contracting party granting the right shall, subject to Article 7 hereof, be bound to give the appropriate operating permission to the airline or airlines concerned; provided that the airline so designated may be required to qualify before the competent aeronautical authorities of the contracting party granting the rights under the laws and regulations normally applied by these authorities before being permitted to engage in the operations contemplated by this Agreement; and provided that in areas of hostilities or of military occupation, or in areas affected thereby, such inauguration shall be subject to the approval of the competent military authorities.

¹ Came into force on 20 December 1946, as from the date of signature, in accordance with article 13.

² *International Civil Aviation Conference, Chicago, Illinois, 1 November to 7 December 1944, Final Act and Related Documents*, Conference Series 64, Department of State publication 2282.

(b) It is understood that the contracting parties should undertake to exercise the commercial rights granted under this Agreement at the earliest practicable date except in the case of temporary inability to do so.

Article 3

Operating rights which may have been granted previously by either of the contracting parties to any State not a party to this Agreement or to an airline shall continue in force according to their terms.

Article 4

In order to prevent discriminatory practices and to assure equality of treatment, it is agreed that:

(a) Each of the contracting parties may impose or permit to be imposed just and reasonable charges for the use of airports and other facilities. Each of the contracting parties agrees, however, that these charges shall not be higher than those which would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services.

(b) Fuel, lubricating oils and spare parts introduced into the territory of one contracting party by the other contracting party or its nationals and intended solely for use by aircraft of such other contracting party shall be accorded national and most-favored-nation treatment with respect to the imposition of customs duties, inspection fees or other national duties or charges by the contracting party whose territory is entered.

(c) The fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board civil aircraft of the airlines of one contracting party authorized to operate the routes and services described in the Annex shall, upon arriving in or leaving the territory of the other contracting party, be exempt from customs, inspection fees or similar duties or charges, even though such supplies be used or consumed by such aircraft on flights in that territory.

Article 5

Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one contracting party shall be recognized as valid by the other contracting party for the purpose of operating the routes and services described in the Annex. Each contracting party reserves the right, however, to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licenses granted to its own nationals by another State.

Article 6

(a) The laws and regulations of one contracting party relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of the other contracting party without distinction as to nationality, and shall be complied with by such aircraft upon entering or departing from or while within the territory of that contracting party.

(b) The laws and regulations of one contracting party as to the admission to or departure from its territory of passengers, crew, or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew, or cargo of the aircraft of the other contracting party upon entrance into or departure from or while within the territory of that contracting party.

Article 7

Substantial ownership and effective control of airlines of each contracting party authorized under this Agreement shall be vested in nationals of that contracting party. Each contracting party reserves the right to withhold or revoke the certificate or permit of any airline of the other contracting party in case of failure of such airline to comply with the laws of the State over which it operates, as described in Article 6 hereof, or otherwise to fulfill the conditions under which the rights are granted in accordance with this Agreement and its Annex.

Article 8

This Agreement and all contracts connected therewith shall be registered with the Provisional International Civil Aviation Organization, or its successor.

Article 9

Except as otherwise provided in this Agreement or in its Annex, any dispute between the contracting parties relating to the interpretation or application of this Agreement or its Annex which cannot be settled through consultation shall be referred, for an advisory report, to the Interim Council of the Provisional International Civil Aviation Organization (in accordance with the provisions of Article III, Section 6 (8) of the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944¹ or its successor.

¹ United States of America, *Executive Agreement Series*, 469; 59 Stat. 1516.

Article 10

For the purposes of this Agreement and its Annex, unless the context otherwise requires:

(a) The term "aeronautical authorities" shall mean, in the case of the United States of America, the Civil Aeronautics Board and any person or body authorized to perform the functions presently exercised by the Board or similar functions, and, in the case of the Republic of China, the Minister of Communications for the time being, and any person or body authorized to perform any functions presently exercised by the said Minister or similar functions.

(b) The term "designated airline" shall mean the air transport enterprises which the aeronautical authorities of one of the contracting parties have notified in writing to the aeronautical authorities of the other contracting party as the airlines designated by it in accordance with paragraph (a) of Article 2 of this Agreement for the routes specified in such notification.

(c) The term "territory" shall have the meaning assigned to it by Article 2 of the Convention on International Civil Aviation signed at Chicago on December 7, 1944.¹

(d) The definitions contained in paragraphs (a), (b) and (d) of Article 96 of the Convention on International Civil Aviation signed at Chicago on December 7, 1944 shall apply.

Article 11

In the event either of the contracting parties considers it desirable to modify the routes or conditions set forth in the attached Annex, it may request consultation between the competent aeronautical authorities of both contracting parties, such consultation to begin within a period of 60 days from the date of the request. When these authorities mutually agree on new or revised conditions affecting the Annex, their recommendations on the matter will come into effect after they have been confirmed by an exchange of diplomatic notes.

Article 12

This Agreement shall continue in force for a period of four years or until it may be superseded in order to conform with a general multilateral air transport convention which may enter into force in relation to both contracting parties. Upon the expiration of this Agreement its renewal for additional periods of time to be agreed upon may be effected by an exchange of diplomatic notes. It is

¹ United Nations, *Treaty Series*, Volume 15, page 295.