

No. 31458

**REPUBLIC OF KOREA
and
CHINA**

**Provisional Agreement for civil air transport (with annex).
Signed at Seoul on 31 October 1994**

Authentic texts: Korean, Chinese and English.

Registered by the Republic of Korea on 6 January 1995.

**RÉPUBLIQUE DE CORÉE
et
CHINE**

**Accord provisoire relatif au transport aérien civil (avec
annexe). Signé à Séoul le 31 octobre 1994**

Textes authentiques : coréen, chinois et anglais.

Enregistré par la République de Corée le 6 janvier 1995.

PROVISIONAL AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KOREA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA FOR CIVIL AIR TRANSPORT

The Government of the Republic of Korea and the Government of the People's Republic of China (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, 1944,²

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) 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 of that Convention and any amendment of the annexes or Convention

¹ Came into force on 31 October 1994 by signature, in accordance with article 20.

² United Nations, *Treaty Series*, vol. 15, p. 295. For the texts of the Protocols amending this Convention, see vol. 320, pp. 209 and 217; vol. 418, p. 161; vol. 514, p. 209; vol. 740, p. 21; vol. 983, p. 117; vol. 958, p. 217; vol. 1008, p. 213; and vol. 1175, p. 297.

under Articles 90 and 94 thereof so far as these annexes and amendments have been effective for both Contracting Parties;

- (2) the term 'aeronautical authorities' means, in the case of the Republic of Korea, the Minister of Transportation, in the case of the People's Republic of China, the General Administration of Civil Aviation of China, or in both cases any other person or agency authorized to perform the functions presently exercised by the said authorities;
- (3) the term 'designated airline' means an airline which has been designated and authorized in accordance with Article 3 of this Agreement;
- (4) the term '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;
- (5) 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.
- (6) the term 'carriage of traffic' means carriage of passengers, cargo and mail;
- (7) the term '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 services, but excluding remuneration and conditions for the carriage of mail;

- (8) the term "annex" means the Route Schedule annexed to this Agreement or as amended in accordance with the provisions of Article 17 of this Agreement. The Annex forms an integral part of this Agreement.

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 airlines to establish and operate international air services on the routes specified in the Annex (hereinafter called "the agreed services" and "the specified routes" respectively).
- (2) Subject to the provisions of this Agreement, the designated airlines of each Contracting Party shall enjoy, while operating the agreed services on the specified routes, the following rights:
- (a) to fly without landing across the territory of the other Contracting Party along the air routes prescribed by the aeronautical authorities of the other Contracting Party;
 - (b) to make stops for non-traffic purposes in the territory of the other Contracting Party, at points to be agreed upon between the aeronautical authorities of both Contracting Parties; and
 - (c) to make stops at the points 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 originating in or destined for the first Contracting Party.

(3) The right of the designated airlines of one Contracting Party to take on board and discharge at points 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.

Article 3
Airline Designation and Authorization

(1) Each Contracting Party shall have the right to designate in writing to the other Contracting Party airlines to operate the agreed services on the specified routes, and to withdraw or alter such designations.

(2) The substantial ownership and effective control of the airlines 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 airlines designated by the first Contracting Party to satisfy them that they are qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied by the said authorities to the operation of international air services.

(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 airlines so designated the appropriate operating authorization without undue delay.

(5) When an airline has been so designated and authorized, it may commence operation of the agreed services from the date agreed upon between the aeronautical authorities of the two Contracting Parties in accordance with the relevant provisions of this Agreement.