

No. 31870

**NEW ZEALAND
and
CHINA**

**Agreement relating to civil air transport (with annexed route
schedule). Signed at Wellington on 21 October 1993**

Authentic texts: English and Chinese.

Registered by New Zealand on 1 June 1995.

**NOUVELLE-ZÉLANDE
et
CHINE**

**Accord relatif au transport aérien civil (avec tableau des
routes annexé). Signé à Wellington le 21 octobre 1993**

Textes authentiques : anglais et chinois.

Enregistré par la Nouvelle-Zélande le 1^{er} juin 1995.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF NEW ZEALAND AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA RELATING TO CIVIL AIR TRANSPORT

The Government of New Zealand 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 "aeronautical authorities" means, in the case of New Zealand, the Minister of Transport or any person or agency authorised to perform the functions presently exercised by the said Minister, and in the case of the People's Republic of China, the General Administration of Civil Aviation of China, or any person or agency authorised to perform the functions presently exercised by the said Administration;
- (2) the term "airline" means any air transport enterprise offering or operating international air services;
- (3) the term "designated airline" means an airline which has been designated and authorised in accordance with Article 3 of this Agreement;
- (4) the term "territory" means the land area, territorial sea and inland waters, and airspace above them under the sovereignty of a State,

¹ Came into force on 21 October 1993 by signature, in accordance with article 20.

² *Ibid.*, 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. 893, p. 117; vol. 958, p. 217; vol. 1008, p. 213, and vol. 1175, p. 297.

and, in relation to New Zealand, shall exclude the Cook Islands, Niue and Tokelau;

- (5) the term "air service" means any scheduled air service performed by aircraft for the public transport of passengers, baggage, cargo or mail separately or in combination;
- (6) the term "international air service" means an air service which passes through the air space over the territory of more than one State;
- (7) the term "stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging passengers, baggage, cargo or mail;
- (8) the term "capacity" means:
 - (a) in relation to an aircraft, the payload of that aircraft available on a route or section of a route; and
 - (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;
- (9) 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 service, but excluding remuneration and conditions for the carriage of mail;
- (10) the term "Route Schedule" means the Route Schedule annexed to this Agreement or as amended in accordance with the provisions of Article 17 of this Agreement. The Route Schedule 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 airline to establish and operate international air services on the route specified in the Route Schedule (hereinafter called "the agreed services" and "the specified route" respectively).

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; and
- (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 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.

3. Nothing in paragraph 2 (c) of this Article shall be deemed to confer on the designated airline of one Party the right of taking on at one point in the territory of the other Party traffic in passengers, baggage, cargo or mail destined for another point in the territory of the other Party (stop-over and cabotage traffic).

ARTICLE 3

AIRLINE DESIGNATION AND AUTHORISATION

1. Each Contracting Party shall have the right to designate in writing to the other contracting Party one airline to operate the agreed services on the specified route, and to withdraw or alter such designations.

2. On receipt of such designation, the other Contracting Party shall, subject to the provisions of paragraphs 3 and 4 of this Article, grant to the airline so designated the appropriate operating authorisation without unreasonable delay.

3. The substantial ownership and effective control of the airline designated by each Contracting Party shall remain vested in such Contracting Party or its nationals.

4. 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 fulfil 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.

5. When an airline has been so designated and authorised, it may commence operation of the agreed services in accordance with the

relevant provisions of this Agreement subject to two (2) months written notice to the aeronautical authorities of the other contracting Party.

ARTICLE 4

REVOCATION, SUSPENSION OR IMPOSITION OF CONDITIONS

1. Each Contracting Party shall have the right to revoke or suspend the operating authorisation granted to the designated airline of the other Contracting Party 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 the substantial ownership and effective control of that airline are vested in the other contracting Party or its nationals, or
- (b) where the *airline* fails to comply with the laws and regulations of the first 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 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 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 while entering, within and departing the territory of the first Contracting Party.