

No. 13109

**CANADA
and
CHINA**

Civil Air Transport Agreement (with annex and protocol between the Department of Transport of Canada and the General Administration of Civil Aviation of China concerning technical requirements and procedures related to the operation of the agreed air services). Signed at Ottawa on 11 June 1973

Authentic texts: English, French and Chinese.

Registered by the International Civil Aviation Organization on 28 February 1974.

**CANADA
et
CHINE**

Accord relatif aux transports aériens civils (avec annexe et protocole entre le Ministère des transports du Canada et l'Administration générale de l'Aviation civile de Chine concernant les exigences techniques et les procédures relatives à l'exploitation des services aériens convenus). Signé à Ottawa le 11 juin 1973

Textes authentiques : anglais, français et chinois.

Enregistré par l'Organisation de l'aviation civile internationale le 28 février 1974.

CIVIL AIR TRANSPORT AGREEMENT¹ BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

The Government of Canada and the Government of the People's Republic of China,

With a view to facilitating the friendly contacts between the peoples of Canada and China, developing the mutual relations between the two countries in respect of air transportation,

In accordance with the principles of mutual respect for independence and sovereignty, non-interference in each other's internal affairs, equality and mutual benefit as well as friendly cooperation,

And with regard to the establishment of scheduled air services between and beyond their respective territories,

Have agreed as follows:

Article 1. For the purpose of this Agreement:

(a) "Aeronautical Authorities" means, in the case of Canada, the Minister of Transport and the Canadian Transport Commission and, in the case of the People's Republic of China, the General Administration of Civil Aviation of China, or, in both cases, any other authority or body empowered to perform the functions now exercised by the said Authorities;

(b) "Agreed services" means scheduled air services for the transport of passengers, baggage, cargo and mail on the routes specified in the annex to this Agreement;

(c) "Agreement" means this Agreement, the annex attached thereto and any amendments thereto;

(d) "Designated airline" means an airline designated in accordance with article 3 of this Agreement;

(e) "Tariffs" shall be deemed to include all rates, fares, charges for transportation, conditions of carriage, classifications, rules, regulations, practices and services related thereto, but excluding remuneration and conditions for the carriage of mail;

(f) "Air service" means any scheduled air service performed by aircraft for the public transport of passengers, baggage, mail or cargo.

Article 2. 1. Each Contracting Party grants to the other Contracting Party the right to operate scheduled air services (hereinafter referred to as "the agreed services") on the route specified in the annex to this Agreement (hereinafter referred to as "the specified route") for the transport of international traffic in passengers, baggage, cargo and mail.

2. The aircraft of the airline designated by one Contracting Party engaged in the operation of the agreed services may omit calling at any point on the specified route provided that the service begins at a point in the territory of the Contracting Party designating the airline, and provided also that the omission of any point of call in the territory of the other Contracting Party shall be subject to the approval of the Aeronautical Authorities of that other Contracting Party.

¹ Came into force on 11 June 1973 by signature, in accordance with article 21.

3. The aircraft of the designated airline of each Contracting Party, while flying in the territory of the other Contracting Party shall comply with the regulations governing the airway, air route, air corridor and the boundaries of the airspace available, prescribed by the other Contracting Party.

4. Each Contracting Party shall notify the other Contracting Party at least sixty days in advance of the inauguration of its agreed services on the specified route.

5. Special flights between the territories of both Contracting Parties as well as flights on other than agreed services over the territory of each Contracting Party shall take place only after permission is obtained through diplomatic channels.

Article 3. 1. The Government of the People's Republic of China designates "Department of International Affairs of the General Administration of Civil Aviation of China" as its airline to operate its agreed services on the route specified for China in the annex to this Agreement. The Government of Canada shall have the right to designate, by diplomatic note, an airline to operate its agreed services on the route specified for Canada in the annex to this Agreement.

2. Each Contracting Party shall have the right to withdraw, by diplomatic note to the other Contracting Party, the designation of an airline to operate an agreed service and to substitute therefor the designation of another airline.

3. The Aeronautical Authorities of one Contracting Party, upon receipt of a notice of designation by the other Contracting Party, shall, as soon as practicable, grant to the airline designated by the other Contracting Party the appropriate authorization to operate the agreed services.

4. Upon receipt of such authorization the airline may begin at any time to operate the agreed services, subject to the provision set out in article 2, paragraph 4, and provided that a tariff established in accordance with the provisions of article 8 of this Agreement is in force in respect of that service.

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

Article 4. 1. Each Contracting Party reserves the right to withhold, revoke or impose conditions on the authorization granted to the airline designated by the other Contracting Party in accordance with article 2 of this Agreement,

- (a) in the event of failure by such airline to qualify under the laws and regulations applied by the Aeronautical Authorities of the first Contracting Party to all foreign airlines in like circumstances;
- (b) in the event of failure by such airline to comply with the laws and regulations of that Contracting Party;
- (c) in the event that it is not satisfied that substantial ownership and effective control of such airline are vested in the other Contracting Party or its nationals; and
- (d) in the event that the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.

2. Unless immediate action is essential to prevent further infringement of such laws and regulations, the right to revoke such authorization shall be exercised only after consultation with the other Contracting Party.

Article 5. The laws and regulations of one Contracting Party relating to the admission to, stay in, departure from and navigation in its territory of aircraft engaged in the operation of international air services as well as the laws and regulations relating to the admission to, stay in and departure from its territory of passengers, crew, baggage, cargo and mail shall be applicable to the aircraft of the

airline designated by the other Contracting Party and the crew, passengers, baggage, cargo and mail carried by such aircraft while in the territory of the first Contracting Party. Each Contracting Party shall supply to the other Contracting Party current information relevant to the above-mentioned laws and regulations.

Article 6. 1. Each Contracting Party shall designate in its territory the airports and alternate airports to be used by the designated airline of the other Contracting Party for the operation of the specified route, and shall provide the latter with communications and navigational services, meteorological and other auxiliary services in its territory as are required for the safe and regular operation of the agreed services. The detailed arrangements shall be set out in the Protocol signed by the Aeronautical Authorities of both Contracting Parties.

2. If either Contracting Party or its designated airline should at any time fail to conform to the provisions of the Protocol referred to in paragraph 1 of this article, such failure will constitute grounds for the application of article 4.

Article 7. 1. The designated airlines of the Contracting Parties shall have fair and equal opportunity in operating 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 interests of the airline designated by the other Contracting Party so as not to affect unduly the services which the latter provides on the whole or part of the same route.

3. The agreed services provided by the designated airlines of the Contracting Parties shall bear close relationship to the requirements of the public for transportation on the specified routes.

4. Matters relating to frequency, type of aircraft, scheduling, conditions of carriage, sales representation and ground handling in the operation of the specified routes shall be agreed upon through consultation between the designated airlines of both Contracting Parties and shall be subject to the approval of their respective Aeronautical Authorities.

5. In the event of disagreement on matters affecting capacity, the provisions of article 16 of this Agreement will apply.

Article 8. 1. The tariffs applicable on the agreed services of the designated airlines of both Contracting Parties 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 standards of speed and accommodation) and the tariffs of other airlines for any part of the specified route.

2. The tariffs referred to in paragraph 1 of this Article shall be determined through consultation between the designated airlines of the Contracting Parties and shall be subject to the approval of the Aeronautical Authorities of both Contracting Parties.

3. The tariffs so agreed shall be submitted to the Aeronautical Authorities of the Contracting Parties at least forty-five (45) days before the proposed date of their introduction; in special cases, a shorter period may be accepted by the Aeronautical Authorities. If within thirty (30) days from the date of submission the Aeronautical Authorities of one Contracting Party have not notified the Aeronautical Authorities of the other Contracting Party that they are dissatisfied with the tariff submitted to them, such tariff shall be considered to be acceptable and shall come into effect on the expiration of the forty-five (45) day period mentioned above. In the event that a shorter period for the submission of a tariff is accepted by the Aeronautical Authorities, they may also agree that the period for giving notice of dissatisfaction be less than thirty (30) days.

4. If a tariff cannot be established in accordance with the provisions of paragraph 2 above, or, if during the period applicable in accordance with paragraph 3 above a notice of dissatisfaction has been given, the Aeronautical Authorities of the Contracting Parties shall endeavour to determine the tariff by agreement between themselves.

5. If the Aeronautical Authorities cannot agree on any tariff submitted to them under paragraph 3 of this article or on the determination of any tariff under paragraph 4, the dispute shall be settled in accordance with the provisions of article 16 of the present Agreement.

6. No tariff shall come into force if the Aeronautical Authorities of either Contracting Party are dissatisfied with it.

7. The tariffs established in accordance with the provisions of this article shall remain in force until new tariffs have been established in the same manner.

Article 9. 1. Aircraft operated on the specified route by the designated airline of one Contracting Party, as well as the regular equipment, spare parts including engines, fuel, oil, lubricants and aircraft stores, including commissary, retained on board the aircraft, as well as printed publicity material distributed without charge, shall be exempted from any customs duties, inspection fees and other charges by the other Contracting Party on arrival in and departure from the territory of the other Contracting Party.

2. The fuel, oil, lubricants and aircraft stores for consumption, including commissary, taken on board the aircraft in the territory of the other Contracting Party by the designated airline of the first Contracting Party for operation of the specified route shall be exempted from customs duties, inspection fees and other charges.

3. Spare parts, including engines, and regular equipment introduced into the territory of the other Contracting Party for the maintenance and repair of aircraft operated on the specified route by the designated airline of the first Contracting Party shall also be exempted from customs duties, inspection fees and other charges. However, such articles shall be kept in bond and shall not be sold or used for other purposes in the territory of the other Contracting Party, and shall be subject to storage charges as per the regulation of the other Contracting Party.

Article 10. 1. The Aeronautical Authorities of one Contracting Party may impose just and reasonable charges for the use by the designated airline of the other Contracting Party of airports and other facilities under its control, as well as for the provision of related services and buildings, provided that such charges shall not be higher than the charges imposed upon all other airlines engaged in similar international services.

2. Neither of the Contracting Parties shall give a preference to its own or any other airline over the designated airline of the other Contracting Party in the provision of facilities and services relating to customs, immigration and quarantine or in the use of airports, airways and other facilities under its control.

Article 11. The income derived in the territory of one Contracting Party from international operations by airlines of the other Contracting Party shall be exempted from any income tax imposed by the first Contracting Party and shall be permitted to be transferred.

Article 12. The Aeronautical Authorities of one Contracting Party shall provide to the Aeronautical Authorities of the other Contracting Party, at their request, information and statistics relating to the traffic carried by the designated airline of the first Contracting Party on the agreed services to and from the territory of the other Contracting Party.

Article 13. 1. The designated airline of each Contracting Party shall be granted, on the basis of reciprocity, the right to station representatives and staff required for the operation of the agreed services at the points of call on the specified route in the territory of the other Contracting Party. Such representatives and staff shall be nationals of the People's Republic of China and Canada and their number shall be agreed upon through consultation between the designated airlines of both Contracting Parties and shall be subject to the approval of the Aeronautical Authorities of both Contracting Parties. Such representatives and staff shall observe the laws and regulations in force of the other Contracting Party.

2. If required by the designated airline of one Contracting Party, the other Contracting Party shall render all possible assistance to that airline in obtaining the facilities necessary for the work and sojourn of its representatives and staff.

3. Each Contracting Party shall make provision at its airports for the same measures to ensure the safety of aircraft and their supplies of fuel, oil and lubricants, equipment and other property of the designated airline of the other Contracting Party as would be provided for similar property of its own designated airline.

Article 14. 1. The aircraft of the designated airline of each Contracting Party operating on the specified route shall be painted with its nationality and registration marks and carry on board the following documents:

- (1) the Certificate of Registration;
- (2) the Certificate of Airworthiness;
- (3) the journey log sheet;
- (4) the aircraft radio station licence;
- (5) the licences or certificates for each member of the crew;
- (6) the list of crew members;
- (7) if passengers are carried, a list of their names and places of embarkation and disembarkation;
- (8) if cargo or mail is carried, a manifest.

The Aeronautical Authorities of one Contracting Party shall recognize the valid documents mentioned above issued by the Aeronautical Authorities of the other Contracting Party.

2. The crew members of the designated airline of either Contracting Party flying on the specified route shall be citizens of their respective countries. In case the designated airline of one Contracting Party deems it desirable to utilize crew members of other nationalities for the operation of its aircraft on the specified route, approval shall be obtained from the other Contracting Party.

3. The crews of the designated airline of one Contracting Party shall, on the basis of reciprocity and as scheduling of the agreed service requires, be permitted temporary sojourn in the territory of the other Contracting Party.

Article 15. 1. In the event that an aircraft of the designated airline of one Contracting Party is in distress or meets with an accident in the territory of the other Contracting Party, the other Contracting Party shall, consistent with internationally accepted standards and practices, instruct the authorities concerned to take necessary action on the following:

- (1) render assistance to the passengers and crew;
- (2) inform without delay the first Contracting Party of the accident;

- (3) provide all security measures for the aircraft and its contents and protect all relevant evidence;
- (4) conduct an investigation into all the relevant circumstances;
- (5) provide the accredited representatives or accredited representative and his advisers of the first Contracting Party with access to the aircraft and provide them with all facilities;
- (6) give clearance to the aircraft and its contents as soon as they are no longer necessary for the investigation;
- (7) analyse the evidence and submit to the first Contracting Party six copies of a detailed report on the investigation containing the probable cause and findings together with substantiating information upon which the conclusions were based.

2. Upon receipt of the accident notification, the Aeronautical Authorities of one Contracting Party shall facilitate the investigation by providing relevant information regarding the flight crew and aircraft involved in the accident.

3. An accident is also deemed to have occurred when an aircraft of the designated airline of one Contracting Party operating within the territory of the other Contracting Party is unreported and its known fuel reserves have been exhausted.

Article 16. Both Contracting Parties shall ensure the correct implementation of the present Agreement in a spirit of close cooperation and mutual support. If any difference of opinion arises in respect of the interpretation or implementation of this Agreement, the designated airlines of both Contracting Parties shall endeavour to settle it directly through consultation in a spirit of friendly cooperation and mutual understanding. Failing to reach agreement, the Aeronautical Authorities of both Contracting Parties shall settle such difference of opinion through consultation. If agreement still cannot be reached, the Contracting Parties shall settle the difference of opinion through diplomatic channels.

Article 17. If either of the Contracting Parties considers it desirable to modify or amend any provision of this Agreement or its annex, it may at any time request consultations with the other Contracting Party and such consultations shall begin within a period of sixty days from the date of the receipt of the request by the other Contracting Party. Any modification or amendment to this Agreement or its annex shall enter into force by an agreement between the Contracting Parties in the form of an exchange of diplomatic notes.

Article 18. Either Contracting Party may at any time give notice to the other Contracting Party of its desire to terminate this Agreement. The Agreement shall then terminate twelve months after the date of receipt of the notice by the other Contracting Party. If the above notice is withdrawn before the expiry of this period, this Agreement shall continue to be in force with the concurrence of the other Contracting Party.

Article 19. This Agreement and any amendment thereto shall be registered by the Government of Canada with the appropriate international organization.

Article 20. The provisions set out in articles 5, 9, 10, 11, 14 and 15, as well as in article 13, paragraph 3 of this Agreement shall be applicable to special flights and charter flights operated by an airline of one Contracting Party in the territory of the other Contracting Party in accordance with article 2, paragraph 5 of this Agreement, and to the airline operating such flights.

Article 21. This Agreement shall come into force on the date of signature.

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

DONE in two copies at Ottawa, this 11th day of June 1973, in the English, French and Chinese languages, each version being equally authentic.

[Signed]¹

For the Government of Canada

[Signed]²

For the Government of the People's Republic of China

ANNEX

I. ROUTES

1. The route of the agreed services of the designated airline of the Government of the People's Republic of China shall be as follows in both directions:

Points in China – Tokyo – one technical landing point to be agreed upon between the Aeronautical Authorities of both Contracting Parties (possible) – Vancouver and Ottawa and a point to be agreed upon between the Aeronautical Authorities of both Contracting Parties – one point in a third country to be agreed upon between the Aeronautical Authorities of both Contracting Parties – points of extension in other third countries.

2. The route of the agreed services of the designated airline of the Government of Canada shall be as follows in both directions:

Points in Canada – one technical landing point in Alaska – Tokyo (or another point in Japan to be agreed upon between the Aeronautical Authorities of both Contracting Parties) – Shanghai and Peking and a point to be agreed upon between the Aeronautical Authorities of both Contracting Parties – one point in a third country to be agreed upon between the Aeronautical Authorities of both Contracting Parties – points of extension in other third countries.

II. TRAFFIC RIGHTS

1. The designated airline of each Contracting Party shall have the right to carry traffic in passengers, baggage, cargo and mail from the territory of one Contracting Party to the territory of the other Contracting Party and vice versa as well as the traffic between the territory of the Contracting Party designating the airline and the point of call on the specified route in Japan. The right for carriage of traffic between the territory of the other Contracting Party and points in third countries shall be a subject for separate agreement between the Aeronautical Authorities of both Contracting Parties.

2. The designated airline of each Contracting Party shall have the right to carry on the same flight into and out of the territory of the other Contracting Party in transit traffic coming from or destined for points in third countries.

3. Passengers shall have the privilege of stopping over at intermediate points on the specified routes. Through passengers with origin or destination at a point beyond to be agreed upon between the Aeronautical Authorities shall also have the privilege of stopping over at one point in the territory of the other Contracting Party.

4. The designated airline of each Contracting Party shall not have the right to embark any traffic in passengers, baggage, cargo and mail at one point in the territory of the other Contracting Party and disembark that traffic at another point in the same territory, irrespective of the origin and destination of such traffic.

¹ Signed by Mitchell Sharp.

² Signed by Yao Kuang.

III. ADDITIONAL FLIGHTS

In case the designated airline of one Contracting Party desires to operate additional flights on the specified route, it shall submit a request to the Aeronautical Authorities of the other Contracting Party forty-eight hours before the departure of the flights in question, which shall be operated only after approvals have been obtained.

PROTOCOL BETWEEN THE DEPARTMENT OF TRANSPORT OF CANADA AND THE GENERAL ADMINISTRATION OF CIVIL AVIATION OF CHINA CONCERNING TECHNICAL REQUIREMENTS AND PROCEDURES RELATED TO THE OPERATION OF THE AGREED AIR SERVICES

The Department of Transport of Canada and the General Administration of Civil Aviation of China (hereinafter referred to as the "Aeronautical Authorities"), in pursuance of the provision set forth in article 6 of the Agreement between the Government of Canada and the Government of the People's Republic of China Relating to Civil Air Transport signed on June 11, 1973, at Ottawa, and with a view to defining the technical requirements and procedures related to the operation of the agreed air services,

Have agreed as follows:

I. *Air Routes and Airports*

1. Aircraft of the designated airline of the Government of the People's Republic of China may operate flights to and from Vancouver and Ottawa along the designated airway, air route and/or air corridor of Canada. For the operation of the agreed services by the designated airline of the Government of the People's Republic of China, the following regular and alternate airports are assigned by Canada:

Regular airports — Vancouver, Ottawa

Alternate airports — Abbotsford, Montreal

2. Aircraft of the designated airline of the Government of Canada may operate flights to and from Shanghai and Peking along the designated airway, air route and/or air corridor of the People's Republic of China. For the operation of the agreed services by the designated airline of the Government of Canada, the following regular and alternate airports are assigned by the People's Republic of China:

Regular airports — Shanghai, Peking

Alternate airports — Hangchow, Canton

II. *Aeronautical Information*

1. The aeronautical authorities of both Parties shall provide each other with the following aeronautical information necessary for the operation of aircraft on the agreed services in their respective territories:

- 1) information on regular and alternate airports;
- 2) information on air routes;
- 3) information on radio communication and navigational facilities;
- 4) information on rules of flight in effect and air traffic control.

2. Alterations or additions to the above mentioned information, if any, shall be sent promptly to the aeronautical authorities of the other Party in NOTAM form. Urgent NOTAMS shall be transmitted by the quickest available means to the aeronautical authorities of the other Party.

3. Aeronautical information and NOTAMS shall be made available in the English language. The International NOTAM Code shall be used in the transmission of NOTAMS. All aeronautical information shall be, in form and content, in accord with accepted international practice.

4. The aeronautical authorities of both Parties shall supply each other with 5 copies of all regulatory documentation and information pertaining to the operation of the agreed services within the territories of the respective Parties, to enable compliance with such requirements by the flight crews of the respective designated airlines operating on the agreed services.

III. *Meteorological Services*

1. Meteorological services shall be provided in accordance with standards as specified by the World Meteorological Organization accepted by both Parties.

2. The details of operation of the meteorological service shall be developed by the appropriate authorities of both Parties.

IV. *Air Traffic Rules and Procedures*

1. All flights of the designated airlines shall be conducted in accordance with the Air Traffic rules and procedures in force in the territories in which the aircraft are flown which, in the case of the territory of the People's Republic of China shall mean the air traffic rules and procedures of the People's Republic of China and, in the case of Canadian territory, shall mean the Canadian Air Regulations and the rules and procedures issued pursuant thereto. The crew members of the aircraft of the designated airlines of both Parties flying the specified route shall be fully conversant and strictly compliant with the air traffic control procedures of the other Party.

2. Prior to each departure, the pilot-in-command or his representative shall submit a flight plan to the air traffic control service of the aerodrome of departure, and the flight shall proceed according to the approved flight plan.

3. Deviation from the flight plan will be allowed only after clearance has been obtained from the air traffic control service concerned; in emergency, where immediate deviation from the flight plan is required and there is insufficient time for obtaining clearance from the air traffic control service concerned, the pilot-in-command shall have the right to deviate from the flight plan but shall concurrently notify the air traffic service concerned of such deviation.

V. *Radio Navigation and Communications*

1. For the operation of agreed services on the specified routes, the Parties recognize the requirement for the establishment of point to point aeronautical communications between the two countries. Both Parties shall hold consultations separately as to the measures and procedures for the establishment of such communications.

2. Aircraft operating the agreed service on the specified routes shall be equipped with equipment and frequencies which will enable effective radio communication and use of navigation services provided by the other Party.

3. The pilot-in-command shall maintain continuous communication on the specified frequencies with the designated air traffic control service.

4. Both Parties shall apply the English language and internationally accepted codes and procedures in force for air-ground and point-to-point communications.

5. Aircraft used on the agreed services shall be equipped for the use of secondary surveillance radar. In case of technical difficulties in implementation, the Parties shall consult.

VI. *Aircraft Airworthiness*

1. In respect of each aircraft engaged in the operation of the agreed services, a certificate of airworthiness shall be issued by the Aeronautical Authorities of its Government.

2. The certificate of airworthiness issued by the Aeronautical Authorities of each Party shall be accepted by the other Aeronautical Authorities. The requirements of the Aeronautical Authorities of each Party for the issuance of such certificates shall be consistent with the internationally accepted minimum standards relating to airworthiness.

VII. *Miscellaneous*

In respect of aircraft identification marks and carriage of documents, accident investigation and the charges payable for services specified in this Protocol, provisions concerned in the Agreement between the Government of Canada and the Government of the People's Republic of China Relating to Civil Air Transport shall be referred to for implementation.

VIII. *Validity*

This Protocol shall become valid during the period of validity of the Agreement between the Government of Canada and the Government of the People's Republic of China Relating to Civil Air Transport.

Signed at Ottawa on this 11th day of June, 1973, in duplicate in the English, French and Chinese languages, all three texts being equally authentic.

[Signed]¹

For the Department of Transport
of Canada

[Signed]²

For the General Administration
of Civil Aviation of China

¹ Signed by Jean Marchand.

² Signed by Yao Kuang.