

**No. 23361**

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**CHINA  
and  
AUSTRALIA**

**Agreement relating to civil air transport (with schedule).  
Signed at Beijing on 7 September 1984**

*Authentic texts: Chinese and English.  
Registered by China on 17 May 1985.*

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**CHINE  
et  
AUSTRALIE**

**Accord relatif aux transports civils aériens (avec annexe).  
Signé à Beijing le 7 septembre 1984**

*Textes authentiques : chinois et anglais.  
Enregistré par la Chine le 17 mai 1985.*

## AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA RELATING TO CIVIL AIR TRANSPORT

The Government of the People's Republic of China and the Government of Australia (hereinafter referred to as "the Contracting Parties"),

Recognising that they should act in accordance with the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944<sup>2</sup> with amendments in force between them and Annexes or any amendments thereto effective for both Contracting Parties;

Desiring to facilitate friendly contacts between the peoples of China and Australia, and develop mutual relations between the two countries in the field of civil aviation,

Have agreed on the establishment and operation of scheduled air services between their respective territories as follows:

### *Article 1. DEFINITIONS*

For the purpose of this Agreement, unless the context otherwise requires:

(a) The term "aeronautical authorities" means in the case of the People's Republic of China, the Civil Aviation Administration of China, and in the case of Australia, the Secretary of the Department of Aviation, or in both cases any other person or agency authorised to perform the functions exercised by the said authorities;

(b) The term "airline" means any air transport enterprise offering or operating international air services;

(c) The term "designated airline" means an airline or airlines of each Contracting Party which has or have been designated and authorised in accordance with Article 3 of this Agreement;

(d) The term "air service" means any scheduled air service performed by aircraft for the public transport of passengers, baggage, cargo or mail;

(e) The term "international air service" means a service which passes through the air space over the territory of more than one State;

(f) The term "stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging passengers, baggage, cargo or mail;

(g) The term "capacity" means:

- (1) In relation to an aircraft, the payload of that aircraft available on a route or section of a route; and
- (2) In relation to a specified 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;

<sup>1</sup> Came into force on 7 September 1984 by signature, in accordance with article 17.

<sup>2</sup> 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. 893, p. 117; vol. 958, p. 217; vol. 1008, p. 213, and vol. 1175, p. 297.

(h) The term “tariff” means the prices to be paid for the carriage of passengers, baggage and freight and the conditions under which these prices apply but excluding remuneration or conditions for the carriage of mail;

(i) The term “Schedule” means the Route Schedule annexed to this Agreement or as amended in accordance with the provisions of Article 14 of this Agreement. The Schedule forms an integral part of this Agreement and all references to the Agreement shall include references to the Schedule except where otherwise provided.

#### 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 routes specified in the Schedule (hereinafter called “the agreed services” and “the specified routes” respectively).

(2) Subject to the provisions of this Agreement, the designated airline of each Contracting Party, while operating the agreed services on the specified routes, shall enjoy the following rights:

- (a) To overfly, without landing, the territory of the other Contracting Party along the air routes prescribed by the aeronautical authorities of the other Contracting Party after approval of the relevant part of the designated airline’s seasonal schedule has been obtained from the said authorities;
- (b) Subject to the approval of the aeronautical authorities of the other Contracting Party, to make stops for non-traffic purposes at points on the specified routes in the territory of the other Contracting Party; and
- (c) To make stops at 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.

(3) Where the designated airline of one Contracting Party desires to operate an additional flight or a charter flight between the territories of the Contracting Parties, it shall obtain the agreement of the other designated airline prior to obtaining approval from the aeronautical authorities of the other Contracting Party.

#### Article 3. DESIGNATION AND AUTHORISATION

(1) Each Contracting Party shall have the right to designate in writing to the other Contracting Party an airline to operate the agreed services on the specified routes in the Schedule.

(2) The substantial ownership and effective control of the designated airlines of 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 designated airline of 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.

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

(5) When an airline has been so designated and authorised it may commence at any time operation of the agreed services.

#### *Article 4. REVOCATION OF OPERATING AUTHORISATION*

(1) Each Contracting Party shall have the right to revoke or suspend the operating authorisation already 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 or effective control of that airline is vested in the Contracting Party designating the airline or its nationals; or
- (b) Where there is a failure to comply with the laws and regulations, referred to in Article 3 (3) of this Agreement, of the Contracting Party granting these rights; 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. PROVISION OF TECHNICAL SERVICES AND RATE OF CHARGES*

(1) Each Contracting Party shall designate in its territory regular airports and alternate airports to be used by the designated airline of the other Contracting Party for the operation of the specified routes, and shall provide that airline with such communications, navigational, meteorological and other auxiliary services in its territory as are required for the operation of the agreed services. Detailed arrangements relating to the above shall be concluded between the aeronautical authorities of both Contracting Parties.

(2) The designated airline of each Contracting Party shall be charged for the use of airports, air navigation facilities and technical services of the other Contracting Party at fair and reasonable rates. Such rates shall not be higher than those paid by airlines of other States engaged in international air services using similar aircraft. The charges referred to in this paragraph are limited to those levied by and under the jurisdiction of the Contracting Parties and do not include charges levied by airlines.

#### *Article 6. CUSTOMS AND DUTIES*

(1) Aircraft operated on international air services by the designated airline of one Contracting Party, as well as their regular equipment, spare parts, supplies of fuels, oils (including hydraulic fluids), lubricants, aircraft stores (including food, beverages, liquor, tobacco and other products for sale to or use by passengers in limited quantities during the flight) and other items intended for or used solely in connection with the aircraft's operation or servicing which are on board such aircraft shall be exempt from all customs duties, inspection fees and other duties or taxes on arriving in the territory of the other Contracting Party, provided such equipment and supplies remain on board the aircraft up to such time as they are re-exported.

(2) Supplies of fuels, oils (including hydraulic fluids), lubricants, spare parts including engines, regular equipment and aircraft stores as referred to in paragraph (1) introduced into or supplied in the territory of each Contracting Party by or on behalf of the designated airline of the other Contracting Party or taken on board the aircraft operated by such designated airline and intended solely for use in the operation of international air services shall be exempt from all duties and charges, including customs duties and inspection fees imposed in the territory of the first Contracting Party even when those supplies are to be used on the parts of the journey performed over the territory of the Contracting Party in which they are taken on board. The materials referred to above may be required to be kept under customs supervision or control.

(3) The regular airborne equipment, spare parts, aircraft stores, supplies of fuels, oils (including hydraulic fluids), lubricants and other items referred to in paragraph (1) retained on board the aircraft of either Contracting Party may be unloaded in the territory of the other Contracting Party only with the approval of the customs authorities of that Contracting Party, who may require that those materials be placed under their supervision and control up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.

#### *Article 7. REPRESENTATIVE OFFICES AND PERSONNEL*

(1) For the operation of the agreed services on the specified routes, the designated airline of each Contracting Party shall have the right to set up representative offices at each point on the specified routes within the territory of the other Contracting Party. The staff of the representative offices referred to in this paragraph shall be subject to the laws and regulations in force in the country where such offices are located.

(2) The staff members of the representative offices of the designated airline of each Contracting Party in the territory of the other Contracting Party shall be nationals of either Contracting Party, unless mutually arranged otherwise. The number of such staff shall be subject to the consent of the aeronautical authorities of both Contracting Parties.

(3) Each Contracting Party shall take all necessary steps to facilitate and to assist the setting up and operation of the representative offices referred to in paragraph (1) of this Article.

(4) The entry of personnel into the territory of either Contracting Party shall be subject to the approval of the relevant authorities.

(5) Each Contracting Party shall use its best endeavours to safeguard, within its territory, the airline operations and personnel of the other Contracting Party.

#### *Article 8. TRANSFER OF AIRLINE EARNINGS*

Each Contracting Party undertakes to grant the designated airline of the other Contracting Party the right to free transfer in accordance with its foreign exchange regulations and requirements, of the excess of receipts over expenditure achieved in its territory in connection with the carriage of passengers, baggage, cargo and mail by the said designated airline.

*Article 9. ENTRY AND CLEARANCE REGULATIONS*

(1) The laws and regulations of either Contracting Party relating to the admission into, stay in, departure from and flight over its territory of aircraft engaged in the operation of international air services, as well as 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 designated airline of the other Contracting Party, its crew as well as the passengers, baggage, cargo and mail carried by such aircraft, while in the territory of the first Contracting Party. Each Contracting Party shall promptly supply to the other Contracting Party at the latter's request the texts of the above-mentioned laws and regulations.

(2) Passengers in direct transit across the territory of either Contracting Party shall be subject to no more than very simplified control. Baggage and freight, if in direct transit, shall be exempt from customs duties, inspection fees and other duties and charges.

*Article 10. CAPACITY PROVISIONS*

(1) There shall be fair and equal opportunity for the designated airlines of the Contracting Parties in operating the agreed services on the specified routes between their respective territories.

(2) In the operation of the agreed services on the specified routes, the designated airline of each Contracting Party shall take into account the interests of the designated airline of the other Contracting Party so as not to affect unduly the air services which the latter airline operates over the whole route or parts thereof.

(3) The agreed services provided by the designated airlines of the Contracting Parties shall bear a close relationship to the requirements of the public for transportation on the specified routes. The agreed services provided by the designated airlines shall have as their primary objective the provision of capacity adequate for the requirements of traffic originating in or destined for the territory of the Contracting Party which has designated that airline. Provision for the carriage on the agreed services of traffic both originating in and destined for the territories of States other than that designating the airline shall be made in accordance with the general principles that capacity shall be related to:

- (a) The requirement of traffic originating in or destined for the territory of the Contracting Party which has designated the airline; and
- (b) The traffic requirements of the area through which the airline passes, after taking account of local and regional services; and
- (c) The requirements of through airline operations.

(4) Under these principles traffic which originates in the territory of one Contracting Party, transits or stops over in the territory of the second Contracting Party, and is destined for the territory of a third State and vice versa shall be regarded as traffic destined for or originating in the territory of the second Contracting Party provided such traffic transits or stops over en route in the territory of the second Contracting Party for a period of 24 hours or more. It is not intended to provide capacity on the agreed services for traffic originating in the territory of one Contracting Party and destined for the territory of a third State, which transits the territory of the other Contracting Party without making such a stopover.

(5) The capacity which may be provided in accordance with this Article by the designated airline of each of the Contracting Parties on the agreed services shall be such as is mutually determined between the aeronautical authorities of the Contracting Parties before the commencement by the designated airline concerned of an agreed service and from time to time thereafter.

(6) The designated airlines shall discuss from time to time as necessary matters relating to frequency of services on the specified routes and type of aircraft to be operated and may make joint recommendations to their respective aeronautical authorities in relation to such matters, taking into account the provisions of preceding paragraphs of this Article. The recommendations of the designated airlines shall be effective upon the approval of both aeronautical authorities.

#### *Article 11. INFORMATION AND STATISTICS*

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 designated airline of the first Contracting Party on the specified routes. Such data shall include all information required to determine the amount of traffic carried.

#### *Article 12. ESTABLISHMENT OF TARIFFS*

(1) The tariffs to be applied for transportation between the territories of each Contracting Party on the specified routes 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. These tariffs shall be fixed in accordance with the following provisions of this Article.

(2) The tariffs referred to in paragraph (1) of this Article shall be jointly determined between the designated airlines of both Contracting Parties, in consultation, when necessary and possible, with other airlines operating over the whole or part of that route. The tariffs so determined shall be subject to the approval of the aeronautical authorities of both Contracting Parties and shall be submitted to their respective aeronautical authorities at least 45 days prior to the proposed date of introduction of these tariffs. This period can be reduced in certain cases if both aeronautical authorities mutually decide to do so.

(3) If the designated airlines cannot jointly determine any of these tariffs, the aeronautical authorities of the Contracting Parties shall try to determine the tariffs between themselves.

(4) If the aeronautical authorities cannot both approve any tariff submitted to them under paragraph (2) of this Article or on the determination of any tariff under paragraph (3), the matter shall be referred to the Contracting Parties for settlement in accordance with the provisions of Article 13 of this Agreement.

(5) Pending determination of a new tariff in accordance with the provisions of this Article, the tariffs already in force shall prevail. Nevertheless, a tariff shall not be prolonged by virtue of this paragraph for more than 12 months after the date on which it otherwise would have expired.

### *Article 13. CONSULTATIONS*

(1) The Contracting Parties shall ensure the correct implementation of, and satisfactory compliance with, the provisions of the present Agreement in a spirit of close co-operation and mutual support. To this end, the aeronautical authorities of the Contracting Parties shall consult each other from time to time.

(2) Either Contracting Party may request consultation with the other Contracting Party, which may be either oral or in writing, and which shall begin within a period of 60 days from the date of receipt of the request, unless both Contracting Parties jointly determine an extension of this period.

(3) If any difference of opinion arises in respect of the interpretation or implementation of this Agreement, the designated airlines of both Contracting Parties shall, where appropriate, endeavour to settle it directly through consultation in a spirit of friendly co-operation and mutual understanding. If the airlines fail to reach a settlement, or if the matter at issue does not lie within their competence, the aeronautical authorities of the Contracting Parties shall endeavour to settle it through consultation. If a settlement still cannot be reached, the Contracting Parties shall endeavour to settle it through the diplomatic channel.

### *Article 14. AMENDMENT*

(1) In order to ensure close collaboration in the performance of this Agreement the aeronautical authorities of the Contracting Parties shall consult on request of either of those authorities.

(2) If either of the Contracting Parties considers it desirable to amend any provision of this Agreement including the Schedule, it may request consultation with the other Contracting Party. This consultation, which may be between aeronautical authorities and which may be through discussion or by correspondence, shall begin within a period of 60 days from the date of receipt of the request. Any amendments so negotiated shall not come into force until they have been incorporated into an agreement concluded by way of an exchange of notes through the diplomatic channel.

### *Article 15. TERMINATION*

Either Contracting Party may at any time notify the other Contracting Party of its decision to terminate this Agreement. If such notice is given, this Agreement shall terminate 12 months after the date of receipt by the other Contracting Party of the notice to terminate, unless the notice under reference is withdrawn before the expiry of that period. Notice shall be deemed to have been received 14 days after the date of the notice, or at the date of handing the notice to the diplomatic mission of the other Contracting Party in the territory of the first Contracting Party giving notice.

### *Article 16. TITLES*

Titles are inserted in this Agreement at the head of each article for the purpose of reference and convenience and in no way to define, limit or describe the scope or intent of this Agreement.

### *Article 17. COMING INTO FORCE*

This Agreement shall enter into force on the date of signature.



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

DONE at Beijing this seventh day of September in the year one thousand nine hundred and eighty-four in two originals, each in the Chinese and English languages, each language being equally authoritative.

For the Government  
of the People's Republic  
of China:

[Signed — Signé]<sup>1</sup>

For the Government  
of Australia:

[Signed — Signé]<sup>2</sup>

#### SCHEDULE

1. The routes to be operated by the designated airlines shall be between points in China and points in Australia as mutually determined from time to time by the aeronautical authorities until determined otherwise:

A. The route to be operated in both directions by the designated airline of the People's Republic of China shall be:

Beijing–Guangzhou–Sydney–Melbourne, and

B. The route to be operated in both directions by the designated airline of Australia shall be:

Melbourne–Sydney–Guangzhou–Beijing.

2. Points on any of the above routes may, at the option of the designated airline concerned, be omitted on any or all flights, provided that an agreed service shall have its starting point or terminal in the territory of the contracting party designating the airline.

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<sup>1</sup> Signed by Shen Tu — Signé par Shen Tu.

<sup>2</sup> Signed by Kim C. Beezley — Signé par Kim C. Beezley.