

No. 23369

**SPAIN
and
CHINA**

**Agreement relating to civil air transport (with annex). Signed
at Beijing on 19 June 1978**

*Authentic texts: Spanish, Chinese and English.
Registered by Spain on 28 May 1985.*

**ESPAGNE
et
CHINE**

**Accord relatif aux transports aériens civils (avec annexe). Signé
à Beijing le 19 juin 1978**

*Textes authentiques : espagnol, chinois et anglais.
Enregistré par l'Espagne le 28 mai 1985.*

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

The Government of the Kingdom of Spain and the Government of the People's Republic of China (hereinafter referred to as "the Contracting Parties"), with a view to facilitating the friendly contacts between the peoples of Spain and China and 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,

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

Article 1. 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 the present Agreement (hereinafter referred to as "the specified route").

2. Subject to the provisions of the present Agreement, aircraft of the airline designated by each Contracting Party (hereinafter referred to as "the designated airline") operating on the agreed services over the specified route shall have the right to make stops at the point on the specified route in the territory of the other Contracting Party for the purpose of putting down or taking on international traffic in passengers, baggage, cargo and mail coming from or destined for the territory of the first Contracting Party. The exercise of the traffic right between the point in the territory of the other Contracting Party and the intermediate points on the specified route shall be subject to the relevant provisions of the Annex to the present Agreement.

3. Each Contracting Party shall notify the other Contracting Party not later than sixty (60) days in advance of the date of the commencement of operation of the agreed services by its designated airline.

Article 2. 1. Each Contracting Party shall have the right to designate one airline to operate the agreed services on the route specified in the Annex to the present Agreement and shall notify the other Contracting Party of such designation through diplomatic channels.

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

3. On receipt of such notification, the other Contracting Party shall, subject to the provisions of paragraph 2 of this Article, grant without delay to the designated airline of the first Contracting Party the appropriate operating permission.

4. The Aeronautical Authorities of each Contracting Party (for the purpose of the present Agreement, the term "Aeronautical Authorities" means, in the case of the Kingdom of Spain, the Subsecretaría de Aviación Civil, Ministry of Transport and Communications, and in the case of China, the General Administration of Civil Aviation of China) may require the designated airline of the other Contracting Party to satisfy

¹ Came into force on 24 November 1983, the date of the last of the notifications by which the Contracting Parties informed each other of the completion of their legal formalities, in accordance with article 18.

them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied to the operation of international air services by such Authorities.

Article 3. 1. Each Contracting Party shall have the right to revoke the operating permission already granted to the designated airline of the other Contracting Party or to suspend the exercise of the rights specified in Article 1 of the present Agreement by the said airline, or to impose such conditions as it may deem necessary on the exercise of these rights, in case:

- a) Where it is not satisfied that the substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or its citizens; or
- b) Where that airline fails to comply with the laws or regulations of the first Contracting Party; or
- c) Where that airline otherwise fails to operate in accordance with the conditions prescribed under the present 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 4. The laws and regulations of either Contracting Party relating to the admission to, stay in, departure from and operation 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, 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 supply the other Contracting Party with information relevant to the above-mentioned laws and regulations in time.

Article 5. 1. Aircraft operated on the agreed services by the designated airline of either Contracting Party as well as the regular equipment, spare parts, supplies of fuel and lubricants and aircraft stores (including food, beverages and tobacco) retained on board the aircraft shall be exempt from all customs duties, inspection fees and other similar charges on arrival in and departure from the territory of the other Contracting Party, provided that such equipment and supplies remain on board the aircraft up to such time as they are re-exported or are used on the part of the journey performed over that territory.

2. There shall also be exempt from the same duties, fees and charges, with the exception of charges corresponding to the service performed:

- a) Aircraft stores taken on board in the territory of either Contracting Party within limits fixed by the authorities of the said Contracting Party, and for use on board outbound aircraft engaged in the agreed services operated by the designated airline of the other Contracting Party;
- b) Aircraft spare parts, regular equipment and stores introduced into the territory of either Contracting Party for use in the operation of the agreed services by the designated airline of the other Contracting Party; and
- c) Fuel and lubricants destined to supply outbound aircraft operated on the agreed services by the designated airline of the other Contracting Party, even when these supplies are to be used on the part of the journey performed over the territory of the Contracting Party in which they are taken on board.

3. The regular airborne equipment as well as the materials and supplies retained on board the aircraft of the designated airline of either Contracting Party may be unloaded in the territory of the other Contracting Party only with the approval of the customs authorities of the other Contracting Party. The articles unloaded in the said territory as well as those introduced into the said territory shall be placed under the supervision of the said authorities and shall not be sold or used for other purposes in the above territory until such time as they are re-exported or otherwise disposed of in accordance with the customs regulations.

4. Passengers in transit across the territory of either Contracting Party shall be subject to no more than a very simplified control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

Article 6. 1. Each Contracting Party shall designate in its territory regular airport and alternate airport to be used by the designated airline of the other Contracting Party for the operation of the specified route, and provide the latter with communications, navigational, meteorological and other auxiliary services in its territory as are required for the operation of the agreed services. Detailed arrangements for the above shall be agreed upon between the Aeronautical Authorities of both Contracting Parties.

2. The designated airline of one Contracting Party shall be charged for the use of airport(s), equipment, technical services and air navigation facilities of the other Contracting Party at fair and reasonable rates prescribed by the appropriate authorities of the other Contracting Party. Such rates shall not be higher than those normally paid by airlines of other States.

Article 7. 1. The designated airlines of both Contracting Parties shall have fair and equal opportunities 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 designated airline of 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. Matters relating to the operation of the specified routes such as frequency, type of aircraft, schedule, sales representation and ground handling shall be agreed upon through consultation between the designated airlines of both Contracting Parties. The frequency, type of aircraft as well as schedule so agreed shall be subject to the approval of their respective Aeronautical Authorities.

4. The agreed services provided by the designated airlines of both Contracting Parties shall satisfy the current and anticipated requirements for the carriage of passengers, baggage, cargo and mail coming from or destined for the territory of the Contracting Party which has designated the airline. Provision for the carriage of passengers, baggage, cargo and mail both taken up and put down at points on the specified routes in the territories of third countries shall be made in accordance with the general principle that capacity shall be related to:

- a) Traffic requirements to and from the territory of the Contracting Party which has designated the airline;
- b) Traffic requirements of the area through which the agreed services pass, after taking account of other air services established by airlines of other States comprising the area; and
- c) The requirements of through airline operation.

Article 8. 1. In the following paragraphs, 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 or conditions for the carriage of mail.

2. The tariffs to be applied on the specified routes between the territory of one Contracting Party and that of the other Contracting Party shall be agreed upon between the designated airlines of both Contracting Parties. Such tariffs shall be established at reasonable levels, due regard being paid to all relevant factors, including cost of operation, reasonable profit and the tariffs of other airlines.

3. The tariffs so agreed shall be submitted for the approval of the respective Aeronautical Authorities at least ninety (90) days before the proposed date of their introduction. In special cases, this period may be reduced, subject to the agreement of the said Authorities.

4. If neither of the Aeronautical Authorities of the two Contracting Parties has expressed disapproval within thirty (30) days from the date of submission in accordance with paragraph 3 of this Article, these tariffs shall be considered as approved. In the event of the period for submission being reduced, as provided for in paragraph 3, the Aeronautical Authorities of both Contracting Parties may agree that the period within which any disapproval must be notified shall be less than thirty (30) days.

5. If a tariff cannot be agreed in accordance with paragraph 2 of this Article, or if, during the period applicable in accordance with paragraph 4 of this Article the Aeronautical Authorities of one Contracting Party give the Aeronautical Authorities of the other Contracting Party notice of their disapproval of any tariff agreed in accordance with the provisions of paragraph 2, the Aeronautical Authorities of the two Contracting Parties shall endeavour to determine the tariff by mutual agreement.

6. If the Aeronautical Authorities of both Contracting Parties cannot agree on any tariff submitted to them under paragraph 3 of this Article, or on the determination of any tariff under paragraph 5 of this Article, the dispute shall be settled in accordance with the provisions of Article 15 of the present Agreement.

7. A tariff established in accordance with the provisions of this Article shall remain in force until a new tariff has been established. Nevertheless, a tariff shall not be prolonged by virtue of this paragraph for more than twelve months after the date on which it otherwise would have expired.

Article 9. The revenue derived from the transportation of international traffic by the designated airline of each Contracting Party in the territory of the other Contracting Party shall be permitted to be transferred at the official rate of exchange by the other Contracting Party.

Wherever the payments system between the Contracting Parties is governed by a special agreement, that agreement shall apply.

Article 10. The Aeronautical Authorities of either Contracting Party shall supply to the Aeronautical Authorities of the other Contracting Party, at their request, such statistic statement as may be reasonably required for the purpose of reviewing the capacity provided on the agreed services by the designated airline of the first Contracting Party.

Such statements shall include all information required to determine the amount of traffic carried by that airline on the agreed services.

Article 11. 1. For the operation of the specified route, the designated airline of each Contracting Party shall have the right to set up its representative office at the point of call on the specified route in the territory of the other Contracting Party. The staff of such representative office shall be citizens of the Kingdom of Spain and of the People's Republic of China, and the number of staff 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. The staff of such representative office must observe the laws and regulations in force in the country where such office is located.

2. Each Contracting Party shall extend assistance and convenience to the representative office and its staff members of the designated airline of the other Contracting Party and ensure their safety.

3. Each Contracting Party shall endeavour to ensure the safety of the aircraft, stores and other properties in its territory used on the agreed services by the designated airline of the other Contracting Party.

4. The crew members of the designated airline of either Contracting Party flying on the specified route shall be citizens of such Contracting Party.

Article 12. Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one Contracting Party and still in force shall be recognized as valid by the other Contracting Party for the purpose of operating the route and services provided in the Annex to the present Agreement, provided that the requirement under which such certificates or licenses were issued or rendered valid are equal to or above the minimum standards which may be established pursuant to the laws and regulations of the respective Contracting Parties.

Each Contracting Party reserves the right, however, of refusing to recognize the validity of the certificates of competency and the licenses granted to its own citizens by the other Contracting Party for the purpose of flight in the territory of the first Contracting Party.

Article 13. 1. Should an aircraft of the designated airline of one Contracting Party experience an accident or be in distress in the territory of the other Contracting Party, the latter shall instruct its appropriate authorities to immediately inform the Aeronautical Authorities of the first Contracting Party and provide necessary assistance to the crew and passengers on board the aircraft.

2. In case where the accident involves death or serious injury of persons or serious damage to aircraft, the other Contracting Party shall instruct its appropriate authorities to take further the following measures:

- a) Immediately provide search and rescue operation;
- b) Protect evidences and secure the safety of the aircraft and its contents;
- c) Carry out investigation into the accident;
- d) Permit the observers of the first Contracting Party access to the aircraft and to be present in the investigation;
- e) Release the aircraft and its contents as soon as they are no longer necessary for the investigation;
- f) Communicate in writing to the Aeronautical Authorities of the first Contracting Party the result of the investigation.

Article 14. In a spirit of close cooperation, the two Contracting Parties shall consult each other from time to time with a view to ensuring the implementation of, and satisfactory compliance with the provisions of the present Agreement and the Annex thereto.

Article 15. If any dispute arises between the Contracting Parties relating to the interpretation or implementation of the present Agreement, the Contracting Parties shall in the first place instruct their respective Aeronautical Authorities to settle it by negotia-

tion. If the said Authorities fail to reach an agreement, the dispute shall be settled through diplomatic channels.

Article 16. If either of the Contracting Parties considers it desirable to modify or amend any provisions of the present Agreement or the Annex thereto, it may request consultation with the other Contracting Party. Such consultation, which may be between the Aeronautical Authorities and which may be through discussion or by correspondence, shall begin within a period of sixty (60) days from the date of the request. Modifications or amendments so agreed upon shall come into force when they have been confirmed by an exchange of diplomatic notes.

Article 17. Either Contracting Party may at any time give notice to the other Contracting Party of its desire to terminate the present Agreement. The present Agreement shall then terminate twelve (12) 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, the present Agreement shall continue to be in force with the concurrence of the other Contracting Party.

Article 18. The present Agreement shall come into force after both Contracting Parties have respectively completed their legal formalities and notified each other to this effect through exchange of diplomatic notes.

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

DONE at Peking on this nineteenth day of June, 1978 in duplicate in the Spanish, Chinese and English languages, the three texts being equally authentic.

For the Government
of the Kingdom of Spain:

[Signed — Signé]¹

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

[Signed — Signé]²

¹ Signed by Marcelino Oreja Aguirre — Signé par Marcelino Oreja Aguirre.

² Signed by Huang Hua — Signé par Huang Hua.

ANNEX

I. ROUTE SCHEDULE

1. The route of the agreed services to be operated by the designated airline of the Government of the Kingdom of Spain shall be as follows in both directions:

One point in Spain—intermediate points—one point in China

The points referred to in the above route shall be agreed upon between the Aeronautical Authorities of both Contracting Parties.

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

One point in China—intermediate points—one point in Spain

The points referred to in the above route shall be agreed upon between the Aeronautical Authorities of both Contracting Parties.

II. TRAFFIC RIGHT

The exercise of the traffic right by the designated airline of either Contracting Party between the intermediate points and the point on the specified route in the territory of the other Contracting Party shall be determined by an agreement between the Aeronautical Authorities of both Contracting Parties.

III. RIGHT OF OMISSION

The aircraft of the designated airlines of both Contracting Parties operated on the agreed services over the specified routes may omit calling at any intermediate point, provided that prior notification to this effect is served to each other as much in advance as practicable.
