

**No. 32970**

**BRAZIL  
and  
MACAU  
(UNDER AN ENTRUSTMENT  
OF AUTHORITY FROM THE GOVERNMENT  
OF PORTUGAL AND WITH THE CONSENT  
OF THE GOVERNMENT OF CHINA)**

**Agreement on air transport (with annex). Signed at Macau on  
15 July 1994**

*Authentic texts: Portuguese and Chinese.*

*Registered by Brazil on 29 July 1996.*

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**BRÉSIL  
et  
MACAO  
(EN VERTU D'UNE DÉLÉGATION  
DE POUVOIRS DU GOUVERNEMENT PORTUGAIS  
ET AVEC LE CONSENTEMENT  
DU GOUVERNEMENT CHINOIS)**

**Accord relatif au transport aérien (avec annexe). Signé à  
Macao le 15 juillet 1994**

*Textes authentiques : portugais et chinois.*

*Enregistré par le Brésil le 29 juillet 1996.*

## [TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> ON AIR TRANSPORT BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL AND THE GOVERNMENT OF MACAU

The Government of the Federative Republic of Brazil and the Government of Macau, duly authorized by the competent State body of the Republic of Portugal and with the consent of the Government of the People's Republic of China (hereinafter referred to as the "Contracting Parties"),

Desiring to contribute to the development of international civil aviation,

Desiring to conclude an Agreement between Brazil and Macau for the purpose of establishing air services,

Have agreed as follows:

*Article 1*

## DEFINITIONS

For the purpose of this Agreement, except as otherwise expressly provided for:

(a) "Aeronautical authorities" means, in the case of the Federative Republic of Brazil, the Minister of Aeronautics and, in the case of Macau, the Civil Aviation Authority or, in both cases, any person or body authorized to perform any functions currently exercised by the above-mentioned authorities;

(b) "Designated airline" means an airline which has been designated and authorized in accordance with Article 4 of this Agreement;

(c) "Area", in relation to the Federative Republic of Brazil, has the meaning assigned to "territory" in article 2 of the Convention on International Civil Aviation, opened for signature in Chicago on 7 December 1944,<sup>2</sup> and, in relation to Macau, includes the Macau Peninsula and the islands of Taipa and Coloane;

(d) "Air service", "international air service", "airline" and "stop for non-traffic purposes" have the meanings assigned to them in article 96 of said Convention;

(e) "Aviation tax" or "user fee" means any charge applied to airlines by the competent authorities or authorized by them in respect of the use of airport property or services or of air navigation, airport security and any related services by airplays and their crews, passengers or cargo;

(f) "Agreement" means this Agreement, the Annex thereto and any amendments to the Agreement or the Annex;

<sup>1</sup> Came into force on 21 November 1995 by notification, in accordance with article 22.

<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.

(g) “Laws and regulations” of a Contracting Party means the laws and regulations in force at any time in the area of that Contracting Party;

(h) “Agreed services” means air services on the specified routes for the carriage of passengers, cargo and mail, separately or in combination;

(i) “Specified route” means one of the routes specified in the Annex to this Agreement;

(j) “Tariff” means:

- (i) The fare charged by an airline for the carriage of passengers and their baggage on scheduled air services and the charges and conditions for services ancillary to such carriage;
- (ii) The rate charged by an airline for the carriage of cargo (excluding mail) on scheduled air services;
- (iii) The conditions governing the availability or applicability of any such fare or rate, including any benefits attached to it; and
- (iv) The commission paid by an airline to an agent in respect of valid tickets or air waybills completed by that agent for carriage on scheduled air services.

## Article 2

### PROVISIONS OF THE CHICAGO CONVENTION APPLICABLE TO INTERNATIONAL AIR SERVICES

In implementing this Agreement, the Contracting Parties shall act in accordance with the provisions of the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944, including the Annexes thereto and any amendments to the Convention or its Annexes which apply to both Contracting Parties, insofar as these provisions are applicable to international air services.

## Article 3

### GRANT OF RIGHTS

1. Each Contracting Party shall grant to the other Contracting Party the rights specified hereinafter concerning the operation of international air services on a specific route. While operating an agreed service on a specific route, the airlines of each Contracting Party shall have the right:

(a) To fly across the area of the other Contracting Party without landing;

(b) To make stops in the said area for non-traffic purposes;

(c) To take on in the said area, at specified points on the specified routes, passengers, baggage, cargo and mail destined for or coming from points situated in the area of the other Contracting Party;

(d) To take on in the area of third Parties, at the specified points on the specified routes, passengers, baggage, cargo and mail destined for or coming from points in the area of the other Contracting Party.

2. Nothing in paragraph 1 of this Article shall be deemed to confer on the designated airline of one Contracting Party the right to take on, in the area of the

other Contracting Party, passengers, baggage, cargo or mail carried for remuneration or hire and destined for another point within the latter's area.

#### *Article 4*

##### DESIGNATION AND AUTHORIZATION

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

2. On receipt of notification of such a designation, the aeronautical authorities of each Contracting Party shall, in accordance with its laws and regulations, without delay grant to the designated airline or airlines of the other Contracting Party the authorizations required for operation of the agreed services.

3. The aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied by such authorities to the operation of international air services.

4. (a) The Government of Macau shall have the right to refuse to grant the operating authorizations referred to in paragraph 2 of this Article, or to impose such conditions as it may deem necessary on the exercise by a designated airline of the rights specified in Article 3, paragraph 1, of this Agreement, in any case where it considers that substantial ownership and effective control of that airline are not vested in the Government of the Federative Republic of Brazil or its nationals.

(b) The Government of the Federative Republic of Brazil shall have the right to refuse to grant the operating authorizations referred to in paragraph 2 of this Article, or to impose such conditions as it may deem necessary on the exercise by a designated airline of the rights specified in Article 3, paragraph 1, of this Agreement, in any case where it considers that the airline does not have its headquarters or primary place of business in Macau.

5. When an airline has been so designated and authorized, it may begin to operate the agreed services, provided that it complies with the applicable provisions of this Agreement.

#### *Article 5*

##### APPLICATION OF LAWS AND REGULATIONS

1. The laws and regulations of one Contracting Party relating to the entry into or departure from its area of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft, shall be complied with by the aircraft of the designated airlines of the other Contracting Party, without distinction as to nationality, upon entry into or departure from, or while within the area of, the first Contracting Party.

2. The designated airlines of one Contracting Party shall ensure compliance with the laws and regulations of the other Contracting Party relating to the entry into or departure from its area of passengers, crew, cargo or mail carried on board aircraft, such as regulations relating to entry, clearance, immigration, passports, customs and quarantine, shall be complied with by the airlines designated by the other

Contracting Party, by or on behalf of such passengers, crew, cargo or mail, upon entry into, departure from, or while within the area of the first Contracting Party.

3. In the application of the laws and regulations referred to in this Article, neither Contracting Party shall grant more favourable treatment to its own airlines than to those designated by the other Contracting Party.

### *Article 6*

#### REVOCATION OR SUSPENSION OF OPERATING AUTHORIZATION

1. Each Contracting Party shall have the right to revoke or suspend authorization, or to suspend the exercise of the rights specified in Article 3, paragraph 1, of this Agreement by an airline designated by the other Contracting Party or to impose on the exercise of those rights such conditions as it may deem necessary:

(a) (i) In the case of the Government of Macau, in any case where it considers that substantial ownership and effective control of the airline are not vested in the Federative Republic of Brazil or its nationals;

(ii) In the case of the Government of the Federative Republic of Brazil, in any case where it considers that the airline does not have its headquarters or primary place of business in Macau;

(b) If the airline fails to comply with the laws or regulations of the Contracting Party granting those rights; or

(c) If the airline fails to operate in accordance with the conditions prescribed under this Agreement.

2. Unless immediate revocation or suspension of the authorization or suspension of the exercise of the rights mentioned in paragraph 1 of this Article or imposition of the conditions mentioned therein is essential to prevent further infringements of laws or regulations, such prerogatives shall be exercised only after consultation with the other Contracting Party.

### *Article 7*

#### RECOGNITION OF CERTIFICATES AND LICENCES

1. Certificates of airworthiness and certificates of competency and licences issued or rendered valid by one Contracting Party and which have not expired shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services on the specified routes, provided that such certificates or licences were issued or rendered valid in accordance with the standards established in the Convention mentioned in Article 2 of this Agreement.

2. Notwithstanding the above, each Contracting Party reserves the right to refuse to recognize, for the purpose of flight above its own area, certificates of competency and licences issued to its own nationals, in the case of the Federative Republic of Brazil, or residents, in the case of Macau, by the other Contracting Party.

## Article 8

### OPERATION OF AGREED SERVICES

1. There shall be fair and equal opportunity for the designated airlines of the two Contracting Parties to operate the agreed services on the specified routes.

2. In operating the agreed services, the designated airlines of each Contracting Party shall take into account the interests of the designated airlines of the other Contracting Party so as not to affect unduly the services which the latter provide on all or part of the same routes.

3. The agreed services provided by the designated airlines of the Contracting Parties shall correspond closely to the requirements of the public for transportation on the specified routes. Their primary objective shall be to provide, at a reasonable load factor, capacity adequate to meet the current and reasonably anticipated requirements for the carriage of passengers and cargo, including mail, originating in or destined for the area of the Contracting Party that designated the airline. Provision for the carriage of passengers and cargo, including mail, taken on or discharged at points on the specified routes which are outside the area of the Contracting Party that designated the airline shall be made in accordance with the general principle that capacity shall be related to:

(a) Traffic requirements to and from the area of the Contracting Party that designated the airline;

(b) Traffic requirements of the region through which the agreed service passes, taking into account the other transport services established by airlines of the States in that region; and

(c) The airline's requirements for economic operation.

## Article 9

### APPROVAL OF SCHEDULES

1. The airlines of each Contracting Party shall submit their proposed schedules for the agreed services and any changes thereto to the aeronautical authorities of the two Contracting Parties for approval at least 45 days prior to the proposed date of introduction.

2. The designated airlines of each Contracting Party may consider, on an *ad hoc* basis, flights other than those of the agreed services. Requests for authorization of such flights shall be submitted to the aeronautical authorities of the two Contracting Parties for approval at least three working days prior to the proposed date of service.

## Article 10

### TARIFFS

1. The tariffs to be charged for carriage on the agreed services between the areas of the Contracting Parties shall be set at reasonable levels, bearing in mind all relevant factors, including the interests of users, operating costs, reasonable profits,

type of service and, where appropriate, the tariffs of other airlines operating over all or part of the same route.

2. If possible, the tariffs referred to in paragraph 1 of this Article shall be agreed by the designated airlines of the Contracting Parties. The designated airlines shall not be precluded from proposing, nor the aeronautical authorities from approving, any tariff where the airline has failed to obtain approval thereof from the other designated airlines or where no other designated airline is operating on the same route. In this context, “the same route” means the route operated, not the route specified.

3. Agreed tariffs shall be submitted, for approval, to the aeronautical authorities of the Contracting Parties at least 60 (sixty) days prior to the proposed date of introduction. In special cases, this time period may be reduced with the consent of the above-mentioned authorities. Upon receipt of the tariff submission, the aeronautical authorities shall consider the said tariffs without undue delay. No tariff shall be introduced without the consent of the aeronautical authorities of the two Contracting Parties. The aeronautical authorities of one Contracting Party may inform those of the other Contracting Party of delays in the date of introduction of a proposed tariff.

4. If a tariff cannot be set in accordance with the provisions of paragraph 2 of this Article or if notice of rejection has been given within the time period stipulated in paragraph 3 thereof, the aeronautical authorities of the Contracting Parties shall endeavour to set the tariff by mutual agreement through consultations conducted under Article 17 of this Agreement.

5. If the aeronautical authorities cannot agree on the approval of a tariff submitted to them under paragraph 3 of this Article or on the setting of any tariff under paragraph 4 thereof, the dispute shall be settled in accordance with the provisions of article 8 of this Agreement.

6. (a) No tariff shall come into force if the aeronautical authorities of either Contracting Party have rejected it, except as provided for in Article 18, paragraph 4, of this Agreement.

(b) Once tariffs have been set in accordance with the provisions of this Article, they shall remain in force until new tariffs have been established in accordance with the provisions of this Article or of Article 18 of this Agreement or for a maximum of 12 (twelve) months from the date of rejection by the aeronautical authorities of either Contracting Party.

7. If the aeronautical authorities of either Contracting Party reject a given tariff, the aeronautical authorities of the other Contracting Party shall be notified and, if necessary, the designated airlines shall endeavour to reach an understanding on the matter. If, within 90 (ninety) days, of the date of receipt of the notice, a new tariff cannot be set in accordance with the provisions of paragraphs 2 and 3 of this Article, the procedures described in paragraphs 4 and 5 thereof shall be followed.

8. The aeronautical authorities of the two Contracting Parties shall endeavour to ensure that:

(a) The tariffs charged and received correspond to those approved by the aeronautical authorities of the two Contracting Parties; and that

(b) No airline offers a reduction in the said tariffs.

*Article 11*

## CUSTOMS DUTIES

1. Aircraft operated in international air services by the designated airlines of each Contracting Party and their regular equipment, fuel, lubricating oils and spare parts, including engines and aircraft stores (inter alia, food, beverages and tobacco products) on board such aircraft shall be exempted by the other Contracting Party on a reciprocal basis from all customs duties, excise taxes and similar fees and charges not based on the cost of services provided on arrival, provided that such equipment and supplies remain on board the aircraft.

2. Regular equipment, spare parts, supplies of fuel and lubricating oils, aircraft stores, printed ticket stock, air cargo waybills, any printed material bearing the insignia of a designated airline of either Contracting Party and publicity materials normally distributed free of charge by that airline, when brought into the area of the other Contracting Party by or on behalf of that airline or taken on board the aircraft operated by that airline and intended solely for use on board such aircraft during the operation of international air services, shall be exempted by the other Contracting Party on a reciprocal basis from customs duties, excise taxes and similar fees and charges not based on the cost of services provided on arrival, even where such supplies are to be used during the portion of a flight carried out over the area of the Contracting Party in which they were taken on board.

3. The items mentioned in paragraphs 1 and 2 of this Article may be required to be kept under the supervision or control of the competent authorities.

4. The regular equipment, spare parts, supplies of fuel and lubricating oils and aircraft stores carried on board the aircraft of the designated airlines of one Contracting Party may be unloaded in the area of the other Contracting Party only with the approval of the latter's customs authorities, which may require such items to be placed under their supervision until taken out of the country or otherwise dealt with as provided for under their respective customs regulations.

5. The provisions of this Article shall also apply to situations where a designated airline of one Contracting Party has entered into arrangements with another airline or airlines for the loan or transfer in the area of the other Contracting Party of the items mentioned in paragraphs 1 and 2 of this Article, provided that these other airlines have been granted the same rights by the second Contracting Party.

6. Passengers, baggage and cargo which are in direct transit through the area of a Contracting Party and which do not leave the section of the airport reserved for that purpose shall be subject to no more than minimal inspection unless otherwise dictated by security measures taken in order to prevent violence, hijacking or drug trafficking. Baggage and cargo in direct transit shall be exempt from all duties, fees or taxes.

*Article 12*

## AVIATION SECURITY

1. The Contracting Parties reaffirm that their mutual obligation to protect the security of civil aviation from unlawful interference is an integral part of this Agreement. In particular, the Contracting Parties shall comply with the aviation security



provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963,<sup>1</sup> the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970<sup>2</sup> and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.<sup>3</sup>

2. The Contracting Parties shall provide each other, upon request, with all necessary assistance to prevent the unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, their passengers and crew, airports and air navigation facilities and other threats to the security of civil aviation.

3. In their mutual relations, the Contracting Parties shall comply with the applicable aviation security provisions of the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944. They shall also require operators of aircraft of their registry, operators of aircraft having their primary place of business in their area, and operators of airports in their area to comply with the above-mentioned aviation security provisions.

4. The Contracting Parties agree that such operators of aircraft may be required to observe the aviation security provisions mentioned in paragraph 3 of this Article and required by the other Contracting Party upon entrance into or departure from, and while within the area of, that Contracting Party. Each Contracting Party shall ensure that adequate measures are, in fact, taken within its area to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give sympathetic consideration to any request from the other Contracting Party for special security measures to meet a specific threat.

5. In the event of an incident or threat of unlawful seizure of civil aircraft or other unlawful act against the safety of such aircraft, their passengers and crew, airports or air navigation services, the Contracting Parties shall assist each other by facilitating communications and taking other appropriate measures intended to terminate the incident or threat rapidly and safely.

### *Article 13*

#### STATISTICS

Upon request, the aeronautical authorities of the Contracting Parties shall provide each other with such statements of statistics as may be reasonably required for the purpose of reviewing the capacity provided on the agreed services by the designated airlines of the Contracting Parties. Such statements shall include all information required for determination of the amount of traffic carried by those airlines on the agreed services.

### *Article 14*

#### TRANSFER OF REVENUE

The designated airlines of the Federative Republic of Brazil shall have the right to convert and transfer to Brazil revenues in excess of sums disbursed locally. The

<sup>1</sup> United Nations, *Treaty Series*, vol. 704, p. 219.

<sup>2</sup> *Ibid.*, vol. 860, p. 105.

<sup>3</sup> *Ibid.*, vol. 974, p. 177 and vol. 1217, p. 404 (corrigendum to volume 974).

designated airlines of Macau shall have the right to convert and transfer to Macau, at their request, revenues in excess of sums disbursed locally. Conversion and transfer shall be permitted without restriction at the rate of exchange applicable to current transactions at the time when the revenues are submitted for conversion and transfer. Such operations shall not be subject to any charges except those normally made by banks for the execution thereof.

### *Article 15*

#### AIRLINE REPRESENTATION

1. The designated airlines of each Contracting Party shall have the right, in accordance with the laws and regulations of the other Contracting Party relating to entry, residence and employment, to bring into and maintain in the area of that other Contracting Party their own managerial, technical, operational and other specialist staff required for the provision of the agreed services.

2. The designated airlines of each Contracting Party shall have the right to engage in the sale of air transportation in the area of the other Contracting Party either directly or, subject to agreement, through their agents.

All such airlines shall have the right to sell, and anyone shall be free to purchase, such transportation in local currency or, subject to the laws and regulations of the other Contracting Party, in any freely convertible currency.

### *Article 16*

#### USER CHARGES

1. Neither Contracting Party shall have the right to impose or to permit to be imposed on the designated airlines of the other Contracting Party any user charges higher than those imposed on its own airlines operating similar international air services.

2. Each Contracting Party shall encourage consultation between its competent authorities and the airlines which use its services and facilities, where possible through those airlines' representative organizations. Users shall be given reasonable notice of any change in such charges so that they may express their views before changes are made. Each Contracting Party shall encourage the exchange of appropriate information concerning user charges between its competent authorities and the airlines.

### *Article 17*

#### CONSULTATION

Each Contracting Party may at any time request the holding of consultations on the implementation, interpretation, application or amendment of this Agreement. Unless otherwise agreed by the Contracting Parties, such consultations, to be held between the aeronautical authorities, shall begin within 60 (sixty) days of the date on which the other Contracting Party receives such a request in writing.

## Article 18

### SETTLEMENT OF DISPUTES

1. If any dispute arises between the Contracting Parties relating to the interpretation or implementation of this Agreement, the Contracting Parties shall first endeavour to settle it through negotiation.

2. If the Contracting Parties fail to resolve the dispute through negotiation, they may agree to submit it to an individual or body for resolution or, at the request of either Party, to a tribunal of three arbitrators, which shall be constituted in the following manner:

(a) Within 30 (thirty) days of receipt of a request for arbitration, each Contracting Party shall appoint one arbitrator. Within 60 (sixty) days of the appointment of the second arbitrator, a third arbitrator, who shall act as President of the tribunal and who must be a national of a State which can be regarded as neutral in relation to the dispute, shall be appointed.

(b) If any of the appointments has not been made within the time limits specified above, either Contracting Party may request the President of the Council of the International Civil Aviation Organization to make the necessary appointment within 30 (thirty) days. If the President is a national of a State which should not be considered neutral in relation to the dispute, the appointment shall be made by the most senior Vice-President not disqualified on those grounds.

3. Except as otherwise agreed by the Parties or as otherwise provided in this Article, the tribunal shall determine the limits of its jurisdiction and establish its own rules of procedure.

4. The tribunal shall take its decisions by majority vote. The Contracting Parties shall implement its decisions or awards in full under the provisions of their own legislation.

## Article 19

### AMENDMENTS

1. Any amendment to or change in this Agreement which may be agreed by the Contracting Parties shall enter into force on a date to be determined in a written exchange indicating that both Contracting Parties have completed all the necessary domestic procedures.

2. Any amendment to or change in this Agreement shall be agreed on by the aeronautical authorities and shall enter into force when confirmed in writing by the two Contracting Parties.

## Article 20

### TERMINATION

At any time after this Agreement enters into force, either Contracting Party may notify the other Contracting Party in writing of its decision to terminate it. Notification shall be sent simultaneously to the International Civil Aviation Organization. This Agreement shall terminate one year after the date on which the other Con-

tracting Party receives the said notification unless the latter is withdrawn by mutual agreement before the end of this period. If the other Contracting Party does not acknowledge receipt of the notification, said notification shall be deemed to have been received 14 (fourteen) days after it is received by the International Civil Aviation Organization.

*Article 21*

REGISTRATION

This Agreement and any amendments thereto shall be registered with the International Civil Aviation Organization.

*Article 22*

ENTRY INTO FORCE

This Agreement shall enter into force when the Contracting Parties have notified each other in writing that all necessary procedures have been completed.

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

DONE at Macau on 15 July 1994 in two original copies in the Portuguese and Chinese languages, both texts being equally authentic. In case of discrepancy, the Portuguese text shall prevail.

For the Government  
of the Federative Republic of Brazil:

LÉLIO VIANA LÔBO  
Minister of State for Aeronautics

For the Government  
of Macau:

VASCO JOAQUIM ROCHA VIEIRA  
Governor

## ANNEX

## ROUTE SCHEDULE

- I. Routes to be operated by the designated airlines of the Federative Republic of Brazil:  
Points in Brazil—intermediate points—Macau—points beyond
- II. Routes to be operated by the designated airlines of Macau:  
Macau—intermediate points—a point in Brazil\*—points beyond

*Notes*

1. On any or all flights, the designated airlines of the Federative Republic of Brazil may omit calling at any points on the routes specified above and may serve them in any order, provided that the agreed services on these routes begin at points in Brazil.
2. On any or all flights, the designated airlines of Macau may omit calling at any points on the routes specified above and may serve them in any order, provided that the agreed services on these routes begin at points in Macau.
3. No point in Hong Kong, Taiwan or mainland China may be served as an intermediate point or a point beyond.
4. The designated airlines of the two Contracting Parties may use a maximum of two intermediate points and one point beyond, with traffic rights, which may be varied on a seasonal basis in accordance with International Air Transport Association periods.
5. No point in Portugal or Japan may be used as an intermediate point or a point beyond, with traffic rights, by the designated airlines of the two Contracting Parties.

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\* (To be selected by the designated airlines of Macau)