

法規名稱：AMENDED BILATERAL AIR SERVICE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF CHINA AND GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA (AD.1991.11.15)

簽訂日期：民國 80 年 11 月 15 日

生效日期：民國 80 年 11 月 15 日

Where as the Government of the Republic of China and the Government of the Republic of South Africa are desirous of promoting the development of scheduled international air services between their respective territories;

Now therefore the Government of the Republic of China and the Government of the Republic of South Africa, hereinafter referred to as "the Parties", have agreed as follows:

ARTICLE 1

DEFINITIONS

For the purpose of this Agreement, which shall include the Annex hereto, unless the context otherwise requires, the term -

(a) "aeronautical authority" means-

(i) in the case of the Republic of South Africa, the Minister of Transport; and

(ii) in the case of the Republic of China, the Minister of Transportation and Communications

or in both cases any person or body authorized to perform the same or similar functions at present exercised by the said Minister;

(b) "Convention" means the Convention on International Civil Aviation opened for signature at Chicago on the Seventh day of December 1944, and includes any Annex adopted under Article 90 of the Convention and any amendment of the Annexes of Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have become effective for or been notified by both Parties;

(c) "designated airline" means an airline which one Party has designated in writing to the other Party in accordance with Article 2 of this Agreement;

(d) "territory", "air set-vice", "international air service", "

airline" and "stop for non- traffic purposes" shall have the meanings respectively assigned to them in Article 2 and 96 of the Convention.

ARTICLE 2

GRANT OF RIGHTS

1. The Parties grant to each other the following rights for the operation of scheduled international air service by the airlines of the other party as specified in the Annex to this Agreement:
 - (a) the right to fly across its territory without landing;
 - (b) the right to make stops in its territory for non-traffic purposes; and
 - (c) the right to take up and set down in its territory, at the points specified in the Annex, international traffic in passengers, mail and cargo.
2. Nothing in paragraph 1 of this Article shall be deemed to confer on the designated airline of one Party the privilege of taking up, in the territory of the other Party, passengers, mail and cargo carried for remuneration or hire and destined for another point in the territory of that other Party unless specified in the Annex.

ARTICLE 3

MULTIPLE DESIGNATION AND AUTHORIZATION

1. Each Party shall have the right to designate in writing to the other Party any number of airlines which shall operate the agreed services on the routes specified in the Annex.
2. Each Party shall, subject to the provisions of Article 11 without undue delay, deliver appropriate operating authorization to the designated airlines of the other Party.
3. The designated airlines may, however, before being authorized to inaugurate an air service specified in the Annex, be required to satisfy the aeronautical authority of the other Party that they are qualified to comply with the conditions prescribed in the laws and regulations normally applied by that aeronautical authority.

4. Each Party reserves the right to withhold or revoke the grant of an operating authorization to a designated airline of the other Party when it is not satisfied that substantial ownership and effective control of that designated airline are vested in that other Party or in citizens of that other Party.

ARTICLE 4

CAPACITY REGULATION

1. There shall be fair and equal opportunity for the airlines of both Parties to operate agreed services on the specified routes between their respective territories.
2. In operating the agreed services, the airlines of each Party shall take into account the interests of the airlines of the other Party so as not to affect unduly the services which the latter provides on the whole or part of the same route.
3. The frequency of the scheduled services to be operated, the type of aircraft to be used and the capacity provided are determined in the Annex to its territory of passengers, crew, cargo or mail shall apply to passengers, crew, cargo or mail carried by the aircraft of the designated airlines of the other Party while they are within the said territory.
3. Passengers in transit across the territory of the one Party shall be subject to a simplified control.
4. Each Party agrees not to give preference to its own designated airlines over the designated airlines of the other Party in the application of its regulations concerning passports, passport control, visas, immigration, customs, quarantine, exchange control or other regulations affecting air transportation.

ARTICLE 7

STATISTICS

The designated airlines of a Party shall, at the request of the aeronautical authority of the other Party, supply such periodic or other statements of statistics as may be necessary to determine the volume of traffic carried on their services specified in the Annex and the origins and destinations of such traffic.

ARTICLE 8

SAFETY

1. Each Party shall recognize as valid, for the purpose of operating the air transportation provided for in this Agreement, certificates of airworthiness, certificates of competency, and licences issued or validated by the other Party and still in force, provided that the requirements for such certificates or licences at least equal the minimum standards which may be established pursuant to the Convention. Each Party may, however, refuse to recognize as valid for the purpose of flight above its own territory, certificates of competency and licences granted to or validated for its own nationals by the other Party.
2. Each Party may request consultations concerning the safety and security standards maintained by the other Party relating to aeronautical facilities, aircrew, aircraft, and operation of the designated airlines. If, following such consultations, one Party finds that the other Party does not effectively maintain and administer safety and security standards and requirements in these areas that at least equal the minimum standards which may be established pursuant to the Convention, the other Party shall be notified of such findings and the steps considered necessary to conform with these minimum standards; and the other Party shall take appropriate corrective action. Each Party reserves the right to withhold, revoke or limit the operating authorization or technical permission of the designated airlines of the other Party in the event the other Party does not take such appropriate action within a reasonable time.

ARTICLE 9

AVIATION SECURITY

1. The Parties reaffirm that their obligation to protect, in their mutual relationship, the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement.

2. The Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of aircraft and other unlawful acts against the safety of passengers, crew, aircraft, airports and air navigation facilities and any other threat to aviation security.
3. The Parties shall act in conformity with the provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970 and the Convention for the Suppression of Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.
4. The Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention on International Civil Aviation to the extent that such security provisions are applicable to the Parties. The Parties shall require that operators of aircraft of their registry or operators who have their principal place of business or permanent residence in their territory and the operators of airports in their territory act in conformity with such aviation security provisions.
5. Each Party agrees to observe the security provisions required by the other Party for entry into the territory of that other Party and to take adequate measures to inspect passengers, crew, their carry-on items as well as cargo prior to boarding or loading. Each Party shall also give positive consideration to any request from the other Party for special security measures for its aircraft or passengers to meet a particular threat.
6. When an incident or threat of an incident of unlawful seizure of aircraft or other unlawful acts against the safety of passengers, crew, aircraft, airports and air navigation facilities occurs, the Parties shall assist each other by facilitating communications and other appropriate measures intended to

terminate rapidly and safely such incident or threat thereof.

7. Should a Party depart from the aviation security provisions of this Article, the aeronautical authority of the other Party may request immediate consultations with the aeronautical authority of that Party in conformity with Article 13 of this Agreement. Failure to reach a satisfactory agreement within sixty (60) days may constitute grounds for implementation of Article 11 of this Agreement.

ARTICLE 10

CUSTOMS DUTIES AND TAXES

1. On arriving in the territory of one Party, aircraft operated in international air transportation by the designated airlines of the other Party, its regular aircraft equipment, fuel, lubrications, consumable technical supplies, spare parts including engines, aircraft stores (including but not limited to such items as food, beverages and liquor, tobacco and other products destined 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 operation or servicing of aircraft engaged in international air transportation shall be exempt, on the basis of reciprocity, from all import restrictions, property taxes and capital levies, customs duties, excise taxes, and similar fees and charges imposed by the national authorities, and not based on the cost of services provided, provided such equipment and supplies remain on board the aircraft.
2. There shall also be exemption, on the basis of reciprocity, from the taxes, duties, fees and charges referred to in paragraph (1) of this Article, with the exception of charges based on the cost of the service provided, as follows:
 - (a) aircraft stores introduced into or supplied in the territory of a Party and taken on board, within reasonable limits, for use on outbound aircraft of the designated airlines of the other Party engaged in international air transportation, even when these stores are to be used on a part

of the journey performed over the territory of the Party in which they are taken on board;

- (b) ground equipment and spare parts including engines introduced into the territory of a Party for the servicing, maintenance or repair of aircraft of the designated airlines of the other Party used in international air transportation; and
 - (c) fuel, lubricants and consumable technical supplies introduced into or supplied in the territory of a party for use in an aircraft of the designated airlines of the other Party engaged in international air transportation, even when these supplies are to be used on a part of the journey performed over the territory of the Party in which they are taken on board.
3. Equipment and supplies referred to in paragraphs (1) and (2) of this Article may be required to be kept under the supervision or control of the appropriate authorities.
4. The exemptions provided for by this Article shall also be available where the designated airlines of one Party has contracted with another airline, which similarly enjoys such exemptions from the other Party, for the loan or transfer in the territory of the Party of the items specified in paragraphs (1) and (2) of this Article.
5. Each Party shall use its best efforts to secure for the designated airlines of the other Party, on the basis of reciprocity, an exemption from taxes, duties, charges and fees imposed by State, regional and local authorities on the items specified in paragraphs (1) and (2) of this Article, as well as from fuel through-put charges, in the circumstances described in this Article, except to the extent that the charges are based on the actual cost of providing the service.

ARTICLE 11

REVOCATION AND SUSPENSION

Notwithstanding the provisions of Article 3, a Party shall have the right to revoke, suspend or limit by the imposition of cond-

itions, the operating authorization granted to the designated airlines of the other Party if those designated airlines, in operating their air service in terms of this Agreement, fail to comply with any law or regulation of the firstmentioned Party or fail to comply with any term or condition prescribed in this Agreement or in the Annex: Provided that unless immediate suspension is essential to prevent further infringement of a law or regulation or term or condition abovementioned, this right shall be exercised only after consultation with the other Party.

ARTICLE 12

REMISSION OF EARNINGS

Each Party confirms the right of the designated airlines of the other Party to transfer freely at the official rate of exchange to their respective territories only the excess of receipts over expenditure earned by those airlines in its territory in connection with the carriage of passengers, mail and cargo.

ARTICLE 13

CONSULTATIONS

1. In a spirit of close co-operation the Parties shall consult each other from time to time with a view to ensuring the implementation of and satisfactory compliance with the provisions of this Agreement and the Annex thereto and shall also consult each other when necessary to provide for modification thereof.
2. Either Party may request consultation with the other Party which may be through discussion or by correspondence and shall begin within a period of sixty (60) days of the date of the request, unless both Parties agree to an extension of this period.

ARTICLE 14

MODIFICATIONS

1. If either Party considers it desirable to modify any provision of this Agreement or its Annex, such modification(s), if agreed upon by the Parties, and if necessary after consultation in accordance with Article 13 of this Agreement, shall c-

- ome into effect when confirmed by an Exchange of Notes.
2. This Agreement and its Annex shall be modified by an Exchange of Notes so as to conform to any multilateral convention which may hereafter become binding on both Parties.

ARTICLE 15

ENTRY INTO FORCE

This amended Agreement with its Annex, replacing the Bilateral Air Services Agreement between the Government of the Republic of China and the Government of the Republic of South Africa signed on the eleventh day of March 1980 in Cape Town, shall enter into force upon signature by both parties and shall remain in force indefinitely unless twelve (12) months notice in writing of termination is given by either party to the other;.

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

DONE at Taipei, in duplicate, in the English language this fifteenth day of November, One Thousand Nine Hundred and Ninety One, corresponding to the fifteenth day of the eleventh month of the Eightieth year of the Republic of China.

FOR THE GOVERNMENT OF THE
REPUBLIC OF CHINA

(Signed)

DR. FREDRICK F. CHIEN
MINISTER OF FOREIGN AFFAIRS

FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

(Signed)

ROELOF FREDERIK BOTHA
MINISTER OF FOREIGN AFFAIRS

ANNEX

SECTION 1

ROUTES

The airlines designated to provide air transportation in accord-

ance with the Agreement shall be entitled to operate the following commercial air routes:

1. Routes for the airlines designated by the Republic of South Africa:

From Johannesburg and/or Durban via any intermediate point(s) to Taipei and/or Kaohsiung and vice versa.

There will be no traffic rights between Taipei and Kaohsiung.

2. Routes for the airlines designated by the Republic of China:

From Taipei and/or Kaohsiung via any intermediate point(s) to Johannesburg and/or Durban and vice versa.

There will be no traffic rights between Johannesburg and Durban.

3. These routes may also be extended to points beyond without traffic rights.

SECTION 2

STOP-OVER TRAFFIC RIGHTS

1. Stop-over traffic rights shall be considered traffic that interrupts its journey on the Johannesburg/Durban - Taipei/Kaohsiung routes at an intermediate point for onward connection to either the territory of the Republic of South Africa or the Republic of China.
2. Any designated airline of either Party shall be permitted to carry its own stop-over traffic between the intermediate point(s) and Taipei/Kaohsiung or Johannesburg/Durban provided that those traffic arrive at the intermediate point(s) using only the services of the applicable designated airline. Intermediate points will not serve as points of origin or destination of the traffic.
3. This concession may be terminated by either aeronautical authority with immediate effect should it be abused by any of the designated airlines.
4. Stop-over traffic rights will apply equally to the designated airlines of the respective aeronautical authorities: provided that such rights already afforded to the designated airlines of the one Party may be terminated if the designated airlines

of the other Party are unable to obtain similar rights at a specific point.

SECTION 3

FREQUENCY, CAPACITY AND TYPE OF AIRCRAFT

1. If more than one airline provides an air service on behalf of one Party on the same route, then these airlines shall share that Party's allotted frequencies.
2. The designated airlines of either Party may operate a total of two frequencies per week with any type of aircraft on the route specified.
3. With effect from November 1992 the designated airlines of either Party may increase its allotted frequency up to a total frequency of three (3) per week.
4. With effect from November 1993 the designated airlines of either Party may further increase these frequencies to a maximum number of six (6) frequencies per week: Provided, however, that the difference in number of frequencies offered per week by the respective Parties may never be more than one frequency per week.
5. Any change to the above rules shall be subject to Articles 13 and 14 of this Agreement.

SECTION 4

FIFTH FREEDOM TRAFFIC RIGHTS

No fifth freedom traffic rights will be allowed unless otherwise agreed.

FOR THE GOVERNMENT OF THE
REPUBLIC OF CHINA

(Signed)

DR. FREDRICK F. CHIEN

MINISTER OF FOREIGN AFFAIRS

FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

(Signed)

ROELOF FREDERIK BOTHA

MINISTER OF FOREIGN AFFAIRS



中華民國八十二年六月二十三日修正公布施行

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