



AIR SERVICES AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE'S  
REPUBLIC OF CHINA AND THE GOVERNMENT OF THE REPUBLIC OF KENYA

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

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December 1944 and;

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

Have agreed as follows:-



## ARTICLE I

### Definitions


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

- (a) the term "aeronautical authorities" means in the case of the Republic of Kenya, the Minister in charge of Civil Aviation, and in the case of the People's Republic of China, the Civil Aviation Administration of China or in both cases, any other person or body authorized to perform any functions presently exercised by the above-mentioned authorities;
- (b) the term "Agreement" means this Agreement, its Annex and any amendment thereto;
- (c) the term "agreed services" means international air services on the specified routes for the carriage of passengers, baggage, cargo and mail as agreed between the Contracting Parties;
- (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 an air service which passes through the air space over the territory of more than one state;
- (f) the term "airline" means any air transport enterprise offering or operating international air services;
- (g) the term "stop for non-traffic purpose" means a landing for any purpose other than taking on or discharging passengers, baggage, cargo or mail;
- (h) the term "designated airline" means an airline which has been designated and authorised in accordance with Article 3 of this Agreement;
- (i) the term "specified route" means the route specified in the Route Schedule annexed to this Agreement;
- (j) the term "Route Schedule" means the Route Schedule contained in the Annex to this Agreement:

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(k) 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;

(l) the term "capacity" means:

- 1) in relation to an aircraft, the payload of that aircraft available on a route or section of a route.
  - 2) in relation to a specified air service, the capacity of the aircraft used on such service multiplied by frequency operated by such aircraft over a given period on a route or section of a route.
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## ARTICLE 2

### Grant of Rights

1. Each Contracting Party grants to the other Contracting Party the rights hereinafter specified in this Agreement for the purpose of operating international air services on a specified route. Subject to the provisions of this Agreement, the designated airline of each Contracting Party, while operating an agreed service on a specified route, shall enjoy the following rights:
  - (a) to fly without landing across the territory of the other Contracting Party along the air route(s) prescribed by the aeronautical authorities of the other Contracting Party;
  - (b) to make stops for non-traffic purpose in the said territory at point(s) to be agreed by the aeronautical authorities of the other Contracting Party; and
  - (c) to make stops at the point on the specified route 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.
  
2. Nothing in paragraph (1) of this Article shall be deemed to confer on the designated airline of one Contracting Party the privilege of embarking, in the territory of the other Contracting Party, passengers, baggage, cargo and mail carried for remuneration or hire and destined for another point in the territory of that Contracting Party.

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### ARTICLE 3

#### Designation and Authorisation

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one airline for the purpose of operating the agreed services on the specified route in the Route Schedule.
2. On receipt of such designation, the aeronautical authorities of the other Contracting Party shall without delay, subject to the provisions of paragraph (4) and (5) of this Article, grant to the airline designated in accordance with paragraph 1 of this Article the appropriate operating authorisation.
3. The substantial ownership and effective control of the airline designated by each Contracting Party shall remain vested in such Contracting Party or its nationals.
4. The aeronautical authorities of one Contracting Party may require the airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and the regulations normally applied to the operation of international air services by such authorities.
5. Each Contracting Party shall have the right to refuse to grant the operating authorisation 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 2 of this Agreement; in any case where the said Contracting Party is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals:
6. After an airline has been so designated and authorized, it may commence operation of the agreed service from a date to be agreed upon through consultations between the designated airlines of both Contracting Parties in accordance with the provisions of Article 8.

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ARTICLE 4

Revocation or Suspension of Operating Authorisation

1. Each Contracting Party shall have the right to revoke an operating authorisation or to suspend the exercise of the rights granted under this Agreement to the airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of these rights, in any of the following cases:-
  - (a) where it is not satisfied that substantial ownership and effective control of the airline are vested in the Contracting Party designating the airline or its nationals; or
  - (b) where that airline fails to comply with the laws and the regulations in force in the territory 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 the laws or the regulations or the provisions of this Agreement, such right shall be exercised only after consultation with the other Contracting Party.

ARTICLE 5

Entry and Clearance Regulations

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 into, 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.

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**ARTICLE 6**



**Documents to be carried on Board Aircraft**

The aircraft of the designated airline of either Contracting Party operating on the specified route shall bear its nationality and registration marks and carry on board the following certificates and documents:-

- (a) Certificate of registration;
- (b) Certificate of airworthiness;
- (c) journey log sheet;
- (d) aircraft radio station licence;
- (e) Licences or certificates for each member of the crew;
- (f) List of crew members;
- (g) List of passengers giving the places of departure and destination;
- (h) Manifest of cargo and mail;
- (i) general declaration;
- (j) Any other document required by the laws of the other Contracting Party.

ARTICLE 7

Aviation Security

1. The Contracting Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement
  2. The Contracting Parties shall provide upon request all necessary assistance to each other to prevent acts of 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 any other threat to the security of civil aviation.
  3. Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to boarding or loading. Each Contracting Party shall also give sympathetic consideration to any request from the other Contracting Party for reasonable special security measures to meet a particular threat.
  4. When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of such aircraft, their passengers and crew, airports or air navigation facilities occurs, the Contracting Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.
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ARTICLE 8

Approval of Timetables

The designated airline of either Contracting Party shall, not later than 30 days prior to the date of operation of any agreed service, submit its proposed timetables to the aeronautical authorities of the other Contracting Party for their approval. Such timetables shall include all relevant information, including the type of service and aircraft to be used and the flight schedules.

In case the designated airline of one Contracting Party desires to operate an additional flight on the specified route, it shall submit an application to the aeronautical authorities of the other Contracting Party. The flight can be operated only after approval has been obtained. The said application shall be submitted not later than 72 hours before the take-off of such flight.

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**ARTICLE 9**

**Principles Governing Operating of Agreed Services**

1. The designated airlines of the two Contracting Parties shall in keeping with the principle of equality and mutual benefit be afforded fair and equal opportunity in the operation of the agreed services. They shall take into account their mutual interests so as not to affect unduly their respective services.
2. The operation of the agreed services between the territories of the Contracting Parties in both directions along the specified routes constitutes a basic and primary right of the Contracting Parties. The right to embark or disembark from such services international traffic destined for or coming from points in third countries shall be of a supplementary nature.
3. For the operation of the agreed services:
  - (a) the total capacity provided on each of the specified routes shall be determined having regard to the actual and reasonably anticipated traffic requirements.
  - (b) the capacity to be provided on the specified routes shall be such as is from time to time jointly determined by the Contracting Parties.
  - (c) Provision may also be made by the Contracting Parties for the carriage of passengers and cargo including mail, taken on board or discharged at points on the specified routes in the territories of States other than the Contracting Parties. In doing so, the following factors shall be taken into account;

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- (i) traffic requirements to and from the territory of the Contracting Party which has designated the airline;
- (ii) traffic requirements of the area through which the airline passes, after taking account of other transport service established by airlines of the states comprising the area; and,
- (iii) the requirements of through airline operation if any.

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ARTICLE 10

Customs Duties and Taxes

1. Aircraft of the designated airline(s) of either Contracting Party engaged in the operation of the agreed services, as well as their regular equipment, spare parts, fuel, 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 operation or servicing of the aircraft, which are retained on board such aircraft shall be granted exemption by the competent authorities on the basis of equality and reciprocity from import and export customs duties, inspection fees and other taxes on arrival in and departure from the territory of the other Contracting Party.
  
2. The following shall also be exempt on the basis of equality and reciprocity from import and export customs duties, inspection fees and other taxes, with the exception of charges based on the actual cost of the service provided:
  - (a) aircraft store introduced into or supplied in the territory of a Contracting Party and taken on board within reasonable limits, for use on aircraft of a designated airline of the other Contracting Party engaged in the operation of the agreed services, even when these stores are to be used on a part of the journey performed over the territory of the Contracting Party in which they are taken on board;
  
  - (b) spare parts including engines introduced into the territory of a Contracting Party for the servicing, maintenance or repair of aircraft of a designated airline of the other Contracting Party used in the operation of the agreed services; and
  
  - (c) fuel, lubricants and consumable technical supplies introduced into or supplied in the territory of a Contracting Party for use in an aircraft of a designated airline of the other Contracting Party engaged in the operation of the agreed services, even when these supplies are to be used on a part of the

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

3. Aircraft stores, equipment and supplies referred to in paragraph 1 of this Article retained on board the aircraft of the designated airline (s) of either Contracting Party engaged in the operation of the agreed services may be unloaded in the territory of the other Contracting Party with the approval of the customs authorities of that other Contracting Party. The aircraft stores, equipment and supplies unloaded, as well as aircraft stores, equipment and supplies introduced into the territory of the other Contracting Party referred to in paragraph 2 of this Article, shall be subject to the supervision or control of the said authorities, and, if required, to fair and reasonable storage charges, up to such time as they are re-exported or otherwise disposed of in accordance with the regulations of each authority.
4. The exemptions provided for by this Article shall also be available where a designated airline of one Contracting Party has contracted with another airline, which similarly enjoys such exemptions from the other Contracting Party, on loan in the territory of the Contracting Party of the items specified in paragraphs 1 and 2 of this Article. Sale of any such item within the territory of one Contracting Party shall be subject to the regulations prescribed by the competent authorities of the other Contracting Party.
5. Passengers, baggage and cargo in direct transit across the territory of one Contracting Party and not leaving the area of the airport reserved for such purpose shall at the utmost be subject to a very simplified control. Baggage and cargo in direct transit shall be exempt from duties and taxes.

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ARTICLE 11

Provision of Technical Services and Rate of Charges

1. Each Contracting Party shall designate in its territory regular airport and alternate airports for use by the designated airline of the other Contracting Party in its operation of the agreed service on the specified route, and shall provide that airline with such communications, navigational, meteorological and other auxiliary services necessary for the said operations. Where necessary, detailed arrangements relating to the above may be agreed between the aeronautical authorities of both Contracting Parties.
  
2. The designated airline of each Contracting Party shall be charged for the use of airports, facilities and technical services of the other Contracting Party. Such rates shall not be higher than those paid by the airline of the other Contracting Party or airlines of other States engaged in international air services for the use of similar facilities and services.

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## ARTICLE 12

### Tariffs

1. The tariffs to be charged by the designated airline of one Contracting Party for carriage to or from the territory of the other Contracting Party shall be established at reasonable levels, due regard being paid to all relevant factors, including cost of operation, reasonable profit, characteristics of service and the tariffs of other airlines.
2. The tariffs referred to in paragraph 1 of this Article shall be agreed by the designated airlines of both Contracting Parties after consultation, when necessary and possible, with the other airlines operating over the whole or part of the route.
3. The tariffs so agreed shall be submitted for approval of the aeronautical authorities of both Contracting Parties 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 the designated airlines cannot agree on any of these tariffs the aeronautical authorities of the Contracting Parties shall try to determine the tariffs by agreement between themselves.
5. If the aeronautical authorities cannot agree on the approval of any tariff submitted to them under paragraph 3 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 17 of this Agreement.
6. 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:

- (a) where a tariff has a terminal date, for more than 12 months after that date;
- (b) where a tariff has no terminal date, for more than 12 months after the date on which the designated airline of one Contracting Party proposes in writing a new tariff to the aeronautical authorities of the Contracting Parties, in accordance with the provisions of this Agreement.

7. The designated airlines shall conform to the tariffs approved by the aeronautical authorities of the Contracting Parties and no airline shall reduce any portion of such tariffs by any means directly or indirectly.



ARTICLE 13

Representation and Personnel

1. For the purpose of operating the agreed services on the specified route, the designated airline of each Contracting Party shall have the right, on reciprocal basis, to set up representation at the point of call on the specified route within the territory of the other Contracting Party. The staff of the representation referred to in this paragraph shall be subject to the laws and regulations in force in the country where such representation is located.
2. The staff members of the representation of the designated airline of each Contracting Party shall be nationals of either Contracting Party, unless otherwise agreed. The number of such staff shall be determined between the aeronautical authorities of both Contracting Parties.
3. Each Contracting Party shall to the maximum extent practicable ensure the safety of the representation and its members of the designated airline of the other Contracting Party, and safeguard the aircraft, stores and other properties of the said airline within its territory for use in the operation of the agreed services.
4. Each Contracting Party shall extend assistance and facilities where possible to the representation and its staff members of the designated airline of the other Contracting Party necessary for the efficient operation of the agreed services.
5. The crew members of the designated airline of either Contracting Party on flights into and out of the territory of the other Contracting Party shall be nationals of the Contracting Party designating such airline. If the designated airline of either Contracting Party desires to employ crew members of any other nationality on flights into and out of the territory of the other Contracting Party, prior approval shall be obtained from that other Contracting Party.

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ARTICLE 14

Transfer of Airline Earnings

Either Contracting Party undertakes to grant the designated airline of the other Contracting Party the right for free transfer, at the official rate of exchange, of the excess of receipt over expenditure achieved on its territory in connection with the carriage of passengers, baggage, cargo and mail by the said designated airline. The transfer of such funds shall be made in any convertible currency and in accordance with the foreign exchange regulation of the Contracting Party in the territory of which the revenue is accrued.

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ARTICLE 15

Avoidance of Double Taxation

The revenues and profits derived in the territory of either Contracting Party from the operation of international air transportation by the designated airline of the other Contracting Party shall be exempt from all taxes and other duties in the said territory.

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ARTICLE 16

Provision of Statistics

The aeronautical authorities of a Contracting Party shall supply to the aeronautical authorities of the other Contracting Party on request with periodic statistics or other similar information relating to the traffic carried on the agreed services by the respective designated airlines.

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ARTICLE 17  
Consultations

1. In a spirit of close cooperation, the aeronautical authorities of the Contracting Parties shall consult each other from time to time with a view of ensuring the implementation of, and satisfactory compliance with, the provisions of this Agreement and the Annex hereto and shall consult when necessary to provide for modification thereof.
  
2. Either Contracting Party may request consultations which may be oral or in writing. Such consultations shall begin within a period of sixty (60) days of the date of the request unless both Contracting Parties agree to an extension of this period.

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ARTICLE 18

Settlement of Disputes

If any difference of opinion arises in respect of the interpretation or implementation of this Agreement, and its Annexes, the designated airlines of both Contracting Parties shall, where appropriate, endeavour to settle it directly through consultation in a spirit of friendly cooperation 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 consultations. If a settlement still cannot be reached, the Contracting Parties shall endeavour to settle it by direct consultation.

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ARTICLE 19

Amendments

If either of the Contracting Parties considers it desirable to amend any provision of this Agreement including the Route Schedule, it may request consultation with the other Contracting Party. This consultation, which may be between the aeronautical authorities or by correspondence, shall begin within a period of sixty (60) days from the date of receipt of the request.

Any amendment or modification of this Agreement agreed by the Contracting Parties shall come into effect on a date to be determined in an exchange of diplomatic notes, indicating that all necessary internal procedures have been completed by both Contracting Parties.

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ARTICLE 20

Titles

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

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ARTICLE 21

Termination

Either Contracting Party may at any time give notice in writing to the other Contracting Party of its decision to terminate this Agreement. In such case this Agreement shall terminate twelve (12) months after the date when the notice has been received by the other Contracting Party unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of acknowledgement of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen (14) days after the date of the notice.

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ARTICLE 22


Entry into Force

This Agreement will enter into force on a date to be determined in an exchange of diplomatic notes indicating that all necessary internal procedures have been completed by both Contracting Parties.

In witness whereof the undersigned, being duly authorized by their respective Government, have signed the present Agreement.

Done in duplicate at ....., this ..... day of ....., in the English and Chinese languages, both texts being equally authentic.

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FOR THE GOVERNMENT OF  
THE PEOPLE'S REPUBLIC  
OF CHINA

  
FOR THE GOVERNMENT OF  
THE REPUBLIC OF  
KENYA