

AGREEMENT BETWEEN THE GOVERNMENT OF THE  
HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE  
PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE  
REPUBLIC OF KENYA CONCERNING AIR SERVICES

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Agreement

between the Government of the Hong Kong Special Administrative  
Region of the People's Republic of China and  
The Government of the Republic of Kenya  
Concerning Air Services

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CONCERNING AIR SERVICES

The Government of the Hong Kong Special Administrative Region of the  
People's Republic of China ("the Hong Kong Special Administrative  
Region") and the Government of the Republic of Kenya ("Kenya")  
(hereinafter referred to as the "Contracting Parties"),

Desiring to conclude an Agreement for the purpose of providing the  
framework for air services between the Hong Kong Special Administrative  
Region and Kenya,

Have agreed as follows :

ARTICLE 1

Definitions

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

- (a) the term "aeronautical authorities" means in the case of the  
Hong Kong Special Administrative Region, the Director-  
General of Civil Aviation, and in the case of Kenya, the  
Minister of Transport and Communications, or, in both cases,  
any person or body authorised to perform any functions, at  
present exercisable by the above-mentioned authorities or  
similar functions;
- (b) the term "designated airline" means an airline which has been  
designated and authorised in accordance with Article 4 of this  
Agreement;
- (c) the term "area" in relation to the Hong Kong Special  
Administrative Region includes Hong Kong Island, Kowloon  
and the New Territories and in relation to Kenya has the

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meaning assigned to "territory" in Article 2 of the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944;

- (d) the terms "air service", "international air service", "airline" and "stop for non-traffic purposes" have the meanings respectively assigned to them in Article 96 of the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944;
- (e) the term "this Agreement" includes the Annex hereto and any amendments to it or to this Agreement.

**ARTICLE 2**

**Provisions of the Chicago Convention Applicable to  
International Air Services**

In implementing this Agreement, the Contracting Parties shall act in conformity with the provisions of the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944, including the Annexes and any amendments to the Convention or to 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 grants to the other Contracting Party the following rights in respect of its international air services :

- (a) the right to fly across its area without landing;
- (b) the right to make stops in its area for non-traffic purposes.

(2) 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 the routes specified in the appropriate Section of the Annex to this Agreement. Such services and routes are hereinafter called "the agreed services" and "the specified routes" respectively. While operating an agreed service on a specified route the designated airlines of each Contracting Party shall enjoy in addition to the rights specified in

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paragraph (1) of this Article the right to make stops in the area of the other Contracting Party at points determined for that route in accordance with the Annex to this Agreement for the purpose of taking on board and discharging passengers and cargo, including mail, separately or in combination.

(3) Nothing in paragraph (2) of this Article shall be deemed to confer on the designated airlines of one Contracting Party the right to take on board, at one point in the area of the other Contracting Party, passengers and cargo, including mail, carried for hire or reward and destined for another point in the area of the other Contracting Party.

(4) If because of armed conflict, political disturbances or developments, or special and unusual circumstances, a designated airline of one Contracting Party is unable to operate a service on its normal routing, the other Contracting Party shall use its best efforts to facilitate the continued operation of such service through appropriate temporary rearrangements of routes.

**ARTICLE 4**

**Designation of and Authorisation of Airlines**

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

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

(3) (a) The Government of the Hong Kong Special Administrative Region shall have the right to refuse to grant the operating authorisations 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(2) of this Agreement, in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Government of Kenya or its nationals.

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- (b) The Government of Kenya shall have the right to refuse to grant the operating authorisations 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(2) of this Agreement, in any case where it is not satisfied that that airline is incorporated and has its principal place of business in the Hong Kong Special Administrative Region.
- (4) 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 to the operation of international air services by such authorities.
- (5) When an airline has been so designated and authorised it may begin to operate the agreed services, provided that the airline complies with the applicable provisions of this Agreement.

ARTICLE 5

Revocation or Suspension of Operating Authorisation

- (1) Each Contracting Party shall have the right to revoke or suspend an operating authorisation for the exercise of the rights specified in Article 3(2) of this Agreement by an airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of those rights:
  - (a)
    - (i) in the case of the Government of the Hong Kong Special Administrative Region, in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Government of Kenya or its nationals;
    - (ii) in the case of the Government of Kenya, in any case where it is not satisfied that that airline is incorporated and has its principal place of business in the Hong Kong Special Administrative Region; or
  - (b) in the case of failure by that airline to comply with the laws or regulations of the Contracting Party granting those rights; or

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

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

**ARTICLE 6**

**Principles Governing Operation of Agreed Services**

(1) There shall be fair and equal opportunity for the designated airlines of the 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 the whole or part of the same routes.

(3) The agreed services provided by the designated airlines of the Contracting Parties shall bear a close relationship to the requirements of the public for transportation on the specified routes and shall have as their primary objective the provision at a reasonable load factor of 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 which has designated the airline. Provision for the carriage of passengers and cargo, including mail, both taken on board and discharged at points on the specified routes other than points in the area of the Contracting Party which designated the airline shall be made in accordance with the general principles that capacity shall be related to :

- (a) traffic requirements to and from the area of the Contracting Party which has designated the airline;
- (b) traffic requirements of the region through which the agreed service passes, taking account of other air services established by airlines of the States comprising that region; and
- (c) the requirements of through airline operation.



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- (4) The capacity to be provided on the specified routes shall be such as is from time to time jointly determined by the Contracting Parties.

ARTICLE 7

Recognition of Certificates and Licences

Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Contracting Party and still in force shall be recognised as valid by the other Contracting Party for the purpose of operating the agreed services provided that such certificates or licences were issued or rendered valid pursuant to, and in conformity with, the minimum standards established under the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944.

ARTICLE 8

Tariffs

- (1) The term "tariff" means one or more of the following :
- (a) 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;
  - (b) the rate charged by an airline for the carriage of cargo (excluding mail) on scheduled air services;
  - (c) the conditions governing the availability or applicability of any such fare or rate including any benefit attaching to it; and
  - (d) the rate of commission paid by an airline to an agent in respect of tickets sold or air waybills completed by that agent for carriage on scheduled air services.
- (2) The tariffs to be charged by the designated airlines of the Contracting Parties for carriage between the Hong Kong Special Administrative Region and Kenya shall be those approved by the aeronautical authorities of both Contracting Parties and shall be established at reasonable levels, due regard being had to all relevant factors, including the cost of operating the agreed services, the interests of users, reasonable

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profit and the tariffs of other airlines operating over the whole or part of the same route.

(3) The tariffs referred to in paragraph (2) of this Article may be agreed by the designated airlines of the Contracting Parties seeking approval of the tariffs, which may consult other airlines operating over the whole or part of the same route, before proposing such tariffs. However, a designated airline shall not be precluded from proposing, nor the aeronautical authorities of the Contracting Parties from approving, any tariff, if that airline shall have failed to obtain the agreement of the other designated airlines to such tariff, or because no other designated airline is operating on the same route. References in this and the preceding paragraph to "the same route" are to the route operated, not the specified route.

(4) Any proposed tariff for carriage between the Hong Kong Special Administrative Region and Kenya shall be filed with the aeronautical authorities of the Contracting Parties by the designated airline or airlines seeking its approval in such form as the aeronautical authorities may separately require to disclose the particulars referred to in paragraph (1) of this Article. It shall be filed not less than 60 days (or such shorter period as the aeronautical authorities of the Contracting Parties may agree) before the proposed effective date. The proposed tariff shall be treated as having been filed with the aeronautical authorities of a Contracting Party on the date on which it is received by those aeronautical authorities.

(5) Any proposed tariff may be approved by the aeronautical authorities of a Contracting Party at any time and, provided it has been filed in accordance with paragraph (4) of this Article, shall be deemed to have been approved by the aeronautical authorities of that Contracting Party unless, within 30 days (or such shorter period as the aeronautical authorities of the Contracting Parties may agree) after the date of filing, the aeronautical authorities of one Contracting Party have served on the aeronautical authorities of the other Contracting Party written notice of disapproval of the proposed tariff.

(6) If a notice of disapproval is given in accordance with the provisions of paragraph (5) of this Article, the aeronautical authorities of the Contracting Parties may jointly determine the tariff. For this purpose, one Contracting Party may, within 30 days of the service of the notice of disapproval, request consultations between the aeronautical authorities of the Contracting Parties which shall be held within 30 days from the date the other Contracting Party receives such request in writing.



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(7) If a tariff has been disapproved by the aeronautical authorities of a Contracting Party in accordance with paragraph (5) of this Article, and if the aeronautical authorities of the Contracting Parties have been unable jointly to determine the tariff in accordance with paragraph (6) of this Article, the dispute may be settled in accordance with the provisions of Article 19 of this Agreement.

(8) Subject to paragraph (9) of this Article, a tariff established in accordance with the provisions of this Article shall remain valid until a replacement tariff has been established.

(9) Except with the agreement of the aeronautical authorities of both Contracting Parties, and for such period as they may agree, the validity of a tariff shall not be prolonged by virtue of paragraph (8) of this Article :

- (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 a replacement tariff is filed with the aeronautical authorities of the Contracting Parties by a designated airline of a Contracting Party.
- (10) (a) The tariffs to be charged by the designated airlines of the Hong Kong Special Administrative Region for carriage between Kenya and another State shall be subject to approval by the aeronautical authorities of Kenya and, where appropriate, of the other State. The tariffs to be charged by the designated airlines of Kenya for carriage between the Hong Kong Special Administrative Region and a State other than Kenya shall be subject to approval by the aeronautical authorities of the Hong Kong Special Administrative Region and, where appropriate, of the other State.
- (b) Any proposed tariff for such carriage shall be filed by the designated airline of one Contracting Party seeking approval of such tariff with the aeronautical authorities of the other Contracting Party. It shall be filed in such form as those aeronautical authorities may require to disclose the particulars referred to in paragraph (1) of this Article and not less than 90 days (or such shorter period as they may decide) prior to the proposed effective date. The proposed tariff shall be treated as having been filed on the date on which it is received by those aeronautical authorities.

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- (c) Such tariff may be approved at any time by the aeronautical authorities of the Contracting Party with whom it has been filed and shall be deemed to have been approved by them unless, within 30 days after the date of filing, they have served on the designated airline seeking approval of such tariff written notice of disapproval.
- (d) The aeronautical authorities of a Contracting Party may withdraw approval of any such tariff approved or deemed to be approved by them on giving 90 days' notice to the designated airline charging such tariff. That airline shall cease to charge such tariff at the end of that period.

(11) Notwithstanding the provisions of paragraphs (5) and (10)(c) of this Article, the aeronautical authorities of a Contracting Party shall not disapprove any proposed tariff filed with them by a designated airline which corresponds (e.g. in price level, conditions and date of expiry but not necessarily the routing being used) to the tariff charged by an airline of that Contracting Party for comparable services between the same points or is more restrictive or higher than that tariff.

**ARTICLE 9**

**Customs Duties**

(1) Aircraft operated in international air services by the designated airlines of one Contracting Party, their regular equipment, fuel, lubricants, consumable technical supplies, spare parts including engines, and aircraft stores (including but not limited to such items as food, beverages and tobacco) which are on board such aircraft shall be exempted by the other Contracting Party on the basis of reciprocity from all customs duties, excise taxes and similar fees and charges not based on the cost of services provided on arrival, provided such regular equipment and such other items remain on board the aircraft.

(2) Regular equipment, fuel, lubricants, consumable technical supplies, spare parts including engines, aircraft stores (including but not limited to such items as food, beverages and tobacco), printed ticket stock, air waybills, any printed material which bears insignia of a designated airline of one Contracting Party and usual publicity material distributed without charge by that designated airline, introduced into the area of the other Contracting Party by or on behalf of that designated airline or taken on

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board the aircraft operated by that designated airline, shall be exempted by the other Contracting Party on the basis of reciprocity from all customs duties, excise taxes and similar fees and charges not based on the cost of services provided on arrival, even when such regular equipment and such other items are to be used on any part of a journey performed over the area of the other Contracting Party.

(3) The regular equipment and the other items referred to in paragraphs (1) and (2) of this Article may be required to be kept under the supervision or control of the customs authorities of the other Contracting Party.

(4) The regular equipment and the other items referred to in paragraph (1) of this Article may be unloaded in the area of the other Contracting Party with the approval of the customs authorities of that other Contracting Party. In these circumstances, such regular equipment and such items shall enjoy, on the basis of reciprocity, the exemptions provided for by paragraph (1) of this Article until they are re-exported or otherwise disposed of in accordance with customs regulations. The customs authorities of that other Contracting Party may however require that such regular equipment and such items be placed under their supervision up to such time.

(5) The exemptions provided for by this Article shall also be available in 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 regular equipment and the other items referred to in paragraphs (1) and (2) of this Article, provided that that other airline or airlines similarly enjoy such exemptions from that other Contracting Party.

(6) Baggage and cargo in direct transit across the area of a Contracting Party shall be exempt from customs duties, excise taxes and similar fees and charges not based on the cost of services provided on arrival.

**Article 10**

**Avoidance of Double Taxation**

(1) Income or profits derived from the operation of aircraft in international traffic by an airline of one Contracting Party, including participation in a pool service, a joint air transport operation or an international operating agency, which are subject to tax in the area of that Contracting Party shall be exempt from income tax, profits tax and all other

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taxes on income or profits imposed in the area of the other Contracting Party.

(2) Capital and assets of an airline of one Contracting Party relating to the operation of aircraft in international traffic shall be exempt from taxes of every kind and description on capital and assets imposed in the area of the other Contracting Party.

(3) Gains from the alienation of aircraft operated in international traffic and movable property pertaining to the operation of such aircraft which are received by an airline of one Contracting Party shall be exempt from any tax on gains imposed in the area of the other Contracting Party.

(4) For the purposes of this Article:

(a) the term "income or profits" includes revenues and gross receipts from the operation of aircraft for the carriage of persons, livestock, goods, mail or merchandise in international traffic including:

(i) the charter or rental of aircraft;

(ii) the sale of tickets or similar documents, and the provision of services connected with such carriage, either for the airline itself or for any other airline; and

(iii) interest on funds directly connected with the operation of aircraft in international traffic;

(b) the term "international traffic" means any carriage by an aircraft except when such carriage is solely between places in the area of the other Contracting Party;

(c) the term "airline of one Contracting Party" means, in the case of the Hong Kong Special Administrative Region, an airline incorporated and having its principal place of business in the Hong Kong Special Administrative Region and, in the case of Kenya, an airline substantially owned and effectively controlled by the Government of Kenya or its nationals;

(d) the term "competent authority" means, in the case of the Hong Kong Special Administrative Region, the Commissioner of Inland Revenue or his authorised representative, or any person or body authorised to perform any functions at present

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exercisable by the Commissioner or similar functions, and, in the case of Kenya, the Minister for Finance or any person or body authorised to perform any functions at present exercisable by the Minister for Finance or similar functions.

(5) The competent authorities of the Contracting Parties shall, through consultation, endeavour to resolve by mutual agreement any disputes regarding the interpretation or application of this Article. Article 19 (Settlement of Disputes) shall not apply to any such dispute.

(6) Notwithstanding Article 23 (Entry into Force) each Contracting Party shall notify to the other the completion of the procedures required by its law for the bringing into force of this Article and the Article shall enter into force on the date of the last written notification. The Article shall then be applied :

- (a) in the Hong Kong Special Administrative Region, for any year of assessment beginning on or after 1st April in the calendar year next following that in which this Agreement or this Article enters into force, whichever is the later;
- (b) in Kenya, for any year of assessment beginning on or after 1st July in the calendar year next following that in which this Agreement or this Article enters into force, whichever is the later.

(7) Notwithstanding Article 21 (Termination) where notice of termination of this Agreement is given under that Article, this Article shall cease to have effect :

- (a) in the Hong Kong Special Administrative Region, for any year of assessment beginning on or after 1st April in the calendar year next following that in which notice is given;
- (b) in Kenya, for any year of assessment beginning on or after 1st July in the calendar year next following that in which notice is given.

(8) This Article shall cease to have effect in the event that an agreement for the avoidance of double taxation with respect to taxes on income, providing for similar exemptions to those in this Article, enters into force between the Contracting Parties.



ARTICLE 11

Aviation Security

(1) Each Contracting Party reaffirms that its obligation to the other Contracting Party to protect the security of civil aviation against unlawful interference forms an integral part of this Agreement. Each Contracting Party shall in particular act in conformity 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, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971 and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988.

(2) Each Contracting Party shall be provided at its request with all necessary assistance by the other Contracting Party 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) The Contracting Parties shall, in their mutual relations, act in conformity with the applicable aviation security provisions established by the International Civil Aviation Organisation and designated as Annexes to the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944. Each Contracting Party shall require that operators of aircraft of its registry or operators of aircraft having their principal place of business or permanent residence in its area, and the operators of airports in its area, act in conformity with such aviation security provisions.

(4) Each Contracting Party agrees that such operators of aircraft may be required to observe the aviation security provisions referred to in paragraph (3) of this Article required by the other Contracting Party for entry into, departure from, or while within the area of that other Contracting Party. Each Contracting Party shall ensure that adequate measures are effectively applied 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 reasonable special security measures to meet a particular threat.



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(5) 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, each Contracting Party shall assist the other Contracting Party by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

**ARTICLE 12**

**Timetable**

(1) The designated airlines of each Contracting Party shall submit to the aeronautical authorities of the other Contracting Party for approval, at least 30 days in advance, the timetable of its agreed services, specifying the relevant information including the frequency, type of aircraft, configuration and number of seats to be made available to the public.

(2) Any subsequent changes to the approved timetables of the designated airlines shall be submitted for approval to the aeronautical authorities of the other Contracting Party.

(3) If the designated airlines of one Contracting Party wish to operate services supplementary to those covered in the approved timetables, they shall obtain the prior permission of the aeronautical authorities of the other Contracting Party.

**ARTICLE 13**

**Aviation Safety**

Each Contracting Party may request consultations concerning the safety standards maintained by the other Contracting Party relating to aeronautical facilities, aircrew, aircraft, and operation of the designated airlines. If, following such consultations, one Contracting Party finds that the other Contracting Party has failed to maintain and administer safety standards in these areas which may be established pursuant to the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944, the other Contracting Party shall be notified of such findings and the steps considered necessary to conform with these standards; and the other Contracting Party shall take appropriate corrective action within a reasonable period.

## ARTICLE 14

### Provision of Statistics

The aeronautical authorities of each Contracting Party shall, on request, provide such periodic or other 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 that Contracting Party to the aeronautical authorities of the other Contracting Party. Such statements shall include all information required to determine the amount of traffic carried by those airlines on the agreed services and the origins and destinations of such traffic.

## ARTICLE 15

### Conversion and Remittance of Revenue

(1) The designated airlines of the Hong Kong Special Administrative Region shall have the right to convert and remit to the Hong Kong Special Administrative Region from Kenya on demand local revenues in excess of sums locally disbursed. The designated airlines of Kenya shall have the right to convert and remit to Kenya from the Hong Kong Special Administrative Region on demand local revenues in excess of sums locally disbursed.

(2) The conversion and remittance of such revenues shall be permitted without restriction at the rate of exchange applicable to current transactions which is in effect at the time such revenues are presented for conversion and remittance, and shall not be subject to any charges except those normally made by banks for carrying out such conversion and remittance.

## ARTICLE 16

### Airline Representation and Sales

(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 those of their own managerial, technical, operational and other specialist staff who are required for the provision of air transportation.

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(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 through agents. The designated airlines of each Contracting Party shall have the right to sell, and any person shall be free to purchase, such transportation in local currency or in any freely convertible other currency.

**ARTICLE 17**

**User Charges**

(1) The term "user charge" means a charge made to airlines by the competent authorities or permitted by them to be made for the provision of airport property or facilities or of air navigation facilities, including related services and facilities, for aircraft, their crews, passengers and cargo.

(2) A Contracting Party shall not impose or permit to be imposed on the designated airlines of the other Contracting Party user charges higher than those imposed on its own airlines operating similar international air services.

(3) Each Contracting Party shall encourage consultation on user charges between its competent charging authorities and airlines using the services and facilities provided by those charging authorities, where practicable through those airlines' representative organisations. Reasonable notice of any proposals for changes in user charges should be given to such users to enable them to express their views before changes are made. Each Contracting Party shall further encourage its competent charging authorities and such users to exchange appropriate information concerning user charges.

**ARTICLE 18**

**Consultation**

One Contracting Party may at any time request consultations on the implementation, interpretation, application or amendment of this Agreement. Such consultations, which may be between the aeronautical authorities of the Contracting Parties, shall begin within 60 days from the date the other Contracting Party receives such request in writing, unless otherwise agreed by the Contracting Parties.

ARTICLE 19

Settlement of Disputes

(1) If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement, the Contracting Parties shall in the first place try to settle it by negotiation.

(2) If the Contracting Parties fail to reach a settlement of the dispute by negotiation, it may be referred by them to such person or body as they may agree on or, at the request of a Contracting Party, shall be submitted for decision to a tribunal of three arbitrators which shall be constituted in the following manner :

- (a) within 30 days after receipt of a request for arbitration, each Contracting Party shall appoint one arbitrator. A national of a State which can be regarded as neutral in relation to the dispute, who shall act as President of the tribunal, shall be appointed as the third arbitrator by agreement between the two arbitrators, within 60 days of the appointment of the second;
- (b) if within the time limits specified above any appointment has not been made, a Contracting Party may request the President of the Council of the International Civil Aviation Organisation to make the necessary appointment within 30 days. If the President considers that he is a national of a State which cannot be regarded as neutral in relation to the dispute, the most senior Vice-President who is not disqualified on that ground shall make the appointment.

(3) Except as hereinafter provided in this Article or as otherwise agreed by the Contracting Parties, the tribunal shall determine the limits of its jurisdiction and establish its own procedure. At the direction of the tribunal, or at the request of a Contracting Party, a conference to determine the precise issues to be arbitrated and the specific procedures to be followed shall be held not later than 30 days after the tribunal is fully constituted.

(4) Except as otherwise agreed by the Contracting Parties or prescribed by the tribunal, each Contracting Party shall submit a memorandum within 45 days after the tribunal is fully constituted. Replies shall be due 60 days later. The tribunal shall hold a hearing at the request of a Contracting Party, or at its discretion, within 30 days after replies are due.

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(5) The tribunal shall attempt to give a written decision within 30 days after completion of the hearing or, if no hearing is held, after the date both replies are submitted. The decision shall be taken by a majority vote.

(6) A Contracting Party may submit a request for clarification of the decision within 15 days after it is received and such clarification shall be issued within 15 days of such request.

(7) The decision of the tribunal shall be binding on the Contracting Parties.

(8) Each Contracting Party shall bear the costs of the arbitrator appointed by it. The other costs of the tribunal shall be shared equally by the Contracting Parties including any expenses incurred by the President or Vice-President of the Council of the International Civil Aviation Organisation in implementing the procedures in paragraph (2)(b) of this Article.

**ARTICLE 20**

**Amendment**

Any amendments to this Agreement agreed by the Contracting Parties shall enter into force when confirmed in writing by the Contracting Parties.

**ARTICLE 21**

**Termination**

One Contracting Party may at any time give notice in writing to the other Contracting Party of its decision to terminate this Agreement. This Agreement shall terminate at midnight (at the place of receipt of the notice) immediately before the first anniversary of the date of receipt of such notice by that other Contracting Party, unless such notice is withdrawn by agreement before the end of this period.

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ARTICLE 22

Registration with the  
International Civil Aviation Organisation

This Agreement and any amendment thereto shall be registered with the International Civil Aviation Organisation.

ARTICLE 23

Entry into Force

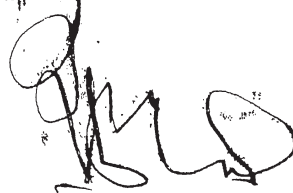
This Agreement shall enter into force on the date of signature.

In witness whereof, the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

Done, in duplicate at Hong Kong this 21<sup>st</sup> day of May 2004 in the English language.

For the Government of the  
Hong Kong Special Administrative  
Region of the People's Republic of  
China :

For the Government of the  
Republic of Kenya :



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ANNEX

ROUTE SCHEDULE

Section 1

Routes to be operated by the designated airline or airlines of the Hong Kong Special Administrative Region :

Hong Kong Special Administrative Region - intermediate points - points in Kenya - points beyond.

Notes :

1. The points to be served on the routes specified above are to be jointly determined by the Contracting Parties.
2. The designated airline or airlines of the Hong Kong Special Administrative Region may on any or all flights omit calling at any points on the routes specified above, and may serve intermediate points in any order, points in Kenya in any order, and points beyond in any order, provided that the agreed services on these routes begin at the Hong Kong Special Administrative Region.
3. No traffic may be taken on board at an intermediate point or at a point beyond and discharged at points in Kenya or vice versa, except as may from time to time be jointly determined by the Contracting Parties.
4. No point in the mainland of China may be served as an intermediate point or a point beyond.

Section 2

Routes to be operated by the designated airline or airlines of Kenya :

Points in Kenya - intermediate points - Hong Kong Special Administrative Region - points beyond.

Notes :

1. The points to be served on the routes specified above are to be jointly determined by the Contracting Parties.

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2. The designated airline or airlines of Kenya may on any or all flights omit calling at any points on the routes specified above, and may serve points in Kenya in any order, intermediate points in any order, and points beyond in any order, provided that the agreed services on these routes begin at points in Kenya.
3. No traffic may be taken on board at an intermediate point or at a point beyond and discharged at the Hong Kong Special Administrative Region or vice versa, except as may from time to time be jointly determined by the Contracting Parties.
4. No point in the mainland of China may be served as an intermediate point or a point beyond.

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(Translation)

Chief Executive  
Hong Kong Special Administrative Region  
People's Republic of China

Mr. TUNG Chee Hwa,

I hereby inform you that the Central People's Government has decided to authorise the Government of the Hong Kong Special Administrative Region to conclude the "Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Kenya Concerning Air Services".

Best regards,

(signed) Tang Jiaxuan  
Minister of Foreign Affairs

Beijing, 23 October 2002