

AGREEMENT BETWEEN THE AUSTRIAN FEDERAL GOVERNMENT
AND THE GOVERNMENT OF THE HONG KONG SPECIAL
ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA

CONCERNING AIR SERVICES

The Austrian Federal Government and the Government of the Hong Kong Special Administrative Region of the People's Republic of China ("the Hong Kong Special Administrative Region") having been duly authorised by the Central People's Government of the People's Republic of China (hereinafter referred to as the "Contracting Parties"),

Desiring to organize, in a safe and orderly manner, international air services and to promote in the greatest possible measure international cooperation in respect of such services;

Desiring to promote an international aviation system which offers fair and equal opportunities to their respective airlines for the operation of the services which allows them to compete in accordance with the laws and regulations of each Contracting Party; and

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

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 Austrian Federal Government, the Ministry for Transport, Innovation and Technology, and in the case of the Hong Kong Special Administrative Region, the Director-General of Civil Aviation, 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 Republic of Austria has the meaning assigned to “territory” in Article 2 of the Chicago Convention and in relation to the Hong Kong Special Administrative Region includes Hong Kong Island, Kowloon and the New Territories;
- (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 Chicago Convention;
- (e) the term “this Agreement” includes the Annex hereto and any amendments to it or to this Agreement;

- (f) the term “Chicago Convention” means the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944;
- (g) the term “tariff” means any fare, rate or charge for the carriage of passengers, baggage and/or cargo (excluding mail) in air transportation charged by airlines, including their agents, and the conditions governing the availability of such fare, rate or charge; and
- (h) 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, or aviation security facilities or services, including related services and facilities, for aircraft, their crews, passengers and cargo.

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 Chicago Convention, 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 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 and Operating Authorisation

(1) The international air services on the routes specified in accordance with Article 3 of this Agreement may be started at any time, provided that:

- (a) the Contracting Party to whom the rights specified in Article 3 of this Agreement are granted has designated one or several airlines in writing; and
- (b) the Contracting Party granting these rights has authorised the designated airline or airlines to initiate the air services.

(2) On receipt of such a designation the other Contracting Party shall grant the appropriate authorisations and permissions with minimum procedural delay, provided that:

- (a) in the case of an airline designated by the Republic of Austria:
 - (i) the airline is established in the territory of Austria under the Treaty on European Union and the Treaty on the Functioning of the European Union and has a valid Operating Licence in accordance with European Union law; and
 - (ii) effective regulatory control of the airline is exercised and maintained by the European Union Member State responsible for issuing its Air Operator's Certificate and the relevant aeronautical authority is clearly identified in the designation; and

(iii) the airline is owned directly or through majority ownership and effectively controlled by any European Union Member States and/or the Republic of Iceland, the Kingdom of Norway, the Principality of Liechtenstein and the Swiss Confederation and/or national(s) of such States;

(b) in the case of an airline designated by the Government of the Hong Kong Special Administrative Region:

(i) the airline is incorporated in and has its principal place of business in the area of the Hong Kong Special Administrative Region and has a valid Air Operator's Certificate in accordance with the applicable law of the Hong Kong Special Administrative Region; and

(ii) the Hong Kong Special Administrative Region has and maintains effective regulatory control of the airline;

and

(c) the designated airline proves upon request of the other Contracting Party that it is qualified to meet the requirements to be fulfilled for the operation of international air transport under the laws and regulations applicable in the area of that Contracting Party.

(3) Either Contracting Party shall have the right to replace, subject to the provisions of paragraphs (1) and (2) above, an airline it has designated by another airline. The newly designated airline shall have the same rights and be subject to the same obligations as the airline which it replaces.

Article 5

Refusal, Revocation, Suspension or Limitation of the Operating Authorisation

(1) Either Contracting Party may refuse, revoke, suspend or limit the operating authorisation or technical permissions of an airline designated by the other Contracting Party where:

- (a) in the case of an airline designated by the Republic of Austria:
 - (i) the airline is not established in the territory of Austria under the Treaty on European Union and the Treaty on the Functioning of the European Union or does not have a valid Operating Licence in accordance with European Union law; or
 - (ii) effective regulatory control of the airline is not exercised or not maintained by the European Union Member State responsible for issuing its Air Operator's Certificate, or the relevant aeronautical authority is not clearly identified in the designation; or
 - (iii) the airline is not owned directly or through majority ownership and effectively controlled by any European Union Member States and/or the Republic of Iceland, the Kingdom of Norway, the Principality of Liechtenstein and the Swiss Confederation and/or national(s) of such States; or
 - (iv) the airline, by exercising traffic rights under this Agreement for the operation of services that include a point in another European Union Member State, including the operation of

services which are marketed as or otherwise constitute through services, the airline would in effect circumvent any restriction on the traffic rights imposed by an agreement between the Hong Kong Special Administrative Region and that other European Union Member State; or

- (v) the airline holds an Air Operator's Certificate issued by another European Union Member State and no bilateral air services agreement is in force between the Hong Kong Special Administrative Region and that other European Union Member State, and that European Union Member State has denied traffic rights to the airline(s) designated by the Hong Kong Special Administrative Region.

- (b) in the case of an airline designated by the Government of the Hong Kong Special Administrative Region:

- (i) the airline is not incorporated in or does not have its principal place of business in the area of the Hong Kong Special Administrative Region or does not have a valid Air Operator's Certificate in accordance with the applicable law of the Hong Kong Special Administrative Region; or
- (ii) the Hong Kong Special Administrative Region does not have or is not maintaining effective regulatory control of the airline;

or

- (c) the designated airline does not comply with the laws and regulations of the Contracting Party granting those rights; or

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

(2) Such refusal, revocation, suspension or limitation of the authorisation shall be preceded by consultations as provided for in Article 17 (Consultation) of this Agreement, unless an immediate suspension of operations or immediate limitations are necessary to avoid further infringements of laws or regulations.

ARTICLE 6

Application of Laws

- (1) While entering, within, or leaving the area of one Contracting Party, its laws and regulations relating to the operation and navigation of aircraft shall be complied with by the other Contracting Party's airlines.

- (2) While entering, within, or leaving the area of one Contracting Party, its laws and regulations relating to the admission to, stay in or departure from its area of passengers, crew or cargo on aircraft (including regulations relating to entry, clearance, aviation security, immigration, passports, customs and quarantine, or in the case of mail, postal regulations) shall be complied with by, or on behalf of, such passengers, crew or cargo of the other Contracting Party's airlines.

- (3) Both Contracting Parties shall implement appropriate measures so that only passengers with valid travel documents which are required for the entry in or transit through the area of the other Contracting Party are carried.

- (4) Neither Contracting Party shall give preference to its own or any other airline over a designated airline of the other Contracting Party engaged in similar international air transportation in the application of its immigration, customs, aviation security, quarantine and similar regulations.

ARTICLE 7

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 each Contracting Party and their designated airlines shall take into account the interests of the other Contracting Party and their designated airlines 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 be based upon commercial considerations in the marketplace and 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.

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

ARTICLE 8

Tariffs

(1) The tariffs to be applied by the designated airline or airlines of a Contracting Party for services covered by this Agreement shall be established at reasonable levels based upon commercial considerations in the marketplace, including but not limited to interests of users, cost of operation, characteristics of services, commission rates and reasonable profit.

(2) The Contracting Parties agree to give particular attention to tariffs which may be objectionable because, for example, they appear unreasonably discriminatory, unduly high or restrictive because of the abuse of a dominant position, or artificially low.

(3) A Contracting Party may require notification or filing of tariffs proposed by the designated airline(s) of both Contracting Parties for carriage to or from its area. Such notification or filing may be required not more than forty-five (45) days before the proposed date of introduction. In special cases, this period may be reduced with express agreement of the Contracting Party.

(4) Each Contracting Party shall have the right to approve or disapprove tariffs for one-way or round-trip carriage between the areas of the two Contracting Parties which commences in its own area. The tariffs to be charged by a designated airline of one Contracting Party for carriage between the area of the other Contracting Party and that of a third State on services covered by this agreement shall be subject to the approval requirements, if any, of the other Contracting Party. Neither Contracting Party shall take unilateral action to prevent the inauguration of proposed tariffs or the continuation of effective tariffs for one-way or round-trip carriage between the areas of the two

Contracting Parties commencing in the area of that other Contracting Party.

(5) Approval of tariffs consequent upon the provisions of paragraph (4) above may be given expressly by either Contracting Party to the airline(s) filing the tariffs. However, if the Contracting Party concerned has not given in writing to the other Contracting Party or the airline(s) concerned notice of disapproval of such tariffs of the airline(s) of the other Contracting Party within thirty (30) days from the date of submission, the tariffs concerned shall be considered approved. In the event of the period of submission being reduced in accordance with paragraph (3), the Contracting Parties may agree that the period within which any disapproval shall be given be reduced accordingly.

(6) Where either Contracting Party believes that a tariff for carriage to its area falls within the categories described in paragraph (2) above, that Contracting Party shall give notice of dissatisfaction to the other Contracting Party, as soon as possible and at least, within thirty (30) days of the date of notification or filing of the tariff, and may avail itself of the consultation procedures set out in paragraph (7) below.

(7) Without prejudice to Article 17 (Consultation), each Contracting Party may require consultation regarding any tariff of an airline of either Contracting Party for services covered by this Agreement, including where the tariff concerned has been subject to a notice of disapproval or dissatisfaction. Such consultations shall be held not later than thirty (30) days after receipt of the request. The Contracting Parties shall cooperate in securing information necessary for reasoned resolution of the issues. If the Contracting Parties reach agreement, each Contracting Party shall use its best efforts to put that agreement into effect. If no agreement is reached, the decision of the Contracting Party in whose area the carriage originates shall prevail.

(8) A tariff established in accordance with the provisions of this clause shall remain in force, unless withdrawn by the airline(s) concerned or until a new tariff has been approved. However, a tariff shall not be prolonged for more than twelve (12) months after the date on which it otherwise would have expired unless approved by the Contracting Parties. Where a tariff has been approved without an expiry date and where no new tariff has been filed and approved, that tariff shall remain in force until either of the Contracting Parties gives notice terminating its approval on its own initiative or at the request of the airline(s) concerned. Such termination shall not take place with less than sixty (60) days.

ARTICLE 9

Airline Representation and Sales

(1) The designated airlines of each Contracting Party shall be allowed, in accordance with the laws and regulations of the other Contracting Party relating to entry, residence and employment, to establish and to operate offices and 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.

(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, through agents or other intermediaries. 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 10

Conversion and Remittance of Revenue

(1) Each Contracting Party shall permit airline(s) of another Contracting Party to convert and transmit abroad to the airline(s)' choice of State, on demand, all local revenues from the sale of air transport services and associated activities directly linked to air transport 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 11

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 board the aircraft operated by that designated airline, shall be exempted by the other Contracting Party, in accordance with its applicable law, 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 12

Certificates and Licences

(1) Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Contracting Party and still in force shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services on the specified routes, provided that the requirements under which such certificates and licences were issued or rendered valid are equal to or above the minimum standards established under the Chicago Convention.

(2) Each Contracting Party reserves the right, however, of refusing to recognize for the purpose of flights above or landing within its own area, certificates of competency and licences granted by the other Contracting Party, pursuant to Article 32 (b) of the Chicago Convention.

ARTICLE 13

Aviation Safety

(1) Each Contracting Party may request consultations at any time concerning the safety standards maintained by the other Contracting Party in areas relating to aeronautical facilities, flight crew, aircraft and the operation of aircraft. Such consultations shall take place within thirty (30) days of that request.

(2) If, following such consultations, at any time the other Contracting Party does not effectively maintain and administer safety standards in the areas referred to in paragraph (1) that meet the standards established at that time pursuant to the Chicago Convention, the other Contracting Party shall be informed of such findings and of the steps considered necessary to conform with such standards. The other Contracting Party shall then take appropriate corrective action within an agreed time period.

(3) Notwithstanding Article 33 of the Chicago Convention, it is agreed that any aircraft operated by the airline or airlines of one Contracting Party on services to or from the area of the other Contracting Party may, while within the area of the other Contracting Party, be made the subject of an examination by the authorised representatives of the other Contracting Party, on board and around the aircraft to check both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment (in this Article called “ramp inspection”), provided this does not lead to unreasonable delay.

(4) If any ramp inspection or series of ramp inspections gives rise to:

(a) serious concerns that an aircraft or the operation of an aircraft does not comply with the minimum standards established at that time pursuant

to the Chicago Convention, or

(b) serious concerns that there is a lack of effective maintenance and administration of safety standards established at that time pursuant to the Chicago Convention,

the Contracting Party carrying out the inspection shall, for the purposes of Article 33 of the Chicago Convention, be free to conclude that the requirements under which the certificate or licences in respect of that aircraft or in respect of the crew of that aircraft had been issued or rendered valid, or that the requirements under which that aircraft is operated, are not equal to or above the minimum standards established pursuant to the Chicago Convention.

(5) In the event that access for the purpose of undertaking a ramp inspection of an aircraft operated by the airline of one Contracting Party in accordance with paragraph 3 of this Article above is denied by the representative of that airline, the other Contracting Party shall be free to infer that serious concerns of the type referred to in paragraph 4 of this Article above arise and draw the conclusions referred in that paragraph.

(6) Each Contracting Party reserves the right to suspend or vary the operating authorization of an airline of the other Contracting Party immediately in the event the first Contracting Party concludes, whether as a result of a ramp inspection, a series of ramp inspections, a denial of access for ramp inspection, consultation or otherwise, that immediate action is essential to the safety of an airline operation.

(7) Any action by one Contracting Party in accordance with paragraphs 2 or 6 of this Article above shall be discontinued once the basis for the taking of that action ceases to exist.

ARTICLE 14

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, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988 and the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991.

(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 Chicago Convention. Each Contracting Party shall require that operators of aircraft of its registry, operators of aircraft having their principal place of business or permanent residence in its area, the operators of airports in its area, and in the

case of the Republic of Austria, operators of aircraft which are established in its area under the Treaty on European Union and the Treaty on the Functioning of the European Union and have valid Operating Licences in accordance with European Union law, 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.

(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.

(6) Without prejudice to Articles 17 (Consultation) and 18 (Settlement of Disputes), when a Contracting Party has reasonable grounds to believe that the other Contracting Party has departed from the provisions of this Article, that Contracting Party may request consultations. Such consultations shall start within fifteen (15) days of receipt of such a request. Failure to reach a satisfactory agreement within fifteen (15) days from the start of consultations shall constitute grounds for the Contracting Party requesting consultations for

withholding, revoking, suspending or imposing conditions on the authorizations of the airline or airlines designated by the other Contracting Party under Article 4 of this Agreement. When justified by an emergency, or to prevent further non-compliance with the provisions of this Article, the Contracting Party requesting consultations may take appropriate interim action at any time.

ARTICLE 15

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 16

User Charges

(1) 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.

(2) 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 17

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 sixty (60) days from the date the other Contracting Party receives such request in writing, unless otherwise agreed by the Contracting Parties.

ARTICLE 18

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 thirty (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 sixty (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 thirty (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 thirty (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 forty-five (45) days after the tribunal is fully constituted. Replies shall be due sixty (60) days later. The tribunal shall hold a hearing at the request of a Contracting Party, or at its discretion, within thirty (30) days after replies are due.

(5) The tribunal shall attempt to give a written decision within thirty (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 fifteen (15) days after it is received and such clarification shall be issued within fifteen (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 19

Amendment

Any amendment to this Agreement agreed by the Contracting Parties shall enter into force on the 60th day after delivery of the latter of notifications by the Contracting Parties confirming that all the necessary internal procedures for the approval of such amendment have been complied with.

ARTICLE 20

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.

ARTICLE 21

Registration with the International Civil Aviation Organisation

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

ARTICLE 22

Entry into Force

Each Contracting Party shall notify the other Contracting Party in writing of the completion of its respective requirements for entry into force of this Agreement. This Agreement shall enter into force on the thirtieth (30th) day from the date of the latter notification.

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

Done, in duplicate at Vienna this 19th day of October 2015 in the English language.

FOR THE AUSTRIAN
FEDERAL GOVERNMENT:

FOR THE GOVERNMENT
OF THE HONG KONG
SPECIAL ADMINISTRATIVE
REGION OF THE PEOPLE'S
REPUBLIC OF CHINA:

Sebastian KURZ

Professor Anthony B.L. CHEUNG

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 Austria – points beyond.

Notes:

1. 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, and points in Austria 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.
2. No traffic may be taken on board at an intermediate point or at a point beyond and discharged at points in Austria or vice versa, except as may from time to time be jointly determined by the appropriate authorities of the Contracting Parties.
3. 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 Austria:

Points in Austria – intermediate points – Hong Kong Special Administrative Region – points beyond.

Notes:

1. The designated airline or airlines of Austria may on any or all flights omit calling at any points on the routes specified above, and may serve intermediate points in any order, and points beyond in any order, provided that the agreed services on these routes begin at points in Austria.
2. 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 appropriate authorities of the Contracting Parties.

3. No point in the mainland of China may be served as an intermediate point or a point beyond.