

AIR SERVICES AGREEMENT

BETWEEN

THE GOVERNMENT OF NEW ZEALAND

AND


THE GOVERNMENT OF THE KINGDOM OF THAILAND

The Government of New Zealand and the Government of the Kingdom of Thailand,

Considering that New Zealand and the Kingdom of Thailand are parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944, and


Desiring to conclude an agreement, supplementary to the said Convention, for the purpose of establishing air services between their respective territories,

Have agreed as follows:



ARTICLE 1DEFINITIONS

1. For the purpose of the present Agreement, unless the context otherwise requires:


- (a) The term "the Convention" means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944, and includes any annex adopted under article 90 of that Convention and any amendment of the annexes or Convention under article 90 and 94 thereof so far as those annexes and amendments are applicable for both Contracting Parties;
 - (b) The term "aeronautical authorities" means, in the case of New Zealand, the Minister responsible for Civil Aviation and, in the case of the Kingdom of Thailand, the Minister of Communications, or in both cases any person or body, authorised to exercise the functions presently assigned to the said authorities;
 - (c) The term "designated airline" means an airline which one Contracting Party has designated, in accordance with Article 6 of the present Agreement, for the operation of the agreed air services;
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(d) The term "tariff" means the prices to be paid for the carriage of passengers, baggage and cargo and the conditions under which these prices apply, including commission charges and other additional remuneration for agency or sale of transportation documents but excluding remuneration and conditions for the carriage of mail;

(e) "Air service", "International air service", "airline" and "stop for non-traffic purposes" have the meaning respectively assigned to them in Article 96 of the Convention;

(f) "Territory" in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty of that State, provided that, in the case of New Zealand, the term "territory" shall exclude the Cook Islands, Niue, and Tokelau.


2. The Annex forms an integral part of the present Agreement. All references to the Agreement shall include the Annex unless explicitly agreed otherwise.



ARTICLE 2
GRANT OF RIGHTS

1. Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of operating air services on the routes specified in the schedules of the Annex. Such services and routes are hereinafter called "agreed services" and "specified routes" respectively.

2. Subject to the provisions of the present Agreement the airline designated by each Contracting Party shall enjoy, while operating international air services:

- (a) the right to fly without landing across the territory of the other Contracting Party;
 - (b) the right to make stops in the said territory for non-traffic purposes;
 - (c) the right to embark and disembark in the said territory at the points specified in the Annex of the present Agreement passengers, baggage, cargo and mail destined for or coming from points in the territory of the other Contracting Party;
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(d) the right to embark and disembark in the territory of third countries at the points specified in the Annex of the present Agreement passengers, baggage, cargo and mail destined for or coming from points in the territory of the other Contracting Party, specified in the Annex of the present Agreement.

3. Nothing in paragraph 2 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.

4. If because of armed conflict, natural calamities, political disturbances or disruptive developments, the 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 such routes.


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ARTICLE 3PRINCIPLES GOVERNING OPERATION OF AGREED SERVICES

1. There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to operate the agreed services on the specified routes between their respective territories.

2. In operating the agreed services the designated airline of each Contracting Party shall take into account the interests of the airline of the other Contracting Party so as not to affect unduly the services which the latter provides 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 for the current and reasonably anticipated requirements of passengers and cargo including mail originating from or destined for the territory 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 in the territories of States other than that designating the airline shall be made in accordance with the general principles that capacity shall be related to:

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


4. The aeronautical authorities of the Contracting Parties shall from time to time jointly determine the practical application of the principles contained in the foregoing paragraphs of this Article for the operation of the agreed services by the designated airlines.

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ARTICLE 4APPLICATION OF LAWS AND REGULATIONS


1. The laws and regulations of one Contracting Party governing entry into and departure from its territory of aircraft engaged in international air navigation or flights of such aircraft over that territory shall apply to the designated airline of the other Contracting Party.
 2. The laws and regulations of one Contracting Party governing entry into, sojourn in, and departure from its territory of passengers, crew, baggage, cargo or mail, such as formalities regarding entry, exit, emigration and immigration, as well as customs and sanitary measures shall apply to passengers, crew, baggage, cargo or mail carried by the aircraft of the designated airline of the other Contracting Party while they are within the said territory.
 3. Neither Contracting Party may grant any preference to its own airline with regard to the designated airline of the other Contracting Party in the application of the laws and regulations provided for in this Article.
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ARTICLE 5AVIATION SECURITY

1. Having regard to their rights and obligations under international law, the Contracting Parties affirm that their obligation to protect, in their mutual relationship, the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement.
 2. The Contracting Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of aircraft and other unlawful acts against the safety of passengers, crew, aircraft, airports and air navigation facilities and any other threat to aviation security.
 3. The Contracting Parties shall act in conformity with the provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, opened for signature at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, opened for signature at The Hague on 16 December 1970, and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, opened for signature at Montreal on 23 September 1971, and any other Convention relating to the security of civil aviation to which both Contracting Parties are party.
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4. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organisation and designated as Annexes to the Convention on International Civil Aviation to the extent that such security provisions are applicable to the Contracting Parties; each Contracting Party shall require that operators of aircraft of their registry or operators who have their principal place of business or permanent residence in their territory and the operators of airports in their territory act in conformity with such aviation security provisions. Accordingly each Contracting Party shall advise the other Contracting Party of any differences between its national regulations and practices and the aforementioned aviation security provisions. Either Contracting Party may request immediate consultations with the other Contracting Party at any time to discuss any such differences.

5. Each Contracting Party shall observe the security provisions required by the other Contracting Party for entry into the territory of that other Contracting Party and shall take adequate measures to protect aircraft and to inspect passengers, crew, their carry-on items as well as cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give



positive consideration to any request from the other Contracting Party for reasonable special security measures in its territory to meet a particular threat to civil aviation.

6. When an incident or threat of an incident of unlawful seizure of aircraft or other unlawful acts against the safety of passengers, crew, aircraft, airports and air navigation facilities occurs, the Contracting Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate with minimum risk to life such incident or threat thereof.

ARTICLE 6

DESIGNATION AND OPERATING AUTHORIZATION

1. Each Contracting Party shall have the right to designate one airline for the purpose of operating the agreed services. Such designation shall be effected by virtue of a written notification between the aeronautical authorities of both Contracting Parties.


2. The aeronautical authorities which have received the notification of designation shall, subject to the provisions of paragraphs 3 and 4 of this Article, grant without delay to the designated airline of the other Contracting Party the necessary operating authorization.

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3. The aeronautical authorities of one Contracting Party may require the airline designated by the other Contracting Party to prove that it is qualified to fulfil the conditions prescribed under the laws and regulations normally applied to the operation of international air services by the said authorities in conformity with the provisions of the Convention.

4. Each Contracting Party shall have the right to refuse to accept the designation of an airline and to refuse to grant the operating authorization referred to in paragraphs 1 and 2 of this Article, or to impose such conditions as it may deem necessary for the exercise of the rights specified in Article 2 of the present Agreement, whenever the said Contracting Party has no proof that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals.


5. Having received the operating authorization, provided for under paragraph 2 of this Article, the designated airline may at any time operate the agreed services, provided that tariffs established in accordance with the provisions of Article 14 of the present Agreement are in force.



ARTICLE 7

REVOCATION AND SUSPENSION OF OPERATING AUTHORIZATION

1. Each Contracting Party shall have the right to revoke an operating authorization or to suspend the exercise of the rights specified in Article 2 of the present Agreement by the designated airline of the other Contracting Party or to impose such conditions as it may deem necessary on the exercise of such rights, if:

- (a) the said airline cannot prove that substantial ownership and effective control are vested in the Contracting Party designating the airline or in its nationals, or
 - (b) the said airline fails to comply with or has infringed the laws or regulations of the Contracting Party granting these rights, or
 - (c) the said airline fails to operate the agreed services in accordance with the conditions prescribed under the present Agreement.
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2. Such a right shall be exercised only after consultation with the other Contracting Party, unless immediate revocation, suspension or imposition of the conditions provided for under paragraph 1 of this Article is essential to prevent further infringements of laws and regulations.

ARTICLE 8

RECOGNITION OF CERTIFICATES AND LICENCES

1. Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one of the Contracting Parties shall, during the period of their validity, be recognized as valid by the other Contracting Party, provided that the requirements under which such certificates or licences were issued or rendered valid are equal to or above the minimum standards which may be established pursuant to the Convention.

2. Each Contracting Party reserves the right to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licences granted to any of its nationals by the other Contracting Party.




ARTICLE 9

EXEMPTION OF DUTIES AND TAXES

1. Aircraft operated on international services by the designated airline of one Contracting Party, as well as their normal board equipment, supplies of fuel and lubricants and aircraft stores including food, beverages and tobacco carried on board such aircraft, shall, on entering into the territory of the other Contracting Party, be exempt from all duties or taxes, provided such equipment, supplies and stores remain on board the aircraft until they are re-exported.

2. There shall also be exempt from the same duties and taxes, with exception of charges corresponding to the services rendered:


(a) aircraft stores taken on board in the territory of one Contracting Party, within the limits fixed by the competent authorities of the said Contracting Party, and intended for use on board the aircraft operated on an international service by the designated airline of the other Contracting Party;



(b) aircraft spare parts and normal board equipment imported into the territory of one Contracting Party for the maintenance or repair of aircraft operated on international services;

(c) fuel and lubricants destined for the designated airline of one Contracting Party to supply aircraft operated on international services, even when these supplies are to be used on the part of the journey performed over the territory of the Contracting Party in which they have been taken on board.

3. The normal board equipment, as well as the materials and supplies retained on board the aircraft operated by the designated airline of one Contracting Party may be unloaded in the territory of the other Contracting Party only with the approval of the customs authorities of that territory. In such a case, they may be placed under the supervision of the said authorities until they are re-exported or otherwise disposed of in accordance with customs regulations.




ARTICLE 10DIRECT TRANSIT

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, customs duties included.

ARTICLE 11USER CHARGES

1. Each Contracting Party shall use its best efforts to ensure that user charges imposed or permitted to be imposed by its competent authorities on the designated airline of the other Contracting Party are just and reasonable. They shall be based on sound economic principles.

2. Charges for the use of airport and air navigation facilities and services offered by one Contracting Party to the designated airline of the other Contracting Party shall not be higher than those which have to be paid by national aircraft operating on scheduled international services.




ARTICLE 12COMMERCIAL ACTIVITIES

1. The designated airline of one Contracting Party may, in accordance with the laws and regulations of the other Contracting Party relating to entry, residence and employment, bring in and maintain in the territory of the other Contracting Party managerial, sales, technical, operational and other specialist staff required for the operation of the agreed services.

2. For the commercial activities the principle of reciprocity shall apply. The competent authorities of each Contracting Party will take all necessary steps to ensure that the representatives of the airline designated by the other Contracting Party may exercise their activities in an orderly manner.

3. In particular, each Contracting Party grants to the designated airline of the other Contracting Party the right to engage in the sale of air transportation in its territory directly and, at the airline's discretion, through its agents. Each airline shall have the right to sell such transportation, and any person shall be free to purchase such transportation in the currency of that territory or, subject to the national laws and regulations, in freely convertible currencies of other countries.




ARTICLE 13CONVERSION AND TRANSFER OF REVENUES

Each Contracting Party shall grant to the designated airline of the other Contracting Party the right of free transfer of the excess of receipts over expenditure earned by that airline in the territory of the first Contracting Party in connection with the carriage of passengers, baggage, mail and cargo. Each transfer shall be effected at the rate of exchange applicable to current transactions which is in effect at the time such revenues are presented for conversion and remittance. If such transfers are regulated by a special agreement between the Contracting Parties, this special agreement shall apply.


ARTICLE 14TARIFFS

1. The tariffs for carriage on agreed services to and 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, the interests of users, reasonable profit, characteristics of service (such as standards of speed and accommodation) and, when it is deemed suitable, the tariffs of other airlines for any part of the specified route.



2. The tariffs referred to in paragraph 1 of this Article shall be agreed upon, if possible, between the designated airlines of the Contracting Parties; such agreement shall be reached, whenever possible, through the international tariff coordination mechanism of the International Air Transport Association. However, a designated airline shall not be precluded from filing any proposed tariff unilaterally if circumstances so warrant. Unless otherwise determined in the application of paragraph 5 of this Article, or where a proposed tariff has been unilaterally filed, each designated airline shall be responsible only to its aeronautical authorities for the justification and reasonableness of the tariffs so proposed.


3. Any tariffs for an agreed service shall be filed with the aeronautical authorities of both Contracting Parties at least 60 days prior to the proposed effective date unless the aeronautical authorities of both Contracting Parties permit the filing to be made on shorter notice. Any proposed tariff shall be filed by a designated airline with the aeronautical authorities of both Contracting Parties in such form as the aeronautical authorities of each Contracting Party may require.



4. If the aeronautical authorities of one Contracting Party, on receipt of any filing referred to in paragraph 3 of this Article, are dissatisfied with the tariff proposed, they shall so notify the aeronautical authorities of the other Contracting Party within 45 days from the date of receipt of such tariff, but in no event less than 15 days prior to the proposed effective date of such tariff. If notification of dissatisfaction is not given as provided in this paragraph, the tariff shall be deemed to be approved by the aeronautical authorities of the Contracting Party receiving the filing and shall become effective on the proposed date.

5. If a tariff cannot be established in accordance with the provisions of paragraph 2 of this Article or if during the period applicable in accordance with paragraph 4 of this Article a notice of dissatisfaction has been given, the aeronautical authorities of the Contracting Parties shall endeavour to determine the tariff by agreement between themselves. Consultations between the aeronautical authorities will be held in accordance with Article 17 of this Agreement.


6. If the aeronautical authorities cannot agree on any tariff submitted to them under paragraph 3 of this Article or on the determination of any tariff under paragraph 5 of this Article the dispute shall be settled in accordance with the provisions of Article 18 of this Agreement.



7. When tariffs have been established in accordance with the provisions of this Article, those tariffs shall remain in force until new tariffs have been established in accordance with the provisions of this Article.

8. If the aeronautical authorities of one of the Contracting Parties become dissatisfied with an established tariff, they shall so notify the aeronautical authorities of the other Contracting Party and the designated airlines shall attempt, where required, to reach an agreement. If within the period of ninety (90) days from the day of receipt of such notification, a new tariff cannot be established in accordance with the provisions of paragraphs 2 and 3 of this Article, the procedures as set out in paragraphs 5 and 6 of this Article shall apply. In no circumstances however, shall a Contracting Party require a different tariff from the tariff of its own designated airline for comparable services between the same points.

9. The tariffs charged by the designated airline of one Contracting Party for carriage between the territory of the other Contracting Party and the territory of a third State involving also points other than on agreed services shall be subject to the approval of the aeronautical authorities of the other Contracting Party and such third State; provided, however, that the aeronautical authorities of a Contracting Party shall not require a




different tariff from the tariff of its own airline for comparable service between the same points. The designated airline of each Contracting Party shall file such tariffs with the aeronautical authorities of the other Contracting Party in accordance with their requirements. Approval of such tariffs may be withdrawn on not less than 15 days notice.

ARTICLE 15

TIME-TABLE SUBMISSION

As long in advance as practicable, but not less than thirty days, before the introduction of an agreed service or any modification thereof, or within thirty days after receipt of a request from the aeronautical authorities the designated airline of one Contracting Party shall provide to the aeronautical authorities of the other Contracting Party information regarding the nature of service, time-tables, types of aircraft including the capacity provided on each of the specified routes and any further information as may be required to satisfy the aeronautical authorities of the other Contracting Party that the requirements of this Agreement are being duly observed.



ARTICLE 16PROVISION OF STATISTICS


The aeronautical authorities of both Contracting Parties shall supply each other, on request, with periodic statistics or other similar information relating to the traffic carried on the agreed services.

ARTICLE 17CONSULTATIONS


Either Contracting Party may at any time request consultations on any problem related to this Agreement. Such consultations shall begin within a period of sixty days from the date the other Contracting Party receives the request, unless otherwise agreed by the Contracting Parties.

ARTICLE 18DISPUTE SETTLEMENT

1. If any dispute arises between the Contracting Parties relating to the interpretation or application of the present Agreement, the Contracting Parties shall in the first place endeavour to settle it by negotiation between themselves.



2. If the Contracting Parties fail to reach a settlement by negotiation, they may agree to refer the dispute for decision to some person or body, or the dispute may at the request of either Contracting Party be submitted for decision to a tribunal of three arbitrators, one to be nominated by each Contracting Party and the third to be appointed by the two so nominated. Each of the Contracting Parties shall nominate an arbitrator within a period of sixty days from the date of receipt by either Contracting Party from the other of a notice through the diplomatic channel requesting arbitration of the dispute, and the third arbitrator shall be appointed within a further period of thirty days. If either of the Contracting Parties fails to nominate an arbitrator within the period specified, or if the third arbitrator is not appointed within the specified period, the President of the Council of the International Civil Aviation Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. Where the President possesses the nationality of one of the two Contracting Parties or is otherwise prevented from carrying out this function, his deputy in office shall make the necessary appointments. The third arbitrator shall be a national of a third State and shall act as president of the arbitral body.



3. The Contracting Parties undertake to comply with any decision given under paragraph 2 of this Article.


4. If and so long as either Contracting Party or the designated airline of either Contracting Party fails to comply with a decision given under paragraph 2 of this Article, the other Contracting Party may limit, withhold or revoke any rights or privileges which it has granted by virtue of the present Agreement to the Contracting Party in default or to the designated airline in default as the case may be.

ARTICLE 19

MODIFICATIONS

1. If either of the Contracting Parties considers it desirable to modify any provision of the present Agreement, such modification, if agreed between the Contracting Parties, shall come into force when confirmed by an Exchange of Diplomatic Notes.

2. Modifications to the Annex of the present Agreement may be agreed directly between the aeronautical authorities of the Contracting Parties. They shall be applied provisionally from the date they have been agreed upon and enter into force when confirmed by an Exchange of Diplomatic Notes.



3. In the event of the conclusion of any general multilateral convention concerning air transport by which both Contracting Parties become bound, the present Agreement shall be so modified as to conform with the provisions of such convention.

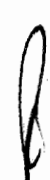
ARTICLE 20

TERMINATION

1. Each Contracting Party may at any time give notice in writing to the other Contracting Party of its decision to terminate the present Agreement. Such notice shall simultaneously be communicated to the International Civil Aviation Organization.

2. The Agreement shall terminate at the end of the IATA time-table period during which twelve months after the date of receipt of the notice will have elapsed, unless the notice is withdrawn by mutual agreement before the expiry of this period.

3. In default of acknowledgement of receipt by the other Contracting Party, the notice shall be deemed to have been received fourteen days after the date on which the International Civil Aviation Organization will have received communication thereof.



ARTICLE 21
REGISTRATION WITH ICAO

The present Agreement shall be registered with the International Civil Aviation Organization.

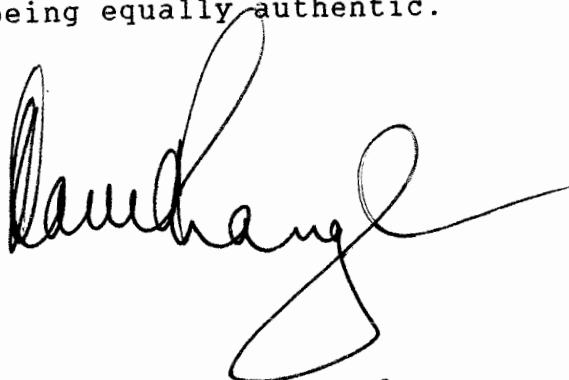
ARTICLE 22
ENTRY INTO FORCE

The present Agreement shall be approved by each Contracting Party in compliance with its legal procedure and shall enter into force on the day of the Exchange of Diplomatic Notes confirming such approval.

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IN WITNESS WHEREOF the plenipotentiaries of the two Contracting Parties have signed the present Agreement.

Done at Wellington this 5th day of August 1987 in duplicate, in the English and Thai languages, all texts being equally authentic.



For the Government of
New Zealand



For the Government
of the Kingdom of
Thailand



ANNEX

ROUTE SCHEDULES

Section 1

Route to be operated in both directions by the designated airline of New Zealand:

Points in New Zealand to points in Thailand and beyond to one point in the Middle East, and beyond to London, Frankfurt and one further point in Europe to be nominated.

Section 2

Route to be operated in both directions by the designated airline of Thailand:

Points in Thailand to points in New Zealand and beyond to two points in the South Pacific to be nominated.

NOTES: Points on any of the specified routes may, at the option of the designated airlines, be omitted on any or all flights, provided that the agreed services on the route begin in the territory of the Contracting Party which has designated the airline.