



Treaty Series No. 33 (2005)

Agreement

between the Government of the United Kingdom of Great Britain and
Northern Ireland and the Government of New Zealand

concerning Air Services

Wellington, 26 July 2005

[The Agreement entered into force on 26 July 2005]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
September 2005*

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**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF NEW ZEALAND CONCERNING AIR SERVICES**

PREAMBLE

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of New Zealand hereinafter referred to as the "Contracting Parties";

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944¹;

Noting the agreement between the European Community and New Zealand initialled on 14 March 2005 on certain aspects of air services;

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 1

Definitions

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

- (a) the term "the Chicago Convention" means the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944 and includes: (i) any amendment thereof which has been ratified by both Contracting Parties; and (ii) any Annex or any amendment thereto adopted under Article 90 of that Convention, insofar as such amendment or annex is at any given time effective for both Contracting Parties;
- (b) the term "aeronautical authority" means in the case of the United Kingdom, the Secretary of State for Transport and in the case of New Zealand, the Minister of Transport, or, in both cases, any person or body who may be authorised to perform any functions at present exercisable by the above-mentioned authority or similar functions;
- (c) the term "designated airline" means an airline which has been designated and authorised in accordance with Article 4 of this Agreement;

¹ Treaty Series No 8 (1953) Cmd 8742

- (d) the term "territory" in relation to a State has the meaning assigned to it in Article 2 of the Chicago Convention, provided that, in the case of New Zealand, the term "territory" shall exclude Tokelau;
- (e) 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;
- (f) the term "this Agreement" includes the Annexes hereto and any amendments to it or to this Agreement;
- (g) the term "Air Operator's Certificate" means a document issued to an airline which affirms that the airline in question has the professional ability and organisation to secure the safe operation of aircraft for the aviation activities specified in the certificate;
- (h) the term "tariffs" means the prices to be paid for the carriage of passengers, baggage and freight and the conditions under which those prices apply, including prices and conditions for agency and other auxiliary services, but excluding remuneration or conditions for the carriage of mail;
- (i) the term "EC Member State" means a State that is now or in the future a contracting party to the Treaty establishing the European Community¹.

ARTICLE 2

Applicability of the Chicago Convention

The provisions of this Agreement shall be subject to the provisions of the Chicago Convention insofar as those 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 territory without landing;
 - (b) the right to make stops in its territory for non-traffic purposes.

¹ Consolidated version in Treaty Series No. 52 (1999) Cm 4434 and Treaty Series No. 47 (1988) Cm 455

(2) The designated airlines of each Party shall be entitled to perform air services, whether for the carriage of passengers, cargo, mail or in combination, as follows:

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

Behind Points - Points in the United Kingdom - Intermediate Points - Points in New Zealand - Points Beyond

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

Behind Points - Points in New Zealand - Intermediate Points - Points in the United Kingdom - Points Beyond

These services and routes are hereinafter called "the agreed services" and "the specified routes" respectively.

(3) While operating an agreed service on a specified route the airline or airlines designated by each Contracting Party may, in addition to the rights specified above, on any or all flights and at the option of each airline:

- (a) operate flights in either or both directions;
- (b) combine different flight numbers within one aircraft operation;
- (c) serve intermediate and beyond points and points in the territories of the Parties on the routes in any combination and in any order;
- (d) omit stops at any point or points, including points within the territory of the Party designating the airline;
- (e) transfer traffic from any of its aircraft to any of its other aircraft at any point on the routes; and
- (f) serve points behind any point in its territory with or without change of aircraft or flight number and hold out and advertise such services to the public as through services;

without directional or geographic limitation and without loss of any right to carry traffic otherwise permissible under this Agreement.

(4) The designated airlines of one Contracting Party may not pick up traffic at an intermediate point to be set down in the territory of the other Contracting Party nor pick up traffic in the territory of the other Contracting Party to be set down at a point beyond, and vice versa, except as may from time to time be jointly determined by the aeronautical authorities of the Contracting Parties.

(5) Paragraph (2) of this Article shall be interpreted as conferring on the designated airline or airlines of each Contracting Party the right to take on board in the territory of the other Contracting Party passengers, their baggage, cargo or mail carried for remuneration or hire and destined for another point in the territory of the other Contracting Party.

ARTICLE 4

Designation, Authorisation and Revocation

(1) Each Contracting Party shall have the right to designate airlines for the purpose of operating the agreed services on each of the specified routes and to withdraw or alter such designations. Such designations shall be made in writing and shall be transmitted to the other Contracting Party through diplomatic channels.

(2) On receipt of such a designation, and of applications from the designated airline(s), in the form and manner prescribed for operating authorisations and technical permissions, 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 United Kingdom of Great Britain and Northern Ireland:
 - (i) it is established in the territory of the United Kingdom under the Treaty establishing the European Community and has a valid operating licence from an EC Member State in accordance with European Community law;
 - (ii) effective regulatory control of the airline is exercised and maintained by the EC 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 has its principal place of business in the territory of the EC Member State from which it has received the operating licence; and
 - (iv) the airline is owned, directly or through majority ownership, and effectively controlled by EC Member States and/or nationals of EC Member States, and/or by other states listed in Annex 2 and/or nationals of such other states.
- (b) in the case of an airline designated by New Zealand:
 - (i) New Zealand has and maintains effective regulatory control of the airline; and

- (ii) it has its principal place of business and place of incorporation in New Zealand.

(3) 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 United Kingdom of Great Britain and Northern Ireland:

- (i) the airline it is not established in the territory of the United Kingdom under the Treaty establishing the European Community or does not have a valid operating licence from an EC Member State in accordance with European Community law; or
- (ii) effective regulatory control of the airline is not exercised or not maintained by the EC 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 does not have its principal place of business in the territory of the EC Member State from which it has received the operating licence; or
- (iv) the airline is not owned, directly or through majority ownership, and effectively controlled by EC Member States and/or nationals of EC Member States, and/or by other states listed in Annex 2 and/or nationals of such other states; or
- (v) the airline is already authorised to operate under a bilateral agreement between New Zealand and another EC Member State and New Zealand can demonstrate that, by exercising traffic rights under this Agreement on a route that includes a point in that other EC Member State, it would be circumventing restrictions on the traffic rights imposed by that other agreement; or
- (vi) the airline designated holds an Air Operators Certificate issued by an EC Member State and there is no bilateral air services agreement between New Zealand and that EC Member State and that EC Member State has denied traffic rights to the airline designated by New Zealand; or

- (b) in the case of an airline designated by New Zealand:

- (i) New Zealand is not maintaining effective regulatory control of the airline; or

- (ii) it does not have its principal place of business and place of incorporation in New Zealand.
 - (c) in the case of failure by that airline to comply with the laws, regulations or rules normally and reasonably applied by the Contracting Party granting those rights; or
 - (d) if the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement; or
 - (e) in the case of failure by the other Contracting Party to take appropriate action to improve safety in accordance with paragraph (2) of Article 10; or
 - (f) in accordance with paragraph (6) of Article 10.
- (4) In exercising its rights under paragraph (3), and without prejudice to its rights under paragraph 3(a), (v) and (vi) of this Article, New Zealand shall not discriminate between airlines of EC Member States on the grounds of nationality.
- (5) Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph (3) of this Article is essential to prevent further infringements of laws, regulations or rules, such right shall be exercised only after consultation with the other Contracting Party.
- (6) Unless immediate action is essential to prevent further non-compliance with sub-paragraphs 3 (c) or 3 (e) of this Article, the rights established by this Article shall be exercised only after consultation with the other Contracting Party.
- (7) This Article does not limit the rights of either Contracting Party to withhold, revoke, limit or impose conditions on the operating authorisation or technical permissions of a designated airline or airlines of that other Contracting Party, in accordance with the provisions of Article 9 (Aviation Security).

ARTICLE 5

Fair Competition and state aids

- (1) There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to compete in operating the agreed services on the specified routes.
- (2) Each Contracting Party shall allow each designated airline to determine the frequency and capacity of the international air transport it offers. Consistent with this right, neither Contracting Party shall unilaterally limit the volume of traffic, frequency or regularity of service, or the aircraft type or types operated by the designated airlines of the other Party, except as may be required for customs, technical, operational, or

environmental reasons under uniform conditions consistent with Article 15 of the Convention.

(3) Neither Contracting Party shall impose on the other Contracting Party's designated airlines a first-refusal requirement, uplift ratio, no-objection fee, or any other requirement with respect to capacity, frequency or traffic that would be inconsistent with the purposes of this Agreement.

(4) Neither Contracting Party shall require the filing of schedules, programs for non-scheduled flights, or operational plans by designated airlines of the other Contracting Party for approval, except as may be required on a non-discriminatory basis to enforce the uniform conditions foreseen by paragraph (2) of this Article. If a Contracting Party requires filings for information purposes, it shall minimise the administrative burdens on air transport intermediaries and on designated airlines of the other Contracting Party of such filing requirements and procedures.

(5) Neither Contracting Party shall allow its designated airline or airlines, either in conjunction with any other airline or airlines or separately, to abuse market power in a way which has or is likely or intended to have the effect of severely weakening a competitor or excluding a competitor from a route.

(6) Neither Contracting Party shall provide or permit state subsidy or support for or to its designated airline or airlines in such a way that would adversely affect the fair and equal opportunity of the airlines of the other Party to compete in providing the international air transportation governed by this Agreement.

(7) State subsidy or support means the provision of support on a discriminatory basis to a designated airline, directly or indirectly, by the state or by a public or private body designated or controlled by the state. Without limitation, it may include the setting-off of operational losses; the provision of capital, non-refundable grants or loans on privileged terms; the granting of financial advantages by forgoing profits or the recovery of sums due; the forgoing of a normal return on public funds used; tax exemptions; compensation for financial burdens imposed by the public authorities; or discriminatory access to airport facilities, fuel or other reasonable facilities necessary for the normal operation of air services.

(8) Where a Contracting Party provides state subsidy or support to a designated airline in respect of services operated under this Agreement, it shall require that airline to identify the subsidy or support clearly and separately in its accounts.

(9) If one Contracting Party believes that its designated airlines are being subjected to discrimination or unfair practices, or that a subsidy or support being considered or provided by the other Contracting Party for or to the airlines of that other Party would adversely affect or is adversely affecting the fair and equal opportunity of the airlines of the first Contracting Party to compete in providing the international air transportation governed by this Agreement, it may request consultations and notify the other Contracting Party of the reasons for its dissatisfaction. These consultations shall be held not later than 15 days after receipt of the request.

ARTICLE 6

Tariffs

- (1) Each Contracting Party shall allow tariffs for air services to be established freely by each designated airline.
- (2) Neither Contracting Party may require notification or filing of any tariff to be charged by an airline or airlines designated under this Agreement.
- (3) The tariffs to be charged by the airlines designated by New Zealand for carriage wholly within the European Community shall be subject to European Community law.
- (4) The tariffs to be charged by the airlines designated by the United Kingdom of Great Britain and Northern Ireland for carriage wholly within New Zealand shall be subject to New Zealand law.

ARTICLE 7

Duties, Taxes and Fees

- (1) The Contracting Parties shall relieve from all customs duties, national excise taxes and similar national fees:
 - (a) aircraft operated in international air services by the designated airline or airlines of either Contracting Party; and
 - (b) the following items introduced by a designated airline of one Contracting Party into the territory of the other Contracting Party:
 - (i) repair, maintenance and servicing equipment and component parts;
 - (ii) passenger handling equipment and component parts;
 - (iii) cargo-loading equipment and component parts;
 - (iv) security equipment including component parts for incorporation into security equipment;
 - (v) instructional material and training aids;
 - (vi) airline and operators' documents; and
 - (c) the following items introduced by a designated airline of one Contracting Party into the territory of the other Contracting Party or supplied to a

designated airline of one Contracting Party in the territory of the other Contracting Party:

- (i) aircraft stores (including but not limited to such items as food, beverages and tobacco) whether introduced into or taken on board in the territory of the other Contracting Party;
 - (ii) fuel (subject to paragraph (5) of this Article), lubricants and consumable technical supplies;
 - (iii) spare parts including engines; and
- (d) computer equipment and component parts introduced by a designated airline of one Contracting Party into the territory of the other Contracting Party to assist in one or more of the following matters:
- (i) the repair, maintenance or servicing of aircraft;
 - (ii) the handling of passengers at the airport or on board aircraft;
 - (iii) the loading of cargo onto or the unloading of cargo from aircraft;
 - (iv) the carrying out of security checks on passengers or cargo; provided in the case of sub-paragraphs (b) -(d) they are for use on board an aircraft or within the limits of an international airport in connection with the establishment or maintenance of an international air service by the designated airline concerned. For the purposes of this Article, “international air service” excludes all forms of cabotage.

(2) The relief from customs duties, national excise taxes and similar national fees shall not extend to charges based on the cost of services provided to the designated airline or airlines of a Contracting Party in the territory of the other Contracting Party.

(3) Equipment and supplies referred to in paragraph (1) of this Article may be required to be kept under the supervision or control of the appropriate authorities.

(4) The relief provided for by this Article shall also be available in situations where the designated airline or airlines of one Contracting Party have entered into arrangements with another airline or airlines for the loan or transfer in the territory of the other Contracting Party of the items specified in paragraph (1) of this Article, provided such other airline or airlines similarly enjoy such relief from such other Contracting Party.

(5) Notwithstanding any provision to the contrary, nothing in this Agreement shall prevent the United Kingdom or New Zealand from imposing on a non-discriminatory basis taxes, levies, duties, fees or charges on fuel supplied in their respective territories for use in an aircraft of a designated airline of an EC Member

State or New Zealand that operates between two points within the territory of New Zealand or the European Community.

ARTICLE 8

Application of Laws Regulations and Rules

(1) 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 transport in the application of its customs, immigration, quarantine and similar regulations.

(2) Passengers, baggage and cargo in direct transit through the territory of either Contracting Party and not leaving the area of the airport reserved for such purpose shall not undergo any examination except for reasons of aviation security, narcotics control or in special circumstances. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

ARTICLE 9

Aviation Security

(1) Each Contracting Party may request consultations at any time concerning security standards in any area relating to aircrews, aircraft or their operation adopted by the other Contracting Party. Such consultations shall take place within 30 days of that request.

(2) Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement. Without limiting the generality of their rights and obligations under international law, the Contracting Parties shall in particular act in conformity with the provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963¹, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970², the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971³ and the Montreal Supplementary Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988⁴, the Convention on the Marking of Plastic

¹ Treaty Series No. 126 (1969) Cmnd 4230

² Treaty Series No. 39 (1972) Cmnd 4956

³ Treaty Series No. 10 (1974) Cmnd 5524

⁴ Treaty Series No. 20 (1991) Cm 1470

Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991¹ and any aviation security agreement that becomes binding on both Contracting Parties.

(3) The Contracting Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, their passengers and crew, airports and air navigation facilities, and any other threat to the security of civil aviation.

(4) The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Chicago Convention to the extent that such security provisions are applicable to the Contracting Parties. Each Party shall require that airlines it has designated to operate the agreed services on the specified routes, and the operators of airports in its territory, act in conformity with such aviation security provisions.

(5) Each Contracting Party agrees that designated airlines shall be required to observe the aviation security provisions referred to in paragraph (4) above required by the other Contracting Party for entry into the territory of that other Contracting Party. For departure from, or while within, the territory of the United Kingdom of Great Britain and Northern Ireland, designated airlines shall be required to observe aviation security provisions in conformity with European Community law. Each Contracting Party shall ensure that adequate measures are effectively applicable to security applied within its territory 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 act favourably upon any request from the other Contracting Party for reasonable special security measures to meet a particular threat.

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

(7) When a Contracting Party has reasonable grounds to believe that the other Contracting Party has departed from the provisions of this Article, the aeronautical authorities of the first Party may request immediate consultations with the aeronautical authorities of the other Party. Failure to reach a satisfactory agreement within fifteen (15) days from the date of such request shall constitute grounds for the application of paragraph (3) of Article 4 (Designation, Authorisation and Revocation) of this Agreement. When required by an emergency, a Contracting Party may take action under paragraph (3) of Article 4 (Designation, Authorisation and Revocation) prior to the expiry of fifteen (15) days. Any action taken in accordance with this paragraph shall be discontinued upon compliance by the other Party with the security provisions of this Article.

¹ Treaty Series No. 134 (2000) Cm 5018

(8) Each Contracting Party shall also give sympathetic consideration to a request from the other Contracting Party to enter into reciprocal administration arrangements whereby the aeronautical authorities of one Contracting Party could made in the territory of the other Party their own assessment of the security measures being carried out by aircraft operators in respect of flights destined for the territory of the Contracting Party making the request.

(9) Each Contracting Party shall take such measures as it may find practicable to ensure that an aircraft of the other Contracting Party which is subjected to an act of unlawful interference, and which lands in its territory, is detained on the ground unless its departure is necessitated by the overriding duty to protect human life. Wherever practicable, such measures shall be taken on the basis of mutual consultations.

ARTICLE 10

Safety

(1) Each Contracting Party may request consultations at any time concerning safety standards in any area relating to aircrews, aircraft or their operation adopted by the other Contracting Party. Such consultations shall take place within 30 days of that request.

(2) If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards in any such area that are at least equal to the minimum standards established at that time pursuant to the Chicago Convention, the first Contracting Party shall notify the other Contracting Party of those findings and the steps considered necessary to conform with those minimum standards, and the other Contracting Party shall take appropriate corrective action. Failure by the other Contracting Party to take appropriate action within 15 days or such longer period as may be agreed, shall be grounds for the application of Article 4(3) of this Agreement (revocation or suspension of operating authorisation).

(3) Notwithstanding the obligations mentioned in Article 33 of the Chicago Convention it is agreed that any aircraft operated by or, under a lease arrangement, on behalf of the designated airline or airlines of one Contracting Party on services to or from the territory of the other Contracting Party may, while within the territory 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 such 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 designated airline or airlines of one Contracting Party in accordance with paragraph (3) of this Article is denied by a representative of that airline or airlines, the other Contracting Party shall be free to infer that serious concerns of the type referred to in paragraph (4) of this Article arise and draw the conclusions referred in that paragraph.

(6) Each Contracting Party reserves the right to suspend or vary the operating authorisation of a designated airline or airlines 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 shall be discontinued once the basis for the taking of that action ceases to exist.

ARTICLE 11

Regulatory Control

Where the United Kingdom of Great Britain and Northern Ireland has designated an airline whose regulatory control is exercised and maintained by another EC Member State, the rights of New Zealand under Article 10 shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other EC Member State and in respect of the operating authorisation of that airline.

ARTICLE 12

Recognition of Certificates and Licences

Certificates of airworthiness, certificates of competency and licences issued, or validated, in accordance with the rules and procedures of one Contracting Party and unexpired shall be recognised as valid by the other Contracting Party for the purpose of operating the agreed services, provided always that such certificates or licences were issued, or validated, equal or above the minimum standards established under the Chicago Convention.

ARTICLE 13

Groundhandling

Subject to the laws and regulations of each Contracting Party including, in the case of the United Kingdom, European Community law, each designated airline shall have in the territory of the other Contracting Party the right to perform its own ground handling (“self-handling”) or, at its option, the right to select among competing suppliers that provide ground handling services in whole or in part. Where such laws and regulations limit or preclude self-handling and where there is no effective competition between suppliers that provide ground handling services, each designated airline shall be treated on a non-discriminatory basis as regards their access to self-handling and ground handling services provided by a supplier or suppliers.

ARTICLE 14

Transfer of Earnings

Each designated airline may on demand convert and remit local revenues in excess of sums locally disbursed to the country of its choice. Prompt conversion and remittance shall be permitted without restrictions 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 15

Airline Representation and Sales

An airline which:

- a) is established in the territory of the United Kingdom under the Treaty establishing the European Community and is incorporated and has its

principal place of business in the territory of one Contracting Party or an EC Member State; and

- b) holds a current Air Operator's Certificate issued by the aeronautical authority of that Contracting Party or an EC Member State; may:
 - (i) in accordance with the laws and regulations relating to entry, residence and employment of the other Contracting Party bring in and maintain in the territory of the other Contracting Party those of their own managerial, technical, operational and other specialist staff which the airline reasonably considers necessary for the provision of air services;
 - (ii) use the services and personnel of any other organisation, company or airline operating in the territory of the other Contracting Party;
 - (iii) establish offices in the territory of the other Contracting Party;
 - (iv) engage in the sale and marketing of air transportation in the territory of the other Contracting Party, either directly or through agents or other intermediaries appointed by the airline. The airline may sell, and any person shall be free to purchase, such transportation in local currency or in any freely convertible other currency.
 - (v) pay for local expenses, including purchases of fuel, in the territory of the other Contracting Party in local currency, or in any freely convertible currency.

ARTICLE 16

Intermodal transport

The designated airlines of each Contracting Party shall be permitted to employ, in connection with air transport, any intermodal transport to or from any points in the territories of the Contracting Parties or third countries. Airlines may elect to perform their own intermodal transport or to provide it through arrangements, including code share, with other carriers. Such intermodal services may be offered as a through service and at a single price for the air and intermodal transport combined, provided that passengers and shippers are informed as to the providers of the transport involved.

ARTICLE 17

Leasing

The designated airlines of each Contracting Party shall have the right to perform services using aircraft (or aircraft and crew) leased from any company, including other airlines, subject to arrangements made from time to time between the Contracting Parties.

ARTICLE 18

Codesharing

(1) The airlines of each Contracting Party may, subject to applicable laws and regulations governing competition, enter into code-sharing or other co-operative marketing arrangements with any other airline or carrier, whether as an operating airline or marketing airline, provided that:

- (i) each flight forming part of a service to which the arrangements apply is operated by an airline entitled to operate that flight;
- (ii) none of the airlines concerned holds out service for the carriage of local traffic between any two points unless it is entitled to operate and carry local traffic between these points in its own right;
- (iii) in respect of each ticket sold, the purchaser is informed at the point of sale which airline will operate each sector of the service.

ARTICLE 19

Consultation

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

ARTICLE 20

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 either 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 third State, 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, either Contracting Party may request the President of the International Court of Justice to make the necessary appointment within 30 days. If the President has the nationality of one of the Contracting Parties, the Vice-President shall be requested to make the appointment. If the Vice-President has the nationality of one of the Contracting Parties, the Member of the International Court of Justice next in seniority who does not have the nationality of one of the Contracting Parties shall be requested to 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 either of the Contracting Parties, 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. Each Contracting Party may submit a reply within 60 days of submission of the other Contracting Party's memorandum. The tribunal shall hold a hearing at the request of either Contracting Party, or at its discretion, within 30 days after replies are due.

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

(6) The Contracting Parties may submit requests 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, Vice-President or Member of the International Court of Justice in implementing the procedures in paragraph (2)(b) of this Article.

ARTICLE 21

Amendment

(1) This Agreement may be amended or revised by agreement in writing between the Contracting Parties.

(2) Any amendment or revision shall enter into force on the date the Contracting Parties, by exchange of diplomatic notes, specify for its entry into force.

ARTICLE 22

Termination

Either Contracting Party may at any time give notice in writing to the other Contracting Party of its decision to terminate this Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organisation. 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 the notice by the other Contracting Party, unless the notice is withdrawn by agreement before the end of this period. In the absence of acknowledgement of receipt by the other Contracting Party, the notice shall be deemed to have been received 14 days after receipt of the notice by the International Civil Aviation Organisation.

ARTICLE 23

Entry into Force

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

Upon entry into force this Agreement shall supersede the Agreement between the Government of New Zealand and the Government of the United Kingdom of Great

Britain of Northern Ireland concerning Air Services signed at London on 4 October 1982.

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

Done in duplicate at Wellington this twenty-sixth day of July 2005.

For the Government of the United
Kingdom of Great Britain and
Northern Ireland:

RICHARD T FELL

For the Government of New Zealand:

PETE HODGSON

ANNEX

Non-scheduled International Air Transport

Airlines of each Contracting Party designated pursuant to this Agreement to operate under this Annex shall have the right to operate non-scheduled international air transport over the routes specified and in accordance with the rights granted for scheduled services in this Agreement.

Each Contracting Party shall extend favourable consideration to applications by airlines of the other Contracting Party to carry traffic not covered by this Annex on the basis of comity and reciprocity.

ANNEX 2

List of other states referred to in Articles 4(2)(a)(iv) and 4(3)(a)(iv) of this Agreement:

- a) The Republic of Iceland (under the Agreement on the European Economic Area);
- b) The Principality of Liechtenstein (under the Agreement on the European Economic Area);
- c) The Kingdom of Norway (under the Agreement on the European Economic Area);
- d) The Swiss Confederation (under the Agreement between the European Community and the Swiss Confederation on Air Transport.)



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