

No. 33231

**NEW ZEALAND
and
RUSSIAN FEDERATION**

**Air Transport Agreement (with annex). Signed at Moscow on
18 March 1993**

Authentic texts: English and Russian.

Registered by New Zealand on 11 October 1996.

**NOUVELLE-ZÉLANDE
et
FÉDÉRATION DE RUSSIE**

**Accord relatif au transport aérien civil (avec annexe). Signé à
Moscou le 18 mars 1993**

Textes authentiques : anglais et russe.

Enregistré par la Nouvelle-Zélande le 11 octobre 1996.

AIR TRANSPORT AGREEMENT¹ BETWEEN THE GOVERNMENT OF NEW ZEALAND AND THE GOVERNMENT OF THE RUSSIAN FEDERATION

The Government of New Zealand and the Government of the Russian Federation (hereinafter referred to as the "Contracting Parties");

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December 1944;²

Desiring to conclude an Agreement for the purpose of establishing air services between and beyond their respective territories;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

1. For the purposes of this Agreement the following terms mean:

- (a) "aeronautical authorities" means, in the case of the Russian Federation, the Ministry of Transport represented by the Department of Air Transport or any person or body authorized to perform any function presently exercised by the said Ministry and in the case of New Zealand, the Minister of Transport or any person or body authorized to perform any function presently exercised by the said Minister;

¹ Came into force on 18 March 1993 by signature, in accordance with article 21.

² United Nations, *Treaty Series*, vol. 15, p. 295. For the texts of the Protocols amending this Convention, see vol. 320, pp. 209 and 217; vol. 418, p. 161; vol. 514, p. 209; vol. 740, p. 21; vol. 893, p. 117; vol. 958, p. 217; vol. 1008, p. 213, and vol. 1175, p. 297.

- (b) "designated airline" means an airline or airlines designated and authorized in accordance with Article 4 of the present Agreement;
- (c) "territory" in relation to a State means land areas, territorial and internal waters and air space above them under the sovereignty of that State;
- (d) "Convention" means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December 1944 and includes any Annex and any amendment thereto adopted under Article 90 of the Convention to the extent that such Annex and amendment thereto are applicable to the Contracting Parties and any amendment of the Convention adopted under Article 94 of the Convention ratified by the Russian Federation and by New Zealand respectively;
- (e) "air service", "international air service", "airline" and "stop for non-traffic purposes" have the meanings respectively assigned to them in Article 96 of the Convention.

2. The terms of the present Agreement shall exclude the Cook Islands, Niue and Tokelau.

3. The Annex to the present Agreement shall be considered as its integral part.

ARTICLE 2

Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing international air services on the routes specified in the Annex to the present Agreement (hereinafter called "the agreed services" and "the specified routes" respectively).

ARTICLE 3

1. The airline designated by each Contracting Party shall enjoy while operating an agreed service on a specified route the following rights:

- (a) to fly across the territory of the other Contracting Party without landing;
- (b) to make stops in the territory of the other Contracting Party for non-traffic purposes at the points set out in the Annex to the present Agreement;
- (c) to make stops in the territory of the other Contracting Party at the points specified for that route in the Annex to the present Agreement for the purpose of taking on and/or putting down international traffic in passengers, cargo and mail.

2. Nothing in this Article shall be deemed to confer on the designated airline of one Contracting Party the right of taking on board passengers, cargo and mail carried for hire or reward, between the points in the territory of the other Contracting Party.

3. The flight routes of aircraft on the agreed services and the points for crossing national boundaries shall be established by each of the Contracting Parties within its territory.

4. If because of armed conflict, political disturbances or developments, or special and unusual circumstances, the designated airlines of one Contracting Party are unable to operate a service on their normal routes, the other Contracting Party shall use its best efforts to facilitate the continued operation of such service through appropriate temporary rearrangements of such routes as mutually decided by the Contracting Parties.

ARTICLE 4

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party an airline or airlines for the purpose of operating the agreed services on the specified routes.

2. On receipt of such notification the other Contracting Party shall without delay, subject to the provisions of paragraphs 3 and 4 of this Article, grant to each designated airline the appropriate operating authorization.

3. The aeronautical authorities of one Contracting Party prior to granting the operating authorization may require an airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied by such authorities to the operation of international air services.

4. Each Contracting Party shall have the right to refuse to grant the operating authorization referred to in paragraph 2 of this Article or to impose such conditions as it may deem necessary on the exercise by the designated airline of the rights specified in Article 3, in any case where the said Contracting Party is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals.

5. When an airline has been so designated and authorized, it may begin to operate the agreed services for which it is designated provided that a tariff established in accordance with the provisions of Article 10 of this Agreement is in force in respect of that service.

ARTICLE 5

1. Each Contracting Party shall have the right to revoke an operating authorization or to suspend the exercise of the rights specified in Article 3 of this Agreement by an airline designated by the other Contracting Party or to impose such conditions as it may deem necessary on the exercise of these rights:

- (a) in any case where it is not satisfied that substantial ownership or effective control of that airline are vested in the Contracting Party designating the airline or in its nationals; or
- (b) in case of a failure by that airline to comply with the laws or the regulations in force of the Contracting Party granting these rights; or
- (c) in case the airline otherwise fails to operate in accordance with the conditions prescribed under the present Agreement.

2. Unless immediate revocation, suspension or imposing of the conditions mentioned in paragraph 1 of this Article is essential to prevent further infringements of the laws or the regulations, such rights shall be exercised only after consultations with the aeronautical authorities of the other Contracting Party. Such consultations shall begin within a period of fifteen (15) days from the date of the request.

ARTICLE 6

1. The laws and regulations of one Contracting Party relating to the arrival in or the departure from its territory of aircraft engaged in international air services or to the operation and navigation of such aircraft while within its

territory shall be applied to aircraft of the designated airline of the other Contracting Party.

2. The laws and regulations of one Contracting Party relating to arrival in, stay in or departure from its territory of passengers, crew, cargo or mail, such as regulations relating to passports, customs, currency and sanitary measures shall be applied to passengers, crew, cargo or mail of aircraft of the designated airline of the other Contracting Party while 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.

ARTICLE 7

Fees and charges applied in the territory of either Contracting Party to the airline operations of the other Contracting Party for the use of airports and other aviation facilities in the territory of the first Contracting Party, shall not be higher than those applied to the operations of any other airline engaged in similar operations.

ARTICLE 8

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 only be subject to a simplified control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

ARTICLE 9

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

2. In operating the agreed services the designated airline of one Contracting Party shall take into account the interests of the designated airline of the other Contracting Party so as not to affect unduly the services which the latter provides on the whole or any part of the same routes.

3. The agreed services provided by the designated airlines of the Contracting Parties shall be closely related to the requirements of the public for transportation on the specified routes, and each designated airline shall have as its primary objective the provision, at a reasonable load factor, of capacity adequate to carry the current and reasonably anticipated requirements for the carriage of passengers, cargo and mail between their respective territories.

4. The air services provided by the designated airline under the present Agreement shall be made in accordance with the general principles that capacity shall be related to:

- (a) the requirements of traffic between the countries of origin and destination;
- (b) the requirements of traffic of the area through which the agreed services pass; and
- (c) the requirements of through airline operations.

5. The aeronautical authorities of the Contracting Parties shall 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.

ARTICLE 10

1. The tariffs to be charged by the designated airline(s) for carriage between the territories of the Contracting Parties shall be established at reasonable levels, due regard being paid to all relevant factors, including the interests of users, cost of operation, reasonable profit and market considerations. The designated airline(s) may consult together or, if they so wish, with other airlines about tariff proposals, but shall not be required to do so before filing a proposed tariff.

2. The aeronautical authorities of the Contracting Parties shall apply the following provisions for the approval of tariffs to be charged by airlines of either Contracting Party for carriage between a point in the territory of one Contracting Party and a point in the territory of the other Contracting Party:

- (i) Any proposed tariff to be charged for carriage between the territories of the two Contracting Parties shall be filed by or on behalf of the designated airline concerned with both aeronautical authorities at least thirty (30) days (or such shorter period as both aeronautical authorities may agree) before it is proposed that the tariff will take effect.
- (ii) A tariff so filed may be approved at any time by the aeronautical authorities. However, subject to the next two following paragraphs, any such tariff shall be treated as having been approved twenty-one (21) days after the day on which the filing was received unless the aeronautical authorities of both countries have informed each other in writing within twenty (20) days of the filing being received by them that they do not approve the proposed tariff.

- (iii) Nothing in paragraph (ii) above shall prevent the aeronautical authorities of either Contracting Party from unilaterally disallowing any tariff filed by one of its own designated airlines. However, such unilateral action shall be taken only if it appears to those authorities either that a proposed tariff is excessive or that its application would constitute anti-competitive behaviour likely to cause serious damage to another airline or other airlines.
- (iv) If the aeronautical authorities of either Contracting Party consider either that a proposed tariff filed with them by a designated airline of the other Contracting Party is excessive or that its application would constitute anti-competitive behaviour likely to cause serious damage to another airline or other airlines they may, within twenty (20) days of receiving the filing, request consultations with the aeronautical authorities of the other Contracting Party. Such consultations shall be completed within twenty-one (21) days of being requested and the tariff shall take effect at the end of that period unless the authorities of both Contracting Parties agree otherwise.
- (v) In the event that a tariff which has come into effect in accordance with the provisions above is considered by the aeronautical authorities of one Contracting Party to be causing serious damage to another airline or other airlines on a particular route or routes, those aeronautical authorities may request consultations with the aeronautical authorities of the other Contracting Party. Such consultations shall be completed within twenty-one (21) days of being requested and the tariff shall take effect at the end of that period unless the authorities of both countries agree otherwise.

3. The tariffs to be charged by a designated airline of one Contracting Party for carriage between the territory of the other Contracting Party and a third state shall be filed for the approval of the aeronautical authorities of the other Contracting Party. Each tariff filed shall be given approval if it is identical in level, conditions and date of expiry to a tariff currently approved by those aeronautical authorities and applied by a designated airline of that other Contracting Party for carriage between its territory and that of a third state, provided that those aeronautical authorities may withdraw their approval if the tariff being matched is discontinued for any reason, or may vary the terms of the approval to correspond to any approved variation in the tariff being matched.

ARTICLE 11

1. Aircraft operated on the agreed services by the designated airline of one Contracting Party, as well as their regular equipment supplies of fuel and lubricants, aircraft stores (including food, beverages and tobacco) on board the aircraft shall be exempt from all customs duties, fees and other similar charges on arriving in the territory of the other Contracting Party providing such equipment and supplies remain on board the aircraft up to such time as they are re-exported.

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

- (a) aircraft stores taken on board in the territory of one Contracting Party, within limits fixed by the authorities of the said Contracting Party, and for use on board the aircraft operated on the agreed services by the designated airline of the other Contracting Party;

- (b) spare parts introduced into the territory of one Contracting Party for the maintenance or repair of aircraft engaged in operation on agreed services by the designated airline of the other Contracting Party;
- (c) fuels and lubricants intended for use in the operation of the agreed services by aircraft of the designated airline of one Contracting Party, even when these supplies are to be used on the part of the route performed within the territory of the other Contracting Party in which they are taken on board.

3. Materials referred to in paragraph 2 above may be required to be kept under Customs supervision or control.

4. Regular airborne equipment, as well as the materials, supplies and spare parts retained on board the aircraft operated by a 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 Contracting Party. In such case they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with Customs regulations.

ARTICLE 12

1. Each Contracting Party shall grant to the designated airline of the other Contracting Party the right to transfer freely the excess of receipts over expenditure earned by the said designated airline in connection with the operation of the agreed services.

2. Such transfer shall be made in accordance with the provisions of the Agreement regulating financial matters

between the Contracting Parties. In case of the absence of such agreement or respective provisions in this Agreement, transfer shall be effected in hard convertible currency and, where applicable, at the official exchange rate in accordance with the foreign exchange regulations of the Contracting Parties.

ARTICLE 13

The revenues received by the designated airline of one Contracting Party within the territory of the other Contracting Party in connection with operation of the agreed services shall be exempt from all the taxes and fees that should or might be applicable in accordance with the regulations of that other Contracting Party.

ARTICLE 14

1. With the purpose of ensuring the operation of the agreed services the designated airline of one Contracting Party shall be granted the right to station in the territory of the other Contracting Party its representations with the administrative, commercial and technical personnel necessary.

2. The above mentioned personnel shall consist of the nationals of the Contracting Parties.

ARTICLE 15

1. 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 the present 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 1963,¹ the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970,² the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971,³ the provisions of bilateral agreements in force between the Contracting Parties as well as their agreements to be signed subsequently.

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

3. The Contracting Parties shall act in conformity with the aviation security provisions and technical requirements established by the International Civil Aviation Organization and designated as Annexes to the Convention on International Civil Aviation to the extent that such security provisions and requirements are applicable to the Contracting Parties; they shall require that operators of aircraft of their registry or operators of aircraft who have their principal place of business or permanent residence in their territory 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 and requirements referred to in paragraph 3 above required by the other Contracting Party for entry into, departure from, or while within the territory of that other Contracting Party.

¹ United Nations, *Treaty Series*, vol. 704, p. 219.

² *Ibid.*, vol. 860, p. 105.

³ *Ibid.*, vol. 974, p. 177 and vol. 1217, p. 404 (corrigendum to vol. 974).

Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to 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, 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.

ARTICLE 16

1. From time to time there shall be consultations between the aeronautical authorities of the Contracting Parties to ensure close collaboration in all matters affecting the fulfilment of the present Agreement.

2. Either Contracting Party may at any time request consultations on any matter related to air services under this Agreement. Such consultations shall begin within a period of sixty (60) days from the date the other Contracting Party receives the request, unless otherwise agreed by the Contracting Parties.

ARTICLE 17

Any dispute relating to the interpretation or application of the present Agreement or the Annex thereto shall be settled by direct negotiations between the aeronautical authorities of both Contracting Parties. If the said aeronautical authorities

fail to reach an agreement the dispute shall be settled through diplomatic channels.

ARTICLE 18

If either of the Contracting Parties considers it desirable to modify the terms of the present Agreement and the Annex thereto it may request a consultation between the aeronautical authorities of both Contracting Parties in relation to the proposed modification. Consultations shall begin within a period of sixty (60) days from the date of the request unless the aeronautical authorities of the Contracting Parties agree upon the prolongation of that period. The modifications of the Agreement shall come into effect when confirmed by an exchange of notes through diplomatic channels. The modifications of the Annex may be made by an agreement between the aeronautical authorities of the Contracting Parties.

ARTICLE 19

The present Agreement and any subsequent amendments thereto shall be registered with the International Civil Aviation Organization.

ARTICLE 20

1. The present Agreement has been signed for an indefinite period.

2. Each Contracting Party may at any time give notice to the other Contracting Party through diplomatic channels of its decision to terminate the present Agreement. A copy of the notice shall be sent simultaneously to the International Civil Aviation Organization by the Contracting Party giving notice. In such case the Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other

Contracting Party unless the notice to terminate is withdrawn by mutual agreement before the expiry of this period. If the other Contracting Party fails to acknowledge receipt of the notice, the notice shall be deemed to have been received fourteen (14) days after the International Civil Aviation Organization has received its copy.

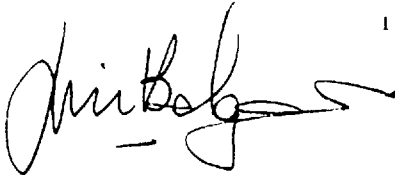
ARTICLE 21

The present Agreement shall come into force from the date of its signing.

IN WITNESS WHEREOF, the undersigned, duly authorized by their respective Governments, have signed the present Agreement.

DONE in Moscow on 18 March 1993 in two original copies in the Russian and English languages, both texts being equally authentic.

For the Government
of New Zealand:

A handwritten signature in black ink, appearing to read "Jim Bolger", with a small superscript "1" to its right.

For the Government
of the Russian Federation:

A handwritten signature in black ink, appearing to read "Viktor Chernomyrdin", with a small superscript "2" to its right.

¹ Jim Bolger.

² Viktor Chernomyrdin.

ANNEX

ROUTE SCHEDULE

1. Routes which shall be operated by the designated airlines of the Russian Federation in both directions:

Two points in Europe, points in the Russian Federation, via points in Asia and Australia to be nominated, to three points in New Zealand and beyond to two points in the South Pacific Islands and South America;

2. Routes which shall be operated by the designated airlines of New Zealand in both directions:

Two points in the South Pacific Islands and South America, points in New Zealand, via points in Australia and Asia to be nominated, to two points in the Russian Federation and beyond to two points in Europe;

Notes:

- (a) the designated airlines of the Contracting Parties may, on routes other than the Trans-Siberian route via points in Japan, China, Republic of Korea and Hong Kong, omit calling at any point provided that the agreed services on the specified routes include a point on the territory of the Contracting Party designating the airline;
- (b) the right of the designated airline of one Contracting Party to transport passengers, cargo and mail between points in the territory of the other Contracting Party and points in the territory of third parties shall be subject to an arrangement between the aeronautical authorities of the Contracting Parties;

- (c) charter, extra and non-scheduled flights are subject to preliminary application by the designated airline; this application to be submitted at least forty eight (48) hours before departure, except weekends and holidays;
- (d) the operations of the designated airlines of the Contracting Parties along the Trans-Siberian route via points in Japan, China, Republic of Korea and Hong Kong shall be performed in accordance with a special arrangement between the aeronautical authorities of the Contracting Parties.
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