AUSTRALIA-NEW ZEALAND

SINGLE AVIATION MARKET

ARRANGEMENTS

The Governments of Australia and New Zealand:

reaffirming their commitment to the Closer Economic Relations (CER) Trade Agreement;

acknowledging the benefits of competition to consumer satisfaction;

committed to maintaining an environment in which safe, reliable, and efficient aviation services are encouraged; and

recognising that the handling of services beyond each country to third countries will continue to be governed by the 1961 Air Services Agreement and understandings made pursuant to it, including the 1992 Memorandum of Understanding on Air Services Arrangements

will implement the following arrangements to give effect to the creation of a single aviation market (SAM) within and between Australia and New Zealand.

1 Date of Effect

These arrangements will come into effect from 1 November 1996.

2 CER Inscriptions

In order to bring air services within the spirit of the Closer Economic Relations agreement between Australia and New Zealand, the inscriptions relating to Domestic Air Services and International Aviation: Passenger and Freight Services in the Australian Inscriptions to the 1988 Protocol on Trade in Services, in accordance with Article 10 of the Protocol (Liberalisation of Trade), will be replaced as follows:

Air Services

State governments hold powers to regulate intrastate aviation on economic and public interest grounds.

Scheduled passenger and freight services within and between Australia and New Zealand are governed by an air services agreement which has treaty status and by the Australia - New Zealand Single Aviation Market Arrangements of 1996.

3. Definitions

For the purposes of these arrangements the following definitions will apply:

Domestic airline - an airline which meets the requirements for operating within the domestic market of either Australia or New Zealand (as the case may be), including respective foreign investment rules.

SAM airline - an airline which meets the ownership and control requirements as outlined in Section 8 or as is jointly approved by both the Australian and New Zealand Ministers responsible for civil aviation, and the following generic operational requirements:

- an approved security programme from both Australian and New Zealand authorities;
- the insurance requirements of both countries;
- aircraft which meet the noise requirements of both countries; and
- Australian and New Zealand operating authorisations.

4 Domestic Operations

(1) Any airline which meets the definition of a SAM airline, pursuant to Section 3 above, will be permitted to operate domestic services in Australia and New Zealand. Such airlines will be required to ensure that all operational and safety approvals required for the operation of commercial passenger and/or freight aircraft are obtained prior to commencing services (see Sections 9 and 14).

(2) SAM airlines of one country may carry traffic, including cabotage traffic, on co-terminal international services between airports approved for international services in the other country.

(3) Airlines operating services which involve the carriage of international and domestic passengers must adhere to border control and passenger separation requirements.

5 Capacity and Tariffs

(1) There will be no limit on the number of SAM airlines of either country that can operate services linking any city pair combinations within and directly between the two countries (subject to any limits on intra-State services in Australia - see Section 13). Each airline will be able to operate such capacity for passenger and/or freight services as it decides.

(2) No approvals by national aeronautical authorities will be required for tariffs for air transport services between and within Australia and New Zealand.

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6 Code-sharing

Code-sharing will be permitted between SAM airlines within the SAM. Airlines carrying on services by way of code-sharing must adhere to any rules, regulations or procedures established by the relevant authorities regarding disclosure of code-shared services.

7 Charters

Aviation authorities of each country will adopt a liberal approach in respect of charter operations by SAM airlines within the SAM, consistent with the spirit of these arrangements.

8 Ownership and Control of SAM Airlines

(1) In order to operate services in the SAM, carriers must meet the following criteria:

- at least 50% ownership and effective board control by Australian and/or New Zealand nationals;
- at least two-thirds of the Board members are Australian and/or New Zealand nationals;
- the Chairperson of the Board is an Australian or New Zealand national;
- the airline's head office is in Australia or New Zealand; and
- the airline's operational base is in Australia or New Zealand.

(2) If either country is not satisfied that a prospective or existing carrier operating in the SAM meets the above criteria, it may request consultations.

9 Mutual Recognition of Aviation-related Certification

(1) Aviation safety authorities of the two countries will establish, before the end of 1996, a timeframe intended to achieve the adoption of mutual recognition of all aviation-related certification not covered by the Trans-Tasman Mutual Recognition Arrangement, and a work programme to achieve mutual recognition.

(2) Until such time as the aviation safety authorities agree to mutually recognise particular certificates, either in accordance with these arrangements or in accordance with the Trans-Tasman Mutual Recognition Arrangement, the certification requirements of the authority having jurisdiction within a territory will apply to all operations requiring certification within that territory and for which mutual recognition does not yet apply.

10 Passenger Facilitation

The two Governments, in consultation with airlines and airports, will continue to promote the development and adoption of systems aimed at reducing passenger processing times.

11 Border Control Requirements

Any airline operating air services in accordance with these arrangements must adhere to the rules, regulations and procedures relating to border control and passenger separation requirements established by the respective border agencies.

12 Statistics

All airlines operating under these arrangements will be required to provide to the relevant authorities of Australia and New Zealand statistics as required in the respective country.

13 Intra-State Aviation

(1) Any proposal for a SAM airline to operate intra-State services within Australia will comply where necessary with the approvals required by relevant State governments.

(2) The Australian Government will seek to review these powers with relevant State governments with a view to further liberalisation consistent with these arrangements.

14 Approvals for Scheduled/Non-scheduled Air Services

Any airline which meets the definition of a SAM airline in accordance with Sections 3 and 8 above, and has obtained all the necessary approvals for scheduled/non-scheduled air services including:

- all safety and operational requirements (including slot clearance);
- clearance by the relevant airport and air traffic control authorities in accordance with the relevant Aeronautical Information Publication (AIP);
- operates consistent with curfew periods; and
- for trans-Tasman flights, operates to airports approved for international services

will be entitled to fly within and directly between Australia and New Zealand without restriction.

15 Competition Policy and Regulation

(1) All aviation activities (including terminal access) under these arrangements will take place in a manner consistent with competition law as it applies in the relevant jurisdiction.

(2) The Governments and competition authorities of both countries will endeavour to assist each other in investigations and enforcement actions.

16 New Treaty

The two Governments will make every effort to conclude, by 30 June 1997, a new air services treaty reflecting these new arrangements to replace the 1961 Air Services Agreement.

17 Settlement of Disputes

(1) In the event of a dispute regarding the application or interpretation of these arrangements, the two Governments will first seek to settle the dispute through consultations. If after 60 days the dispute is not settled, the Australian and New Zealand Ministers responsible for civil aviation will within 30 days jointly agree on and appoint an arbitrator to resolve the matter. The arbitrator will be asked to arrive at a decision within 60 days of being appointed.

(2) The two Governments will implement the decision of the arbitrator.

(3) At any time after the arbitrator has been appointed the two Governments may resume negotiations, in which case the arbitration will be suspended.

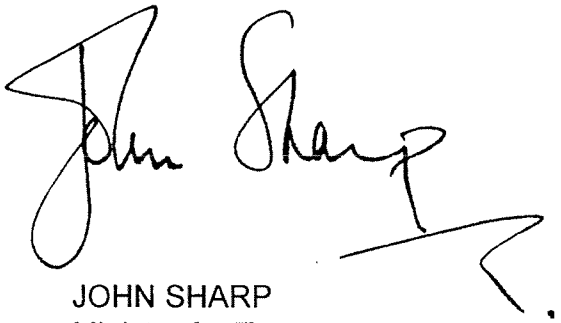
Signed in Canberra this nineteenth day of September 1996.

For and on behalf of the
Government of New Zealand



MAURICE WILLIAMSON
Minister of Transport

For and on behalf of the
Government of Australia



JOHN SHARP
Minister for Transport
and Regional Development