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Ministry of Foreign Affairs and Trade

PROTOCOL

TO THE MULTILATERAL AGREEMENT ON THE LIBERALIZATION OF INTERNATIONAL AIR TRANSPORTATION

Washington, 1 May 2001

[Entered into force for New Zealand, 21 December 2001]

Presented to the House of Representatives

PROTOCOL TO THE MULTILATERAL AGREEMENT ON THE LIBERALIZATION OF INTERNATIONAL AIR TRANSPORTATION

The Parties to this Protocol (hereinafter “the Parties”);

Being Parties to the Multilateral Agreement on the Liberalization of International Air Transportation (hereinafter “the Agreement”);

Desiring to create opportunities for the further growth of international air transportation in addition to those provided for in the Agreement;

Have agreed as follows:

Article 1

Relationship to the Agreement

1. As between the Parties to this Protocol, the provisions of this Protocol shall be an integral part of the Agreement.
2. If a Party to the Protocol exercises its right under paragraph 5 of Article 20 of the Agreement not to apply the Agreement between that Party and a State or APEC member economy which agrees to be bound by the Agreement in accordance with the Annex to the Agreement, the Protocol will also not apply between that Party and such State or APEC member economy.

Article 2

Grant of Rights

In addition to the rights granted in paragraphs 1 and 2 of Article 2 of the Agreement, and notwithstanding paragraphs 3, 4 and 5 of Article 2 of the Agreement, each Party grants to the other Parties the rights for the airlines designated by the other Parties in accordance with Article 3 of the Agreement to perform, in accordance with the terms of their designations:

- (a) scheduled and charter international air transportation in passenger and combination services between the territory of the party granting the rights and any point or points; and
- (b) scheduled and charter international air transportation between points in the territory of the Party granting the rights.

Article 3

Signature, Ratification and Accession

1. This Protocol shall be open for signature by any signatory to the Agreement from May 1, 2001 until the Protocol enters into force.

2. Any State that has signed the Agreement may express its consent to be bound by this Protocol by signature not subject to ratification, acceptance or approval; or by deposit of an instrument of ratification, acceptance or approval provided that a State shall not take such action unless it has already expressed its consent to be bound by the Agreement.

3. After this Protocol enters into force, it shall be open to accession by any Party to the Agreement. APEC member economies which have agreed to be bound by the Agreement in accordance with the Annex to the Agreement may, by a written instrument delivered to the Depositary, agree to be bound by this Protocol.

4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary. The Depositary shall promptly notify the Parties to the Agreement, and all APEC member economies which have agreed to be bound by the Agreement in accordance with the Annex to the Agreement, of receipt of such expressions of consent to be bound and of receipt of instruments from APEC member economies pursuant to paragraph 3 of this Article.

5. Any Party to the Agreement, upon expressing its consent to be bound by this Protocol, may make a reservation with respect to the right granted in paragraph (b) of Article 2 of the Protocol. Any APEC member economy, upon indicating its agreement to be bound in accordance with paragraph 3 of this Article, may indicate in writing that it does not agree to be bound by paragraph (b) of Article 2 of the Protocol.

6. If, in accordance with paragraph 5 of this Article, a State makes a reservation, or an APEC member economy indicates that it does not agree to be bound by paragraph (b) of Article 2, any Party to the Protocol or APEC member economy that has agreed to be bound by this Protocol which does not make such a reservation or indication, may, either upon expressing its consent to be bound or otherwise agreeing to be bound, or within 90 days of the date of the Depositary's notification to the Parties of such reservation or indication, notify the Depositary that:

- (a) the reservation or indication shall be applied reciprocally by that Party or participating APEC member economy in its relations with the reserving State or APEC member economy making such an indication; or
- (b) the Protocol shall not apply between that Party or participating APEC member economy and the reserving State or APEC member economy making such an indication.

Article 4

Entry into Force

1. This Protocol shall enter into force on the date that the Agreement enters into force or on the date that two signatories to the Agreement have expressed their consent to be bound in accordance with paragraph 2 of Article 3, whichever is later.
2. For any signatory to this Protocol that expresses its consent to be bound in accordance with paragraph 2 of Article 3 after this Protocol has entered into force pursuant to paragraph 1 of this Article, this Protocol shall enter into force on the date it so expresses that consent.
3. This Protocol shall not apply between any State which has made a reservation in accordance with paragraph 5 of Article 3 of this Protocol, or any APEC member economy that has indicated it does not agree to be bound by paragraph (b) of Article 2, and any Party or APEC member economy which has notified the Depositary of the non-application of the Protocol in accordance with paragraph 6(b) of Article 3 of this Protocol.
4. This Protocol shall not apply between any State acceding to this Protocol, or any APEC member economy which agrees to be bound by this Protocol, and any Party or APEC member economy which, within 90 days of the date of the Depositary's notification to the Parties of the deposit of the instrument of accession or written instrument indicating agreement to be bound, notifies the Depositary in writing that it shall not apply between that Party or APEC member economy and such acceding State or APEC member economy.
5. This Protocol shall enter into force as between the acceding State and all Parties other than those which, pursuant to paragraph 4 of this Article or paragraph 6(b) of Article 3 of this Protocol, have notified the Depositary of the non-application of the Protocol, on the 30th day after the expiry of the 90-day period referred to in paragraph 4 of this Article or paragraph 6 of Article 3.
6. Any APEC member economy which agrees to be bound by this Protocol as provided for in paragraph 3 of Article 3 of this Protocol shall, in its relations with all Parties (other than those with which the Protocol shall not apply pursuant to a notification of non-application of the Protocol under paragraph 6(b) of Article 3, or paragraph 4 of this Article), have all of the rights and obligations provided for Parties under this Protocol. A Party (other than those with which the Protocol shall not apply pursuant to a notification of non-application of the Protocol under paragraph 6(b) of Article 3, or paragraph 4 of this Article) shall, in its relations with such APEC member economy, have all of the rights and obligations provided for Parties under this Protocol. The rights and obligations described in this paragraph shall be effective on the 30th day after the expiry of the 90-day period referred to in paragraph 6 of Article 3 and paragraph 4 of this Article.

Article 5

Withdrawal

1. A Party may withdraw from this Protocol by giving written notice of withdrawal to the Depositary, which shall promptly notify the Parties to the Agreement of the date of receipt of such notice. The withdrawal shall be effective 12 months after receipt of the notice by the Depositary, unless the Party withdraws its notice by written communication to the Depositary prior to the end of the 12-month period.
2. Any Party which withdraws from the Agreement shall be deemed also to have withdrawn from this Protocol.

Article 6

Amendment

This Protocol may be amended at any time in accordance with the procedures set forth in Article 17 of the Agreement, provided that: for purposes of this Article, all references to Parties in Article 17 of the Agreement shall mean Parties to the Protocol; and no amendment to this Protocol shall enter into force until such time as written notifications of acceptance are received by the Depositary from each of the Parties to this Protocol.

Article 7

Responsibilities of the Depositary

1. The original of this Protocol shall be deposited with the Government of New Zealand, which shall notify all signatories to the Agreement, all States acceding to the Agreement, and all APEC member economies which have agreed to be bound by the Agreement in accordance with the Annex to the Agreement of:
 - (a) expressions of consent to be bound by this Protocol and any amendments in accordance with Article 3, paragraphs 2 and 4 and Article 6, and instruments of APEC member economies indicating their agreement to be bound by this Protocol in accordance with paragraph 3 of Article 3 or their acceptance of any amendments in accordance with Article 6;
 - (b) the respective dates on which the Protocol enters into force in accordance with paragraphs 1, 2 and 5 of Article 4, and the respective dates on which the rights and obligations described in paragraph 6 of Article 4 become effective following the deposit of written instruments by APEC member economies pursuant to paragraph 3 of Article 3;

- (c) reservations and written indications concerning paragraph (b) of Article 2 made pursuant to paragraph 5 of Article 3, and notifications regarding the reciprocal application of such reservations or indications pursuant to paragraph 6(a) of Article 3;
 - (d) notifications regarding non-application of the Protocol received in accordance with paragraph 6(b) of Article 3 or paragraph 4 of Article 4;
 - (e) the convening of negotiations to consider amendments in accordance with Article 6;
 - (f) the respective dates on which an amendment enters into force in accordance with Article 6; and
 - (g) notifications of withdrawal received in accordance with paragraph 1 of Article 5.
2. Following entry into force of this Protocol, the Depositary shall transmit a certified true copy of this Protocol to the Secretary General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations and to the Secretary General of the International Civil Aviation Organization in accordance with Article 83 of the Convention. The Depositary shall likewise transmit certified true copies of any amendments which enter into force.

