

In Confidence

Minister of Transport

Cabinet Economic Development Committee

Air Services- Ecuador; Rwanda; and Sweden

Proposal

1. I propose that Cabinet approve and authorise for signature:
 - 1.1. the *Air Services Agreement between the Government of New Zealand and the Government of the Republic of Ecuador*;
 - 1.2. the *Air Services Agreement between the Government of New Zealand and the Government of the Republic of Rwanda*; and
 - 1.3. a Protocol amending the *Air Services Agreement between New Zealand and the Kingdom of Sweden*.

Relation to government priorities

2. Enhanced air services improve New Zealand's connectivity with the rest of the world. This relates to the Government's priority of "accelerating the recovery" through global trade. Tourism and improved people-to- people links, including for education and business development purposes, will help to accelerate the recovery.

Summary

3. Officials have negotiated, by correspondence, open skies air services agreements with Ecuador and Rwanda. Code-share services that might result from the agreements would enhance New Zealand's international connectivity.
4. New Zealand signed open skies air services agreements with each of Denmark, Norway and Sweden in 2001. Each of the three countries subsequently sought changes to the agreements to provide for European Union (EU) requirements on member countries when negotiating with non-EU members. Of most significance are provisions relating to the ownership of airlines, e.g., EU airlines may be owned by nationals of any EU or European Free Trade Association member country.
5. As both the new agreements with Ecuador and Rwanda, and the revised agreement with Sweden, involve international treaty actions, Cabinet's approval is required in order to proceed with their entry into force.

Background

6. Under an international system dating back to the 1940s, airlines are able to operate international services only where the right to do so has been expressly permitted in a bilateral air services agreement or one of the limited number of multilateral agreements.
7. Among other things, air services agreements set out the routes airlines may operate, the amount of capacity they are entitled to provide and the degree of flexibility they have in the setting of tariffs (fares). Aviation safety and security articles are standard, as are provisions relating to “doing business” matters such as the establishment of local offices and the repatriation of earnings.
8. New Zealand’s long-standing International Air Transport Policy promotes the negotiation of air services agreements that will increase New Zealand’s global connectivity.

Approval for signature and entry into force of the air services agreement with Ecuador

9. I seek Cabinet approval for New Zealand to sign, and bring into force, the air services agreement with Ecuador.
10. Further to a mandate from the Minister of Transport and the Minister of Foreign Affairs, officials approached Ecuador with a proposal to negotiate an open skies agreement. Ecuador responded positively and the negotiation was conducted through correspondence. The resulting air services agreement contains:
 - 10.1. no restrictions on capacity
 - 10.2. route and traffic rights that permit the airlines of both sides a high degree of flexibility and opportunity
 - 10.3. flexible airline ownership provisions
 - 10.4. flexible tariff filing provisions
 - 10.5. code-sharing provisions, including with third-country carriers, with unrestricted capacity and route rights
 - 10.6. standard aviation safety and aviation security provisions.
11. Due to the small size of the market currently, airlines are not expected to start operating with their own aircraft between New Zealand and Ecuador. Airlines may, however, take up the opportunity provided by the air services agreement to code-share, and thus enhance New Zealand’s international connectivity through the associated marketing of the services.

12. New Zealand's air services links with South America have been disrupted by COVID-19. Previously, scheduled services were provided by Air New Zealand to Buenos Aires and by LATAM Airlines from Santiago. Any additional passengers that might be generated as a result of code-sharing to/from Ecuador would add to the viability of future New Zealand – South America services.
13. Within South America, New Zealand has previously negotiated air services agreements with Argentina, Brazil, Chile, Colombia, Guyana, Paraguay, Peru and Uruguay.

Approval for signature and entry into force of the air services agreement with Rwanda

14. I seek Cabinet approval for New Zealand to sign, and bring into force, the air services agreement with Rwanda.
15. Further to a mandate from the Minister of Transport and the Minister of Foreign Affairs, officials approached Rwanda with a proposal to negotiate an open skies agreement. Rwanda responded positively and the negotiation was conducted through correspondence. The resulting air services agreement contains:
 - 15.1. no restrictions on capacity
 - 15.2. route and traffic rights that permit the airlines of both sides a high degree of flexibility and opportunity
 - 15.3. flexible airline ownership provisions
 - 15.4. flexible tariff filing provisions
 - 15.5. code-sharing provisions, including with third-country carriers, with unrestricted capacity and route rights
 - 15.6. standard aviation safety and aviation security provisions.
16. Due to the small size of the market, airlines are not expected to start operating with their own aircraft between New Zealand and Rwanda. Airlines may, however, take up the opportunity provided by the air services agreement to code-share, and thus enhance New Zealand's international connectivity through the associated marketing of the services.
17. New Zealand's air services links with Africa have been disrupted by COVID-19. Previously, New Zealand had code-share links to/from Africa, provided by Air New Zealand, South African Airways and Ethiopian Airlines. Any additional passengers that might be generated as a result of code-sharing to/from Rwanda would add to the viability of future New Zealand - Africa services.

18. Within Africa, New Zealand has previously negotiated air services agreements with Botswana, Egypt, Kenya, Morocco, Nigeria, South Africa, Tanzania, Togo and Zambia.

Cabinet approval of a Protocol to amend the air services agreement with Sweden

19. I seek Cabinet approval for New Zealand to sign, and subsequently enter into force, a Protocol amending the *Air Services Agreement between New Zealand and the Kingdom of Sweden*.
20. Open skies air services agreements were signed with each of Denmark, Norway and Sweden in 2001. The three countries negotiate as a bloc in view of their shared ownership of Scandinavian Airlines System (SAS).
21. Denmark, Norway and Sweden sought several amendments to the 2001 air services agreements in order to comply with subsequent EU requirements on member countries when negotiating with non-EU members. Of most significance are provisions relating to the ownership of airlines, e.g., EU airlines may be owned by nationals of any EU or European Free Trade Association country.
22. The amendments were negotiated with Norway and Sweden in 2013, and with Denmark in 2015, resulting in amending Protocols. The Minister of Foreign Affairs, Rt Hon Winston Peters, signed the Protocols with Norway and Denmark during visits to those countries in April 2019.

Parliamentary treaty examination and entry into force

23. On 5 February 2020, the then Minister of Foreign Affairs decided the air services agreement with Ecuador need not be subject to the parliamentary treaty examination process because it is not major bilateral treaty of particular significance, in accordance with Standing Order 405. On 2 March 2020, the Minister made a similar decision in relation to the Rwanda air services agreement, and the Sweden Protocol.
24. The air services agreement with Ecuador will enter into force once each side has notified the other of the completion of their internal processes for entry into force of international treaties. The air services agreement Rwanda will enter into force on signature. Officials from the Ministry of Transport and the Ministry of Foreign Affairs and Trade will work together to identify suitable signing opportunities, once Ecuador and Rwanda have advised they are ready to do so.
25. The Protocol with Sweden would enter into force on the date when both parties have notified each other of the completion of their internal procedures for entry into force.

Risks

26. Internationally accepted standard aviation safety and security provisions are in the air services agreements with Ecuador and Rwanda. Any airline operating to/from New Zealand is required to meet stringent safety and security standards before being granted the appropriate operating certificate by the Director of Civil Aviation, in addition to the requirements applied in its home state (where relevant).
27. A 'whole of government' approach is applied, as required, to manage any potential risks at the border from increased flight and passenger arrivals that arise from new air services opportunities. Border agencies (the New Zealand Customs Service, the Ministry of Business, Innovation and Employment, and the Ministry for Primary Industries) will ensure that airlines licensed to fly to New Zealand meet the legislative requirements for advance information provision (Passenger Name Record data and Advance Passenger Processing information), to enable effective risk assessment and management of passengers. Passengers will need to meet all applicable immigration and health settings at the time of travel.
28. Ministry of Transport officials routinely ensure that information on new air services is shared as soon as possible with interested departments. Prospective new airlines are advised as soon as possible of the range of requirements that the New Zealand Government has for passenger processing. The Ministry also advises any new airlines to engage with the border agencies as soon as possible to ensure that airlines will be compliant with regulatory requirements before services commence.

Consultation

29. The Ministry of Foreign Affairs and Trade, New Zealand Customs Service, Ministry of Business, Innovation and Employment (Immigration and Tourism), Ministry for Primary Industries and The Treasury were consulted on this Cabinet paper. The Department of the Prime Minister and Cabinet has been informed.

Regulatory impact analysis

30. No legislative or regulatory changes would arise from the actions proposed. Accordingly, a Regulatory Impact Assessment is not required.

Climate implications policy assessment

31. The thresholds for providing a climate implications policy assessment disclosure are not met in the case of this paper. This is primarily because aircraft operations are not expected to increase as a result of the air services agreements with Ecuador and Rwanda or the amended air services agreement with Sweden.

Financial, population, human rights, gender and disability implications

32. There are no financial, population, human rights, gender or disability implications arising from this paper.

Publicity

33. I do not propose to issue a public statement.

Proactive release

34. I propose to release this paper, concerning air services with Ecuador, Rwanda and Sweden, proactively in whole or in part within 30 business days of the Committee meeting.

Recommendations

35. The Minister of Transport recommends that the Committee:

Ecuador

1. **note** that, pursuant to a mandate from the Minister of Transport and the Minister of Foreign Affairs, officials negotiated by correspondence the text of the *Air Services Agreement between the Government of New Zealand and the Government of the Republic of Ecuador* (“the Agreement”)
2. **note** that the Agreement includes:
 - 2.1 no restrictions on capacity
 - 2.2 route and traffic rights that permit the airlines of both sides a high degree of flexibility and opportunity
 - 2.3 flexible airline ownership provisions
 - 2.4 flexible tariff filing provisions
 - 2.5 code-sharing provisions, including with third-country carriers, with unrestricted capacity and route rights
 - 2.6 standard aviation safety and aviation security provisions
3. **note** that on 5 February 2020 the previous Minister of Foreign Affairs decided that the Agreement is not a major bilateral treaty of particular significance and, therefore, need not be subject to the Parliamentary treaty examination process
4. **note** that the Agreement will enter into force on the date of the last notification by which the Parties communicate to each other their compliance with the internal procedures required by their legislation

I N C O N F I D E N C E

5. **approve** the text of the Agreement (Attachment 1)
6. **note** that the Agreement will be prepared for signature in both English and Spanish
7. **agree** that New Zealand sign the *Air Services Agreement between the Government of New Zealand and the Government of the Republic of Ecuador*, subject to any minor and/or technical changes arising from the process of legal verification and/or translation
8. **authorise** officials to conclude an exchange of diplomatic notes with Ecuador to provide for the entry into force of the Agreement

Rwanda

9. **note** that, pursuant to a mandate from the Minister of Transport and the Minister of Foreign Affairs, officials negotiated by correspondence the text of the *Air Services Agreement between the Government of New Zealand and the Government of the Republic of Rwanda* (“the Agreement”)
10. **note** that the Agreement includes:
 - 10.1 no restrictions on capacity
 - 10.2 route and traffic rights that permit the airlines of both sides a high degree of flexibility and opportunity
 - 10.3 flexible airline ownership provisions
 - 10.4 flexible tariff filing provisions
 - 10.5 code-sharing provisions, including with third-country carriers, with unrestricted capacity and route rights
 - 10.6 standard aviation safety and aviation security provisions
11. **note** that on 2 March 2020, the previous Minister of Foreign Affairs decided that the Agreement is not a major bilateral treaty of particular significance and, therefore, need not be subject to the Parliamentary treaty examination process
12. **note** that the Agreement will enter into force on signature
13. **approve** the text of the Agreement (Attachment 2)
14. **agree** that New Zealand sign the *Air Services Agreement between the Government of New Zealand and the Government of the Republic of Rwanda*, subject to any minor and/or technical changes arising from the process of legal verification

IN CONFIDENCE

Sweden

15. **note** that, pursuant to a Cabinet mandate of 2013, officials negotiated a number of changes to New Zealand's Air Services Agreement with Sweden, most significantly, enabling Sweden to comply with European Union requirements on member countries, including provision for airlines owned by any European Union or European Free Trade Association country
16. **note** that the amendments are incorporated in the *Protocol to Amend the Air Services Agreement between New Zealand and the Kingdom of Sweden signed at Wellington on 7 February 2001* (Attachment 3)
17. **note** that on 2 March 2020, the previous Minister of Foreign Affairs decided that the above Protocol is not a major bilateral treaty of particular significance and, therefore, need not be subject to the Parliamentary treaty examination process
18. **note** that the Protocol will enter into force at a later date with an exchange of diplomatic notes between New Zealand and Sweden notifying each other of the completion of internal procedures for entry into force
19. **approve** the text of the *Protocol to Amend the Air Services Agreement between New Zealand and the Kingdom of Sweden signed at Wellington on 7 February 2001*
20. **agree** that New Zealand sign the *Protocol to Amend the Air Services Agreement between New Zealand and the Kingdom of Sweden signed at Wellington on 7 February 2001*, subject to any minor and/or technical changes arising from the process of legal verification
21. **authorise** officials to conclude an exchange of diplomatic notes with Sweden to provide for the entry into force of the Protocol.

Authorised for lodgement

Hon Michael Wood
Minister of Transport