

ARRANGEMENT
BETWEEN
THE AUSTRALIAN AND NEW ZEALAND GOVERNMENTS
ON
MUTUAL RECOGNITION OF AVIATION-RELATED CERTIFICATION

Context

1. The Australian and New Zealand Governments (the Governments):
 - a) Recall their commitment to the Australia New Zealand Closer Economic Relations Trade Agreement done at Canberra on 28 March 1983 (ANZCERTA), and to the subsequent agreements and arrangements developed thereunder, in particular, the Trans-Tasman Mutual Recognition Arrangement signed in Australia on 14 June and in New Zealand on 9 July 1996 (TTMRA);
 - b) Recognise their commitment, as Asia-Pacific Economic Cooperation (APEC) member economies, through the Bogor Declaration of Common Resolve to eliminate impediments to economic cooperation and integration and to achieve free and open trade and investment no later than 2010;
 - c) Recognise the Convention on International Civil Aviation done at Chicago on 7 December 1944, to which both Governments are Party;
 - d) Recall paragraph 9 of the Australia-New Zealand Single Aviation Market Arrangements signed at Canberra on 19 September 1996;
 - e) Recall the Agreement between the Government of New Zealand and the Government of Australia relating to Air Services done at Auckland on 22 August 2002 (the 2002 Air Services Agreement); and
 - f) Desiring to implement the commitments contained in the Memorandum of Understanding between the Governments of Australia and New Zealand on Open Skies signed at Melbourne on 20 November 2000 in respect of mutual recognition of aviation-related certification;
 - g) Have reached the following understandings:

Purpose

2. This Arrangement is an expression of the Governments' shared intention to give effect to the ANZA Mutual Recognition Principle.

Definitions

3. In this Arrangement:

“Aviation safety authorities” means the Civil Aviation Safety Authority of Australia and the Civil Aviation Authority of New Zealand, and any successors to those organisations;

“Home regulator”, in relation to a person authorised to carry out an aviation activity, means the aviation safety authority that issued the relevant authorisation; and

“Host regulator” means the aviation safety authority within whose jurisdiction a person benefits from the ANZA Mutual Recognition Principle.

ANZA Mutual Recognition Principle

4. Subject to paragraph 5, the ANZA Mutual Recognition Principle is that a person authorised under Australian law to carry out an aviation activity in Australia may carry out the same kind of aviation activity in New Zealand, and a person authorised under New Zealand law to carry out an aviation activity in New Zealand may carry out the same kind of aviation activity in Australia.
5. In order to benefit from the ANZA Mutual Recognition Principle, a person will be required to be approved by the home regulator to carry out the aviation activity within the jurisdiction of the host regulator.
6. The ANZA Mutual Recognition Principle is based on Governments' understanding that:
 - a) while their aviation safety regulatory systems may differ, they nevertheless achieve comparable safety outcomes;
 - b) mutual recognition should be addressed at the level of whole safety systems rather than their constituent parts; and
 - c) home regulators should retain regulatory responsibility for and oversight of persons they authorise to carry out aviation activities.

Scope

7. Governments acknowledge that the ANZA Mutual Recognition Principle will apply progressively to all aviation-related certification covered by the 2002 Air Services Agreement and not covered by the TTMRA.
8. From the date of coming into effect of this Arrangement, the ANZA Mutual Recognition Principle will apply to Air Operator('s) Certificates permitting the operation of aircraft with a capacity of more than 30 passenger seats, or a maximum certificated take-off weight of more than 15,000kg.
9. Application of the ANZA Mutual Recognition Principle to Air Operator('s) Certificates permitting the operation of aircraft with a capacity of 30 passenger seats or less, or a maximum certificated take-off weight of 15,000kg or less, will follow subject only to Governments' concurrence, in consultation with aviation safety authorities, that the safety outcomes of their respective civil aviation safety regimes in relation to that type of operation are equivalent.
10. Governments will apply progressively the ANZA Mutual Recognition Principle to additional areas of aviation-related certification within the scope of this Arrangement provided that:
 - a) there is demand from the aviation industry in either country for the addition; and
 - b) Governments, in consultation with the aviation safety authorities, concur that the safety outcomes of their respective civil aviation safety regimes in relation to the additional area of aviation-related certification are equivalent.
11. Decisions by the Governments to apply the ANZA Mutual Recognition Principle to aircraft operations referred to in paragraph 9 or the additional areas of aviation-related certification referred to in paragraph 10 will be recorded through an exchange of diplomatic notes, with the ANZA Mutual Recognition Principle taking effect for additions on the date specified in those notes.
12. Governments recognise that mutual recognition of aviation-related certification may be extended beyond that covered by the 2002 Air Services Agreement by mutual agreement at some future time.

Implementation

13. Governments acknowledge that persons benefiting from the ANZA Mutual Recognition Principle will at all times be subject to applicable national laws when operating within the other country and, in particular, the applicable rules of the air.
14. In regulating aviation safety within their respective jurisdictions, Governments are of the view that host regulators should not discriminate against persons benefiting from the ANZA Mutual Recognition Principle by applying to such persons controls less favourable than those applied to any other person, whether or not that person also benefits from the ANZA Mutual Recognition Principle.
15. For the avoidance of double-charging:
 - a) Governments acknowledge that persons benefiting from the ANZA Mutual Recognition Principle will remain subject to any levy, tax, charge or other such fee directly associated with safety regulation imposed within the jurisdiction of the home regulator; and
 - b) Governments acknowledge that persons benefiting from the ANZA Mutual Recognition Principle should not be subject to levies, taxes, charges or other such fees directly associated with safety regulation of the same activity ordinarily imposed within the jurisdiction of the host regulator. To this end, the host Government will use its best endeavours to avoid imposing such levies, taxes, charges and fees.

Temporary Stop Notices

16. Where a host regulator considers that continued operation by a person benefiting from the ANZA Mutual Recognition Principle would constitute a serious risk to civil aviation safety within its jurisdiction, the host regulator may issue to that person a Temporary Stop Notice.
17. The host regulator will specify in the Temporary Stop Notice the extent to which the person will be required to cease all or any part of their aviation activities within the jurisdiction of the host regulator, and communicate this information to the home regulator.

18. A Temporary Stop Notice will remain in effect for no longer than necessary and, in any case, will be revoked by the host regulator upon receiving advice from the home regulator that the matter has been resolved.

Cooperation between Aviation Safety Authorities

19. Governments acknowledge that aviation safety authorities will cooperate with each other in implementing this Arrangement, particularly through sharing information and facilitating investigations for enforcement purposes.
20. Governments acknowledge that aviation safety authorities will enter into a separate accord setting out agreed operational procedures for facilitating the implementation of the ANZA Mutual Recognition Principle. Such an accord will take effect concurrently with this Arrangement.

Resolution of Differences

21. Governments will use their best endeavours to resolve amicably any differences arising under this Arrangement and, as necessary, will consult to that end.

Amendment

22. Governments may amend this Arrangement at any time by mutual arrangement through an exchange of diplomatic notes. Such amendments will take effect on the date specified in those notes.

Withdrawal, Termination

23. A Government may withdraw from this Arrangement by giving written notice of that intent. In the event of a notice to withdraw, Governments will work together to terminate this Arrangement as expeditiously as possible. Termination will take effect at the expiration of 12 months or on the date specified by mutual arrangement through an exchange of diplomatic notes.

General review

24. Governments will undertake a periodic general review of the operation of the Arrangement and its relevant legislation, to assess whether any changes to the Arrangement or related legislation are required to improve the operation or coverage of the Arrangement.

Effective date

25. Governments will notify each other through the diplomatic channel of the completion of any legislative or constitutional requirements necessary to implement this Arrangement. This Arrangement will take effect on the date of the latter of those notifications.

Signed at WELLINGTON, this 13th day of Feb 2007

For the Government of
Australia:



John Dauth VLO
Australian High Commissioner to
New Zealand

For the Government of
New Zealand:



Hon Annette King
Minister of Transport