**PROTOCOL**

**BETWEEN**

**THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIET NAM**

**AND**

**THE GOVERNMENT OF NEW ZEALAND**

**AMENDING THE AGREEMENT BETWEEN**

**THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIET NAM**

**AND THE GOVERNMENT OF NEW ZEALAND**

**ON AIR SERVICES, SIGNED IN HA NOI ON 17 OCTOBER 2003**

The Government of the Socialist Republic of Viet Nam and the Government of New Zealand, hereinafter referred to as "Contracting Parties",

Desiring to amend the Agreement between the Government of the Socialist Republic of Viet Nam and the Government of New Zealand on Air Services, signed in Ha Noi on 17 October 2003 (the "Agreement on Air Services");

Referring to the Memorandum of Understanding (MOU) signed on 16 August 2013 between the Socialist Republic of Viet Nam and New Zealand in Ha Noi, Viet Nam;

Have agreed as follows:

## ARTICLE I

Article 6 of the Agreement on Air Services shall be amended as follows:

***Article 6***

***Safety***

*1. Certificates of airworthiness, certificates of competency and licenses, issued or validated by one Contracting Party and still in force, shall be recognized as valid by the other Contracting Party for the*

*purpose of operating the agreed services on the routes specified in the Annex provided that such certificates or licenses were issued or validated pursuant to, and in conformity with, the standards established under the Convention. Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flights above or landing within its own territory, certificates of competency and licenses granted to its own nationals by the other Contracting Party.*

*2. Each Contracting Party may request consultations at any time concerning safety standards in any area relating to aircrew, aircraft or their operation adopted by the other Contracting Party. Such consultations shall take place within thirty (30) days of that request.*

*3. If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards in any such area that are at least equal to the minimum standards established at that time pursuant to the Convention, the first Contracting Party shall notify the other Contracting Party of those findings and the steps considered necessary to conform with those minimum standards, and that other Contracting Party shall take appropriate corrective action. Failure by the other Contracting Party to take appropriate action within fifteen (15) days or such longer period as may be agreed, shall be grounds for the application of Article 4 of this Agreement.*

*4. Notwithstanding the obligations mentioned in Article 33 of the Convention, it is agreed that any aircraft operated by the airline of one Contracting Party on services to or from the territory of the other Contracting Party may, while within the territory of the other Contracting Party, be the subject of an examination by the authorized representatives of the other Contracting Party, on board and around the aircraft to check both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment (in this Article called "ramp inspection"), provided this does not lead to unreasonable delay.*

*5. If any such ramp inspection or series of ramp inspections gives rise to:*

*a) serious concerns that an aircraft or the operation of an aircraft does not comply with the minimum standards established at that time pursuant to the Convention, or*

*b) serious concerns that there is a lack of effective maintenance and administration of safety standards established at that time pursuant to the Convention, the Contracting Party carrying out the inspection shall, for the purposes of Article 33 of the Convention, be free to conclude that the requirements under which the certificate or licenses in respect of that aircraft or in respect of the crew of that aircraft had been issued or rendered valid, or that the requirements under which that aircraft is operated, are not equal to or above the minimum standards established pursuant to the Convention.*

*6. In the event that access for the purpose of undertaking a ramp inspection of an aircraft operated by the airline of one Contracting Party in accordance with paragraph 4 of this Article is denied by the representative of that airline, the other Contracting Party shall be free to infer that serious concerns of the type referred to in paragraph 4 of this Article arise and draw the conclusions referred to in that paragraph.*

*7. Each Contracting Party reserves the right to suspend or vary the operating authorization of the airline of the other Contracting Party immediately in the event the first Contracting Party concludes, whether as a result of a ramp inspection, consultation or otherwise, that immediate action is essential to ensure the safety of an airline operation.*

*8. Any action by one Contracting Party in accordance with paragraphs 3 or 7 of this Article shall be discontinued once the basis for the taking of that action ceases to exist.*

## ARTICLE II

Article 7 of the Agreement on Air Services shall be amended as follows:

***Article 7***

***Aviation Security***

*1. In accordance 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 this 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 in Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, its supplementary Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988 and any other multilateral agreement governing civil aviation security binding upon the Parties.*

*2. The Contracting Parties shall provide, on 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, of their passengers and crew, and of airports and air navigation facilities, and to address any other threat to the security of civil aviation.*

*3. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions and appropriate recommended practices established by the International Civil Aviation Organization and designated as Annexes to the Convention to the extent that such security provisions are applicable to the Contracting Parties; they shall require that operators of aircraft of their registry, operators of aircraft who have their permanent residence or principal place of business in their territory, and the operators of airports 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 required by the other Contracting Party for entry into, departure from, or while within, the territory of that other Contracting Party. 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 positive consideration to any request from the other Contracting Party for reasonable special security measures to meet a particular threat to civil aviation.*

*5. Each Contracting Party shall also give sympathetic consideration to a request from the other Contracting Party to enter into reciprocal administrative arrangements whereby the aeronautical authorities of one Contracting Party could make in the territory of the other Contracting Party their own assessment of the security measures being carried out by aircraft operators in respect of flights destined for the territory of the Contracting Party making such a request.*

*6. Each Contracting Party shall take such measures as it may find practicable to ensure that an aircraft of the other Contracting Party, subjected to an act of unlawful seizure or other acts of unlawful interference, which has landed in its territory is detained on the ground unless its departure is necessitated by the overriding duty to protect human life. Wherever practicable, such measures shall be taken on the basis of mutual consultations.*

*7. 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.*

*8. When a Contracting Party has reasonable grounds to believe that the other Contracting Party has departed from the aviation security provisions of this Article, the aeronautical authorities of that Contracting Party may request immediate consultations with the aeronautical authorities of the other Contracting Party. Failure to reach a satisfactory agreement within 15 days from the date of such request shall constitute grounds to withhold, revoke, suspend, limit, or impose conditions on the operating authorisations and technical permissions of an airline or airlines of that Contracting Party. When required by an emergency, a Contracting Party may take interim action prior to the expiry of 15 days.*

## ARTICLE III

Article 10 of the Agreement on Air Services shall be amended as follows:

***Article 10***

***Tariffs***

*Each Contracting Party shall allow tariffs for air services to be decided by each designated airline based on commercial considerations in the marketplace. Intervention by the Contracting Parties shall be limited to:*

*a) prevention of unreasonably discriminatory tariffs or practices;*

*b) protection of consumers from tariffs that are unreasonably high or restrictive due to the abuse of a dominant position; and*

*c) protection of airlines from tariffs that are artificially low due to direct or indirect governmental subsidy or support.*

## ARTICLE IV

The Annex to the Agreement on Air Services shall be amended as follows:

**Route Schedule**

**1. Section 1.**

Routes to be operated by the designated airline of New Zealand:

| Points of Origin | Intermediate Points | Points of Destination | Points Beyond |
|---|---|---|---|
| Any points | Any points | Any points | Any points |

**2. Section 2.**

Routes to be operated by the designated airline of the Socialist Republic of Viet Nam:

| Points of Origin | Intermediate Points | Points of Destination | Points Beyond |
|---|---|---|---|
| Any points | Any points | Any points | Any points |

**Notes:**

1. The designated airline of either Contracting Party may, on any or all flights, omit calling at any of the above points, provided that the service on this route starts and terminates in the territory of that Contracting Party.

2. The right of the designated airline of either Contracting Party to transport passengers, cargo and mail between the points in the territory of the other Contracting Party and points in the territory of Third Parties shall be discussed and agreed upon by the aeronautical authorities of the two Contracting Parties.

**ARTICLE V**

The Agreement between the Government of the Socialist Republic of Viet Nam and the Government of New Zealand on Air Services, signed in Ha Noi on 17 October 2003 and this Protocol shall be interpreted and applied as a single instrument.

## ARTICLE VI

This Protocol shall enter into force on the date of the later of notifications by both Contracting Parties through diplomatic channels that the national requirements for the entry into force of this Protocol have been fulfilled.

Done at AUCKLAND this 19th day of March, 2015 in two originals in the English language.

| **For the Government of the Socialist Republic of Viet Nam** | **For the Government of New Zealand** |
| --- | --- |
| His Excellency Mr. Dinh La Thang | The Honourable Simon Bridges |
| Minister of Transport | Minister of Transport |