

**Response of NEW ZEALAND
to questions concerning its current policy, position and practice
on air carrier ownership and control**

(Date of response: 18/09/07)

| No. | Question | Yes | No | Case by Case | Note/Comment |
|-----|--|-----|----|--------------|--|
| 1. | When designating your airline to operate the agreed services under an air services agreement, do you require it to be substantially (or majority) owned and effectively controlled by nationals of your country? | X | | | <p>New Zealand Government policy is that “until such time as the Government can be confident that an airline it designates would not be denied access to traffic rights with other bilateral partners, designated New Zealand international airlines will continue to be required to be substantially owned and effectively controlled by New Zealand nationals.”</p> <p>Current ownership limits in respect of New Zealand international airlines are – 25% by a single foreign carrier, 35% by foreign carriers in aggregate and 49% total foreign ownership. In order to provide flexibility for the future, however, New Zealand seeks to negotiate for the designation criteria of “place of incorporation”, principal place of business” and “effective control”.</p> <p>New Zealand has agreed these criteria with a significant number of its bilateral partners, and they are also the criteria contained in the Multilateral Agreement on the Liberalization of International Air Transportation (MALIAT) to which Brunei Darussalam, Chile, the Cook Islands, New Zealand, Samoa, Singapore, Tonga and the United States of America are party to.</p> |

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| 2. | In dealing with the designation of foreign airlines, which of the following criteria do you accept: | | | | |
| | a) substantially (or majority) owned and effectively controlled by the designating party or its nationals (the traditional approach) | X | | | |
| | b) substantially (or majority) owned and effectively controlled by one or more States that are parties to an agreement or within a predefined regional grouping (e.g. a “community of interest” carrier) | X | | | |
| | c) incorporated and having its principal place of business or permanent residence in the territory of the designating party | X | | | |
| | d) having its principal place of business in the territory of and effective control by the designating party (without the ownership requirement) | | | X | |
| | e) having its principal place of business in the territory of and effective regulatory control by the designating party | | | X | |
| | f) any other criteria (please describe) | X | | | <p>Specific designation criteria apply to airlines operating within the Single Aviation Market (SAM) between New Zealand and Australia. SAM airlines do not have to be designated, but they are required to meet the following conditions (set out in the 2002 Agreement between the Government of New Zealand and the Government of Australia relating to Air Services):</p> <p>a) the airline is majority owned and effectively controlled by nationals of either or both Parties; and</p> <p>b) the airline has, as members of its</p> |

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| | | | | | board, at least a 2/3 majority of nationals of either or both Parties; and c) the airline has, as chairperson of its board, a national of either Party; and d) the airline has its head office in the territory of either Party; and e) the airline has its operational base in the territory of either Party |
| 3. | In dealing with airline designations in the future, are you willing to accept criteria other than the traditional national ownership and control: | | | | |
| | a) for both yourself and the foreign partner? | X | | | |
| | b) for the foreign partner but maintain traditional criteria for yourself? | | | X | New Zealand has entered into a “horizontal” Agreement with the EU |
| | c) What economic regulatory conditions will you impose for such acceptance? (please describe) | | | | New Zealand’s principal concern would be to guard against any attempt to circumvent bilateral arrangements, i.e., an airline of a country with which New Zealand had restrictive air services arrangements could get around those restrictions by means of taking ownership of an airline in another of New Zealand’s air services partners. |
| 4. | Are you willing to consider the following positive action in facilitating liberalization of air carrier ownership and control: | | | | |
| | a) issuing an individual statement of policy for accepting designations of foreign air carriers? | | X | | |
| | b) developing a common policy with partner States? (please indicate, if possible, with which partner(s)) | | X | | |
| | c) any other action? (please describe) | | | | |

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| <p>Any other comments on your answers:</p> <p>Airlines are a capital intensive industry and many countries do not have capital markets of sufficient size to provide the required levels of equity capital. Designation criteria of “place of incorporation”, the “principal place of business” and “effective control” permit airlines to seek capital from a wide range of sources. Importantly, however, although these criteria allow each side in an ASA to determine the ownership regime for its airlines, they do not require the other side to change its own airline ownership regime.</p> <p>Airlines with a significant international route network would require the agreement of all the countries served before it could confidently become foreign owned. This would be a very slow process and New Zealand would support ICAO (and/or the World Trade Organization) in seeking a multilateral instrument to achieve greater flexibility in designation criteria. New Zealand continues to support the requirement that safety oversight be maintained in the designating country.</p> | | | | | |