



IRBUAE-A

15 September 2006

Mr Sam Cooper  
Solicitor  
Chapman Tripp  
PO Box 993  
WELLINGTON

Dear Mr Cooper

The Ministry of Foreign Affairs and Trade has transferred to the Ministry of Transport your request, pursuant to the Official Information Act 1982 ("the Act"), for documents and information relating to a review of New Zealand's air services arrangements with the United Arab Emirates (UAE).

This is a sensitive and ongoing matter. Ministers have been briefed on this subject and further work has been requested. We recognise that this matter is part of the context of our consideration of the Air New Zealand/Qantas Tasman Networks Agreement application. New Zealand's international relations are also involved.

In accordance with sections 9 and 16 of the Act, I have decided to provide you with a summary of some of the relevant information and documents (rather than release these to you), and as regards the remainder of the relevant information and documents withhold such information and documents. The grounds under the Act on which I am acting are:

- section 6(a) in that release of the information would prejudice the international relations of the Government of New Zealand;
- section 9(2)(b)(ii) to protect the commercial position of the person who supplied the information, or who is the subject of the information;
- section 9(2)(ba)(i) to protect information that is subject to an obligation of confidence and where releasing the information would prejudice the supply of similar information in the future and it is in the public interest that such information should continue to be supplied;
- section 9(2)(f)(iv) to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials;
- section 9(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinions;
- section 9(2)(j) to enable the Crown to negotiate without disadvantage or prejudice;

- section 16(1)(e) which provides that the information requested may be released in summary form; and
- section 18(c) in that release of the information would violate another statute, viz., the Statistics Act 1975.

Dubai-based Emirates Airline commenced services to New Zealand in August 2003 pursuant to air services arrangements negotiated between New Zealand and the UAE in 1997. The airline's initial frequency was 14 services per week to Auckland, with a third daily service added from October 2003 and a daily service to Christchurch added in November 2004. In implementing this expansion, Emirates has quickly established itself as the third largest international carrier by market share to/from New Zealand behind Air New Zealand (and its subsidiary Freedom Air) and Qantas (and its subsidiary Jetstar). All four daily services operate via Australia, and use a mix of 258 seat A340 and 364 or 380 seat B777 aircraft.

The Ministry, as part of its analysis of air traffic statistics, has monitored the nature of traffic carried on Emirates' services to New Zealand. This revealed that only a very small percentage of Emirates' traffic is travelling between the Middle East and New Zealand. As a result, the Ministry wrote to Emirates in 2005 with the aim of encouraging the airline, in its future route planning and marketing to/from New Zealand, to bear in mind the principles in the New Zealand - UAE Air Services Agreement (ASA) governing capacity, and to do more to focus on travel between the Middle East and New Zealand.

The Open Aviation Market Licence issued to Emirates in 2003 requires that its scheduled international air services shall be carried on in compliance with the New Zealand - UAE air services arrangements. Although the Memorandum of Understanding accompanying the ASA with the UAE provides for no restriction on capacity, the ASA does outline the principles governing that capacity. These include: (a) that the "primary objective" of the agreed capacity is that it relate to the requirements of the market between New Zealand and the UAE geographical area; and (b) that in the operation of the agreed services by a designated airline of either Contracting Party, the interests of the designated airline of the other Contracting Party shall be taken into consideration so as not to affect unduly the agreed services which the latter operates on the whole or part of the same route. A general consultation article in the ASA provides an avenue by which compliance with the capacity principles can be reviewed by New Zealand and UAE officials.

As noted above, Emirates commenced services to New Zealand in 2003, a number of years after the negotiation of the ASA with the UAE in 1997 and its entry into force in 1999. The delay was due to UAE airlines not having the right from Australia to operate across the Tasman.

Emirates commencement of services to New Zealand was seen as a means of enhancing New Zealand's economic links with the Middle East, and the Prime Minister gave a speech of welcome at Auckland airport when Emirates first arrived.

New Zealand exporters also welcomed the cargo capacity that Emirates provides. Using wide-bodied aircraft, the Emirates' services were introduced at a time when Air New Zealand was reducing trans-Tasman cargo capacity with the introduction of narrow-bodied A320 aircraft (which have a reduced freight capacity).

New Zealand has a significant trade relationship with the UAE. In the year ended June 2005, imports from the UAE (primarily oil) totalled \$400 million and exports to the UAE (around half of which were dairy products) totalled \$158 million.

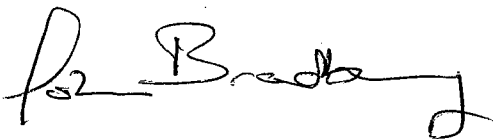
Emirates is one of 11 passenger airlines and three cargo airlines operating in the Tasman market (a further eight airlines provide code-share passenger services). There is the possibility that Emirates' New Zealand services could be operated by the 500+ seat A380 aircraft that the airline has on order.

Air New Zealand has the right to operate to the UAE and last year commenced code-share services to Dubai on Singapore Airlines.

With respect to the withholding of information under section 9 of the Act, and the release of information in summary form under section 16(1)(e), I have considered the purposes of the Act and also whether there are considerations which render it desirable in the public interest to make the information available. I am satisfied that good reason exists for withholding the information referred to above and that this is not outweighed by any such public interest considerations.

With regard to the information that has been withheld, and in accordance with section 19(b) of the Act, I advise that you have the right to lay a complaint with the Ombudsman and have the Ombudsman investigate and review the reason for withholding the information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Bradbury', written in a cursive style.

John Bradbury  
Acting Secretary for Transport