

No. 551

Buenos Aires, July 3, 2007

Excellency:

I have the honor to refer to the Air Transport Services Agreement between the Governments of the United States of America and the Republic of Argentina, done at Buenos Aires October 22, 1985, as amended (hereinafter the "Agreement"), and to consultations on expanding and modernizing the civil aviation relationship between our two governments which took place in Washington March 20-22, 2007. In light of those consultations, I have the honor to propose the following amendments of the Agreement:

I.- Subparagraph (2)(c) of Article I of the Agreement shall be amended by adding the words "and Article IV*bis*" to the end of the only sentence.

II.- The heading of Article IV of the Agreement shall be amended to read "Safety and Recognition of Certificates and Licenses"; Paragraphs (3), (4), and (5) of that Article shall be deleted in their entirety; and the words "and security" shall be deleted from the first two sentences of Paragraph (2) of that Article.

His Excellency

Jorge Enrique Taiana,

Minister of Foreign Affairs, International Trade and Worship
of the Argentine Republic.

DIPLOMATIC NOTE

III.- A new Article IV*bis* shall be added to the Agreement and read as follows:

Article IV*bis*
Aviation Security

1. In accordance with their rights and obligations under international law, the 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 Parties shall in particular act in conformity with the provisions of the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, done at Tokyo September 14, 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague December 16, 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal September 23, 1971, and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal February 24, 1988.

2. The Parties shall provide upon 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 air navigation.

3. The Parties shall, in their mutual relations, act in conformity with the aviation security standards and

appropriate recommended practices established by the International Civil Aviation Organization and designated as Annexes to the Convention; they shall require that operators of aircraft of their registry, operators of aircraft who have their principal place of business or permanent residence in their territory, and the operators of airports in their territory act in conformity with such aviation security provisions.

4. Each Party agrees to observe the security provisions required by the other Party for entry into, for departure from, and while within the territory of that other Party. Each Party shall ensure that adequate measures are effectively applied within its territory to protect aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Party shall grant sympathetic consideration to any request from the other Party for special security measures to meet a particular threat.

5. When an incident or threat of an incident of unlawful seizure of aircraft or other unlawful acts against the safety of passengers, crew, aircraft, airports or air navigation facilities occurs, the Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat.

6. When a Party has reasonable grounds to believe that the other Party has departed from the aviation security provisions of this Article, the aeronautical authorities of that Party may request immediate consultations with the aeronautical authorities of the other Party. Failure to reach a satisfactory agreement within 15 days from the date of such request shall constitute grounds to withhold, revoke, limit, or impose conditions on the operating authorization and technical permissions of an airline or airlines of that Party. When

required by an emergency, a Party may take interim action prior to the expiry of 15 days.

IV.- A new Article VIII*bis* shall be added to the Agreement and read as follows:

Article VIII*bis*
Pricing

1. Each Party shall allow prices for air transportation to be established by each designated airline based upon commercial considerations in the marketplace. These considerations may include all relevant factors, such as operating costs, service characteristics, commission rates, profits, fares charged by other airlines, and other commercial considerations. Intervention by the Parties shall be limited to:

- a. prevention of unreasonably discriminatory prices or practices;
- b. protection of consumers from prices that are unreasonably high or restrictive due to the abuse of a dominant position; and
- c. protection of airlines from prices that are artificially low due to direct or indirect governmental subsidy or support.

2. Each Party may require notification or filing of proposed fares to or from its territory by the designated airlines of both Parties. Such notification or filing may be required no more than 10 days before the proposed date of inauguration. In special cases, this notice period may be reduced. In addition, the designated airlines of the Parties

shall continue to provide immediate access, on request, to information on historical, existing, and proposed prices to the aeronautical authorities of the Parties in a manner and format acceptable to those aeronautical authorities.

3. Neither Party shall take unilateral action to prevent the inauguration or continuation of a price proposed to be charged or charged by (i) an airline of either Party for international air transportation between the territories of the Parties, or (ii) an airline of one Party for international air transportation between the territory of the other Party and any other country, including in both cases transportation on an interline or intraline basis. If either Party believes that any such price is inconsistent with the considerations set forth in paragraph 1 of this Article, it shall request consultations and notify the other Party of the reasons for its dissatisfaction as soon as possible. These consultations shall be held not later than 30 days after receipt of the request, and the Parties shall cooperate in securing information necessary for reasoned resolution of the issue. If the Parties reach agreement with respect to a price for which a notice of dissatisfaction has been given, each Party shall use its best efforts to put that agreement into effect. Without such mutual agreement, the price shall go into effect or continue in effect.

V.- Paragraph B to Section 1 of Annex I to this Agreement shall be deleted in its entirety and replaced by the following:

B. Scheduled combination services.

1. For designated airlines of the United States, effective immediately:

- a. From points behind the United States, via the United States and intermediate points, to four (4) points in Argentina, and beyond to points in South America.
 - b. Five (5) additional points in Argentina may be served on a codeshare-only basis.
 - c. Five (5) additional points in Argentina may be served on a codeshare-only basis with a designated airline of Argentina.
2. For designated airlines of Argentina:
- a. Effective immediately:
 - i. From points behind Argentina, via Argentina and intermediate points, to twelve (12) points in the United States, and beyond to Montreal, Toronto, Korea, three (3) points in Europe, and three (3) points in the Caribbean.
 - ii. Five (5) additional points in the United States may be served on a codeshare-only basis.
 - iii. Five (5) additional points in the United States may be served on a codeshare-only basis with a designated airline of the United States.
 - b. Effective March 21, 2008:

- i. From points behind Argentina, via Argentina and intermediate points, to fourteen (14) points in the United States, and beyond to three (3) points in Canada, two (2) points in Asia (except Japan, China, and the Philippines), six (6) points in Europe, six (6) points in the Caribbean, two (2) points in Mexico, and points in Central America.
 - ii. A total of five (5) additional points in the United States may be served on a codeshare-only basis.
 - iii. A total of five (5) additional points in the United States may be served on a codeshare-only basis with a designated airline of the United States.
- c. Effective March 21, 2009:
 - i. From points behind Argentina, via Argentina and intermediate points, to fourteen (14) points in the United States, and beyond to three (3) points in Canada, four (4) points in Asia (except Japan, China, and the Philippines), eight (8) points in Europe, four (4) points in Mexico, and points in the Caribbean, Central America, and South America.

- ii. A total of five (5) additional points in the United States may be served on a codeshare-only basis.
- iii. A total of five (5) additional points in the United States may be served on a codeshare-only basis with a designated airline of the United States.

VI.- Paragraphs A, B, and C to Section 4 of Annex I to this Agreement shall be deleted in their entirety and replaced by the following:

- A. Effective immediately: up to seventy-seven (77) weekly round-trip frequencies.
- B. Effective March 21, 2008: up to ninety-eight (98) weekly round-trip frequencies.
- C. Effective March 21, 2009: up to one hundred and twelve (112) weekly round-trip frequencies.

VII.- Footnote 1 to Section 4 of Annex I to the Agreement shall be deleted in its entirety and replaced by the following:

The capacity limitations in this Annex shall have no application to operations behind or beyond the gateways in the territories of the Parties. Nor shall the limitations apply to operations including San Juan on the routes listed in Section 1, paragraphs B.2(a)(i), B.2(b)(i), and B.2(c)(i) of this Annex.

VIII.- Section 5 of Annex I to the Agreement shall be deleted in its entirety.

IX.- In the Spanish version of the Agreement, the word "protección" shall be replaced by the phrase "seguridad operacional".

I have the further honor to propose that, if acceptable to your Government, this note and your Excellency's affirmative note in reply shall constitute an agreement on this subject which shall enter into force on the date of your Excellency's note in reply.

Accept, Excellency, the assurances of my highest consideration.

Earl Anthony Wayne

