

[PRESIDENTIAL DECREE NO. 1590, June 11, 1978]

AN ACT GRANTING A NEW FRANCHISE TO PHILIPPINE AIRLINES, INC. TO ESTABLISH, OPERATE, AND MAINTAIN AIR-TRANSPORT SERVICES IN THE PHILIPPINES AND BETWEEN THE PHILIPPINES AND OTHER COUNTRIES.

WHEREAS, the ownership, control, and management of Philippine Airlines, our national flag carrier, have been reacquired by the Government;

WHEREAS, the franchise granted to Philippine Airlines, Inc. by virtue of Act No. 4271, as amended, will expire in November 1985;

WHEREAS, there is a need to grant Philippine Airlines, Inc. a new franchise to establish, operate, and maintain air-transport services within the Philippines and between the Philippines and other countries;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby decree and order the following:

SECTION 1. There is hereby granted to Philippine Airlines, Inc., hereinafter referred to as the grantee, a franchise to establish, operate, and maintain transport services for the carriage of passengers, mail, and property by air in and between any and all points and places throughout the Philippines, and between the Philippines and other countries.

SEC. 2. Excepting cases of force majeure and whenever weather conditions permit, the grantee shall maintain scheduled and/or nonscheduled and/or charter air-transport services in and between any and all points and places throughout the Philippines as well as between the Philippines and other countries at such frequencies as traffic needs may require.

SEC. 3. The grantee shall fix just and reasonable rates for the transportation of passengers, mail, and freight, subject to the regulations and approval of the Civil Aeronautics Board or such other regulatory agency as the Government may designate for this purpose. Any order of the Civil Aeronautics Board made under this Section shall be subject to review by the courts.

All aircraft used by the grantee and the flight-crew members operating such aircraft shall be licensed by the Government of the Philippines and together with its accessories and equipment shall at all times be in airworthy condition; they shall be equipped with radio communication, safety and other equipment, and shall be operated and maintained in accordance with the regulations and technical requirements of the Civil Aeronautics Administration or such other regulatory body as the Government may prescribe for this purpose.

The grantee's equipment and the operation of such equipment shall at all times be subject to inspection and regulation by the Civil Aeronautics Administration whose decisions on technical matters shall be binding until revoked or annulled by superior authority under whose control this office falls or by the courts for excess, or abuse of jurisdiction.

The grantee shall comply with the provisions of Republic Act Numbered Seven Hundred and Seventy-six, and the regulations promulgated thereunder from time to time.

SEC. 4. Subject to such terms and conditions as the Philippine Government may prescribe, the grantee may use landing and other airport facilities on land or water as may be maintained or owned by the Government within the Philippines on the grantee's lines, excepting those which in the opinion of said Government may not be used by the grantee because of military or naval considerations, and reciprocally, the Philippine Government shall have the right to use the landing and other airport facilities on land or water maintained or owned by the grantee in the Philippines.

SEC. 5. The grantee shall have the right, at its terminals and landing fields as well as in its aircraft, to construct, operate, and maintain stations or transmitting sets for wireless telegraphy and direction finding, and other radio aids to air navigation using wave lengths as shall be in accordance with the rules and regulations made from time to time by the Philippine Government; but the wireless communication facilities shall be used solely for receiving and transmitting weather forecasts and messages relating to the grantee's aircraft and other matters in connection with the grantee's services.

SEC. 6. The grantee is authorized to enter into transportation contracts with the Philippine Government, including the carrying of mail, upon terms and conditions to be mutually agreed upon. The grantee shall give preferential considerations to contracts with the Philippine Government, and, reciprocally, the latter shall give preferential considerations to contracts with the grantee in the carrying of passengers, mail, and freight.

SEC. 7. In case of war, insurrection, domestic trouble, public calamity, or national emergency, the Philippine Government upon order of the President shall have the right to take over and operate the equipment of the grantee, paying just compensation for such use or damages.

SEC. 8. The grantee shall be subject to the laws of the Philippines now existing or hereafter enacted.

SEC. 9. With the approval of the President of the Philippines, and subject to the limitations and procedure prescribed by law, the grantee shall be authorized to exercise the right of eminent domain as may be reasonably necessary for its stations and other structures in connection with the grantee's activities and operations.

No private property shall be taken for any purpose by the grantee without proper condemnation proceedings and just compensation paid or tendered therefor, and any authority to take and occupy land contained herein shall not apply to the taking, use, or occupation of any land except such as is required for the actual purposes for which this franchise is granted.

SEC. 10. The grantee shall not issue stock or bonds except in exchange for actual cash or for property at least equal in value to the par value of the stock or bonds so issued; *provided*, however, that it may issue stock, bond, or property dividends upon compliance with the requirements of applicable existing laws.

SEC. 11. It shall be unlawful for the grantee to use, employ, or contract for the labor of persons held in involuntary servitude.

SEC. 12. The grantee shall hold the national, provincial, and municipal governments of the Philippines harmless from all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by the operation of the services under the franchise hereby granted.

SEC. 13. In consideration of the franchise and rights hereby granted, the grantee shall pay to the Philippine Government during the life of this franchise whichever of subsections (a) and (b) hereunder will result in a lower tax:

- a. The basic corporate income tax based on the grantee's annual net taxable income computed in accordance with the provisions of the National Internal Revenue Code; or
- b. A franchise tax of two per cent (2%) of the gross revenues derived by the grantee from all sources, without distinction as to transport or non-transport operations; provided, that with respect to international air-transport service, only the gross passenger, mail, and freight revenues from its outgoing flights shall be subject to this tax.

The tax paid by the grantee under either of the above alternatives shall be in lieu of all other taxes, duties, royalties, registration, license, and other fees and charges of any kind, nature, or description, imposed, levied, established, assessed, or collected by any municipal, city, provincial, or national authority or government agency, now or in the future, including but not limited to the following:

1. All taxes, duties, charges, royalties, or fees due on local purchases by the grantee of aviation gas, fuel, and oil, whether refined or in crude form, and whether such taxes, duties, charges, royalties, or fees are directly due from or imposable upon the purchaser or the seller, producer, manufacturer, or importer of said petroleum products but are billed or passed on to the grantee either as part of the price or cost thereof or by mutual agreement or other arrangement; provided, that all such purchases by, sales or deliveries of aviation gas, fuel, and oil to the grantee shall be for exclusive use in its transport and non-transport operations and other activities incidental thereto;
2. All taxes, including compensating taxes, duties, charges, royalties, or fees due on all importations by the grantee of aircraft, engines, equipment, machinery, spare parts, accessories, commissary and catering supplies, aviation gas, fuel, and oil, whether refined or in crude form and other articles, supplies, or materials; provided, that such articles or supplies or materials are imported for the use of the grantee in its transport and non-transport operations and other activities incidental thereto and are not locally available in reasonable quantity, quality, or price;
3. All taxes on lease rentals, interest, fees, and other charges payable to lessors, whether foreign or domestic, of aircraft, engines, equipment, machinery, spare parts, and other property rented, leased, or chartered by the grantee where the payment of such taxes is assumed by the grantee;
4. All taxes on interest, fees, and other charges on foreign loans obtained and other obligations incurred by the grantee where the payment of such taxes is assumed by the grantee;
5. All taxes, fees, and other charges on the registration, licensing, acquisition, and transfer of aircraft, equipment, motor vehicles, and all other personal and