

**AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF
THE PHILIPPINES AND THE GOVERNMENT OF NEW ZEALAND ON
AIR SERVICES**

The Government of the Republic of the Philippines and the Government of New Zealand (hereinafter referred to as "the Contracting Parties");

Being parties of the Convention on International Civil Aviation and the International Air Services Transit Agreement both opened for signature at Chicago, on the 7th day of December, 1944;

Desiring to conclude an agreement for the purpose of establishing air services between and beyond their respective territories;

Desiring to ensure the highest degree of safety and security in international air transport;

Have agreed as follows:

**ARTICLE 1
DEFINITIONS**

For the purpose of this Agreement, unless the context otherwise requires:

(a) the term "aeronautical authorities" means, in the case of the Republic of the Philippines, the Civil Aeronautics Board and other agencies performing civil aviation-related functions and in the case of New Zealand, the Minister responsible for the subject of Civil Aviation or, in both cases, any other authority or person empowered to perform, the functions now exercised by the said authorities;

(b) the term "agreed services" means scheduled air services on the routes specified in the Annex to this Agreement for the transport of passengers, cargo and mail, separately or in combination;

(c) the term "Agreement" means this Agreement, its Annex, and any amendments thereto;

(d) the term "Convention" means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December 1944 and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or of the Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have been adopted or ratified by both Contracting Parties;

(e) the term "designated airline" means an airline which has been designated and authorised in accordance with Article 3 of this Agreement to provide air services on the routes specified in the Annex thereto;

(f) the term "tariffs" means the prices to be paid for the carriage of passengers, baggage and cargo and the conditions under which those

prices apply, but excluding remuneration and conditions for the carriage of mail;

(g) the term "air services", "international air service", "airline" and "stop for non-traffic purposes" have the meanings respectively assigned to them in Article 96 of the Convention; and

(h) the term "territory", in respect of the Philippines, means the territory as defined in Article 1 of the 1987 Constitution of the Republic of the Philippines, and, in respect of New Zealand, has the meaning assigned to it in Article 2 of the Convention, provided that the term "territory" shall exclude Tokelau.

ARTICLE 2 GRANT OF RIGHTS

1. Each Contracting Party grants to the other Contracting Party the following rights for the conduct of international air services by the airline designated by the other Contracting Party:

(a) to fly without landing across the territory of the other Contracting Party;

(b) to make stops in the said territory for non-traffic purposes; and

(c) to make stops in the said territory for the purpose of taking up and discharging, while serving the routes specified in the Annex, international traffic in passengers, cargo and mail, separately or in combination.

2. Nothing in paragraph 1 of this Article shall be deemed to confer on a designated airline of one Contracting Party the privilege of taking up, in the territory of the other Contracting Party, passengers, cargo and mail carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

ARTICLE 3 DESIGNATION AND AUTHORISATION

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines to conduct the agreed services on the specified routes and to withdraw or alter such designations.

2. On receipt of such designation and' subject to the provisions of Article 4 of this Agreement, the aeronautical authorities of the other Contracting Party shall grant without delay to the airline or airlines so designated the appropriate authorisations to commence the agreed services for which that airline has been designated.

3. Upon receipt of such authorisations the airline may begin at any time to conduct the agreed services, in whole or in part provided that the airline complies with the applicable provisions of this Agreement, in particular, that tariffs are established in accordance with the provisions of Article 10 of this Agreement.

ARTICLE 4 REVOCATION AND LIMITATION OF AUTHORIZATION

1. The aeronautical authorities of each Contracting Party shall have the right to withhold the authorisations referred to in Article 3 of this Agreement with respect to

an airline designated by the other Contracting Party, to revoke or suspend such authorisations or impose conditions, temporarily or permanently:

(a) in the event that they are not satisfied the airline is incorporated and has its principal place of business in the territory of the Contracting Party designating the airline;

(b) in the event that they are not satisfied effective control of that airline is vested in the Contracting Party designating the airline, nationals of that Contracting Party, or both;

(c) in event of failure by such airline to qualify before the aeronautical authorities of that Contracting Party under the laws, regulations and rules normally and reasonably applied by these authorities in conformity with the Convention; and

(d) in case the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.

2. Unless immediate action is essential to prevent further infringement of the laws, regulations and rules referred to above, the rights enumerated in paragraph 1 of this Article shall be exercised only after consultations with the aeronautical authorities of the other Contracting Party in conformity with Article 14 of this Agreement

ARTICLE 5

APPLICATION OF LAWS, REGULATIONS AND RULES

1. The laws, regulations, rules and procedures of one Contracting Party relating to the admission to, remaining in, or departure from its territory of aircraft engaged in international air navigation or to the operation and navigation of such aircraft shall be complied with by the airline or airlines of the other Contracting Party upon entrance into, departure from and while within the said territory.

2. While entering, within, or leaving the territory of one Contracting Party, its laws, regulations and rules relating to the admission to or departure from its territory of passengers, crew or cargo on aircraft (including regulations relating to entry, clearance, aviation security, immigration, passports, customs and quarantine or, in the case of mail, postal regulations) shall be complied with by, or on behalf of, such passengers, crew or cargo of the airlines of the other Contracting Party.

3. Neither of the Contracting Parties shall give preference to its own or any other airline over an airline of the other Contracting Party engaged in similar international air services in the application of its customs, immigration, quarantine and similar regulations.

4. Passengers, baggage and cargo in direct transit through the territory of either Contracting Party and not leaving the area of the airport reserved for such purpose shall be subject to no more than a simplified control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

ARTICLE 6

SAFETY STANDARDS, CERTIFICATES AND LICENCES

1. Certificates of airworthiness, certificates of competency and licences, issued or rendered valid by the aeronautical authorities of one Contracting Party and still in force, shall be recognised as valid by the aeronautical authorities of the other Contracting Party for the purpose of operating the agreed services provided that such certificates or licences were issued or rendered valid pursuant to, and in conformity with, as a minimum, the standards established under the Convention. The aeronautical authorities of each Contracting Party reserve the right, however, to refuse to recognise, for the purpose of flights above its own territory, certificates of competency and licences granted to its own nationals by the other Contracting Party.

2. If the privileges or conditions of the licences or certificates referred to in paragraph 1 above, issued by the aeronautical authorities of one Contracting Party to any person or designated airline or in respect of an aircraft used in the operation of the agreed services, should permit a difference from the minimum standards established under the Convention, and which difference has been filed with the International Civil Aviation Organization, the other Contracting Party may request consultations between the aeronautical authorities in conformity with Article 14 of this Agreement with a view to clarifying the practice in question.

3. Consultations concerning the safety standards and requirements maintained and administered by the aeronautical authorities of the other Contracting Party relating to aeronautical facilities, crew members, aircraft, and operation of the designated airlines shall be held within fifteen (15) days of receipt of a request from either Contracting Party, or such other period as may be mutually determined. If, following such consultations, the aeronautical authorities of one Contracting Party find that the aeronautical authorities of the other Contracting Party do not effectively maintain and administer safety standards and requirements in these areas that are at least equal to the minimum standards established pursuant to the Convention, the aeronautical authorities of the other Contracting Party shall be notified of such findings and the steps considered necessary to conform with these minimum standards. Failure to take appropriate corrective action within fifteen (15) days, or such other period as may be accepted by the aeronautical authorities of the Contracting Party that made the findings, shall constitute grounds for withholding, revoking, suspending or imposing conditions on the authorisations of the airlines designated by the other Contracting Party.

4. Pursuant to Article 16 of the Convention, each Contracting Party accepts that any aircraft operated by, or, where approved, on behalf of, an airline of one Contracting Party, may, while within the territory of the other Contracting Party, be the subject of an examination by the aeronautical authorities of the other Contracting Party, on board and around the aircraft to verify the validity of the relevant aircraft documents and those of its crew members and the apparent condition of the aircraft and its equipment (in this Article called "ramp inspection"), provided such ramp inspection does not cause an unreasonable delay in the operation of the aircraft.

5. If the aeronautical authorities of one Contracting Party, after carrying out a ramp inspection, find that:

- (a) an aircraft or the operation of an aircraft does not comply with the minimum standards established at that time pursuant to the Convention;
- and/or

(b) there is a lack of effective maintenance and administration of safety standards established at that time pursuant to the Convention,

the aeronautical authorities of that Contracting Party may, for the purposes of Article 33 of the Convention and at their discretion, determine that the requirements under which the certificates or licences in respect of that aircraft or its crew members 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. This same determination may be made in the case of denial of access for ramp inspection.

6. The aeronautical authorities of each Contracting Party shall have the right, without consultation, to withhold, revoke, suspend or impose conditions on the authorisations of an airline of the other Contracting Party in the event the aeronautical authorities of the first Contracting Party conclude that immediate action is essential to the safety of airline operations.

7. Any action by the aeronautical authorities of one Contracting Party in accordance with paragraphs 3 or 6 above shall be discontinued once the basis for the taking of that action ceases to exist.

ARTICLE 7 AVIATION SECURITY

1. Consistent 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 provision of the:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963;
- Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971;
- Montreal Supplementary Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988;
- Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991;

and any other multilateral agreement governing civil aviation security binding upon the Contracting Parties.

2. The Contracting 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, their passengers and crew, airports and air navigation facilities, and any other threat to the security of civil aviation.