

November 24, 1999

**AIR SERVICES AGREEMENT BETWEEN THE GOVERNMENT OF THE
REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF THE
REPUBLIC OF NAURU**

The Government of the Republic of the Philippines and the Government of the Republic of Nauru, hereinafter described as the Contracting Parties,

Being Parties to 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, and

Desiring to conclude an agreement for the purpose of establishing and operating air services between and beyond the territories of the Republic of the Philippines and the Republic of Nauru,

HAVE AGREED AS FOLLOWS:

**ARTICLE I
DEFINITIONS**

For the purpose of the present 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/or any person or body authorized to perform any functions exercised at present by said Civil Aeronautics Board or similar functions, and, in the case of the Republic of Nauru, the Civil Aviation Authority and/or any person or body authorized to perform any functions exercised at present by the said Civil Aviation Authority or similar functions;

(b) the term "designated airline" means an airline or airlines which one Contracting Party shall have designated, by written notification to the other Contracting Party, in accordance with Article III of the present Agreement, for operation of air services on the routes specified in any implementing agreement thereto;

(c) the term "territory of the Contracting Party" means the territory of the Republic of the Philippines and the territory of the Republic of Nauru, respectively, as defined in the Constitution and pertinent laws of each State. In the case of the Republic of the Philippines, its national territory comprises the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial, and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas. The waters around, between, and connecting the islands of the Philippine archipelago, regardless of their breadth and dimensions, form part of the internal waters of the Philippines.

(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 Convention under Article 90 and 94 thereof;

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

(f) the term "agreed services" means scheduled air services on the routes specified in any implementing agreement to this Agreement for the transport of passengers, cargo and mail.

(g) The term "specified route" means a route specified in any implementing agreement to this Agreement;

ARTICLE II GRANT OF RIGHTS

(1) Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing and operating air services specified in any implementing agreement to this Agreement.

(2) Subject to the provisions of the present Agreement, the airline designated by each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following privileges:

(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 at the points only as specified for that route in any implementing agreement to the present Agreement for the purpose of putting down and taking on international traffic in passengers, cargo and mail coming from or destined for other points only as specified.

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

(4) At points on the specified routes, each of the designated airlines shall have the right to use all airways, airports and other facilities provided by the Contracting Parties on a non-discriminatory basis.

(5) If, because of armed conflict, political disturbances or developments, or special and unusual circumstances, the designated airline of one Contracting Party is unable to operate a service on its normal routes, the other Contracting Party shall use its best efforts to facilitate the continued operation of such services through appropriate temporary rearrangements of such routes as mutually decided by the Contracting Parties.

ARTICLE III DESIGNATION OF AIRLINES

(1) Each Contracting Party shall have the right to designate in writing to the other Contracting Party two airlines for the purpose of operating the agreed services on the specified routes.

(2) On receipt of the designation, the other Contracting Party shall, subject to the provisions of paragraphs (3) and (4) of this article, without unnecessary delay, grant to the airline designated the appropriate operating authorization.

(3) The aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to satisfy them that it is qualified to fulfill the conditions prescribed under the laws and regulations normally and reasonably applied by them in a manner not inconsistent with the provisions of the Convention to the operation of international commercial air services.

(4) Each Contracting Party shall have the right to refuse to accept the designation of an airline and to withhold or revoke the grant to an airline of the operating authorization specified in paragraph (2) of this Article or to impose such conditions as it may deem necessary in the exercise by an airline of operating authorization in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of the Contracting Party designating the airline.

(5) Subject to the provisions of Article VII of the present Agreement, and to the statutory powers of the aeronautical authorities of the Contracting Parties, at any time after the provisions of paragraphs (1), (2) and (3) of this Article have been complied with, an airline so designated and authorized may begin to operate the agreed services.

(6) Each Contracting Party shall have the right to suspend the exercise by an airline(s) of the operating authorization specified in paragraph (2) of this Article or to impose such conditions as it may deem necessary on the exercise by an airline of the operating authorization in any case where the airline fails to comply with the laws and regulations of the Contracting Party granting the operating authorization or otherwise fails to operate in accordance with the conditions prescribed in the present Agreement, provided that, unless immediate suspension or imposition of conditions is essential to prevent further infringements of laws or regulations, this right shall be exercised only after consultations with the other Contracting Party.

ARTICLE IV

EXEMPTION FROM CUSTOMS DUTIES AND OTHER CHARGES

(1) Aircraft operated on international services by the designated airline of either Contracting Party, as well as their regular equipment, supplies of fuel and lubricants and aircraft stores (including food, beverages and tobacco) on board such aircraft shall be exempt from all customs duties, inspection fees and other duties or taxes on arriving in the territory of the other Contracting Party, provided such equipment and supplies remain on board the aircraft up to such time as they are re-exported.

(2) There shall also be exempt from the same duties and taxes, with the exception of charges corresponding to the services performed:

(a) aircraft stores taken on board in the territory of either Contracting Party, and for use on board the aircraft engaged in an international air service of the Contracting Party;

(b) spare parts entered into the territory of either Contracting Party for the maintenance or repair of aircraft used on international air services by the designated airline of the other Contracting Party;

(c) fuel and lubricants destined to supply aircraft operated on international air services by the designated airline of the other Contracting Party, even when these supplies are to be used on the part of the journey performed over the territory of the Contracting Party in which they are taken on board;

Materials referred to in sub-paragraphs (a), (b) and (c) may be required to be kept under customs supervision or control.

(3) The exemptions provided by paragraph (2) of this Article shall also be available where the airline of one Contracting Party has contracted with another airline, which similarly enjoys such exemptions from the other Contracting Party, for loan or transfer in the territory of the other Contracting Party of the items specified in paragraph (2) of this Article.

ARTICLE V

MAINTENANCE OF TECHNICAL AND ADMINISTRATIVE PERSONNEL

Each designated airline is authorized to maintain in the territory of the other Contracting Party its own technical and administrative personnel, without prejudice to the national regulations of the respective Contracting Parties.

ARTICLE VI

REMITTANCE OF EARNINGS

Either Contracting Party undertakes to grant the other Contracting Party free transfer, in any freely convertible currency at the official rate of exchange at the time of transfer or remittance, of the excess of receipts over expenditure and taxes achieved on its territory in connection with the carriage of passengers, baggage, mail shipments and freight by the designated airline of the other Contracting Party. Whenever the payment system between the Contracting Parties is governed by a special agreement, said agreement shall apply.

ARTICLE VII

APPLICABILITY OF LAWS AND REGULATIONS

(1) The laws and regulations of one Contracting Party relating to the admission to or departure from its territory of aircraft engaged in international air services, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of the airline designated by the other Contracting Party, and shall be complied with by such aircraft upon entering or departing from or while within the territory of the first Contracting Party.

(2) The laws and regulations of one Contracting Party as to the admission to or departure from its territory of passengers, crew or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs and quarantine shall be complied with by or on behalf of such passengers, crew or cargo by the airline designated by the other Contracting Party upon entrance into or departure from, or while within the territory of the first Contracting Party.

ARTICLE VII

PRINCIPLES GOVERNING OPERATION OF AGREED SERVICES

In order to develop the air transport services along the routes or sections thereof in the schedule made part of any implementing agreement for the purpose of

achieving and maintaining equilibrium between the capacity of the specified air services and requirements of the public for air transportation, as determined by the aeronautical authorities of the Contracting Parties, the following principles shall apply:

(1) The designated airline of each Contracting Party shall enjoy fair and equal opportunity for the operation of air services for the carriage of traffic between the territories of the two parties;

(2) In the operation by the designated airline of either Contracting Party of the specified air services, the interests of the airline of the other Contracting Party shall be taken into consideration so as not to affect unduly the services which the latter provides on all or part of the same route;

(3) The agreed services provided by the designated airlines of the Contracting Parties shall bear close relationship to the requirements of the public for transportation on the specific routes and shall have as their primary objective the provision, at a reasonable load factor, of capacity adequate to carry the current and reasonably anticipated requirements of passengers and cargo including mail between the territories of the Contracting Parties.

(4) Provisions for the carriage of passengers, baggage and cargo including mail both taken on board and discharged at points on the specified routes in the territories of States other than that designating the airline shall be made in accordance with the general principles that capacity shall be related to:

a) traffic requirements to and from the territory of the Contracting Party which has designated the airline;

b) the requirements of through airline operations specifically authorized by the Contracting Parties;

c) the air transport needs of the areas through which the airline passes;
and

d) the adequacy of other air transport services established by airlines of the States concerned between their respective territories.

ARTICLE IX TARIFFS

(1) The tariffs to be charged by the airline of one Contracting Party for carriage of traffic to or from the territory of the other Contracting Party shall be established at reasonable levels, due regard being paid to all relevant factors including cost of operation, reasonable profit, and the tariffs of other airlines.

(2) The tariffs referred to in paragraph (1) of this Article shall, if possible, be agreed to by the designated airlines concerned of both Contracting Parties, in consultation with other airlines operating over the whole or part of the route, and such agreement shall, where possible, be reached through the International Air Transport Association.

(3) The tariffs so agreed shall be submitted for the approval of the aeronautical authorities of the Contracting Parties at least thirty (30) days before the proposed