

August 24, 1987

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF HIS MAJESTY THE SULTAN AND YANG DI-PERTUAN OF BRUNEI DARUSSALAM FOR AIR SERVICES BETWEEN AND BEYOND THE REPUBLIC OF THE PHILIPPINES AND BRUNEI DARUSSALAM

The Government of the Republic of the Philippines and The Government of His Majesty The Sultan and Yang Di-Pertuan of Brunei Darussalam;

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December 1944;

Desiring to conclude an Agreement, consistent with the said Convention, for the purpose of establishing air services between and beyond the Republic of the Philippines and Brunei Darussalam;

Have agreed as follows:

ARTICLE 1 DEFINITIONS

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

(a) the term "the 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 Articles 90 and 94 thereof so far as these Annexes and amendments have been adopted by both Contracting Parties;

(b) the term "aeronautical authorities" means, in the case of Brunei Darussalam, the Minister of Communications or any person or body authorized to perform any functions exercised at present by him or similar functions, and, in the case of the Republic of the Philippines, the Civil Aeronautics Board or any person or body authorized to perform any function exercised at present by the said board or similar functions;

(c) the term "designated airline" means an airline which has been designated, by one Contracting Party and authorized in accordance with Article 3 of this Agreement;

(d) the term "territory" means in relation to The Government of His Majesty The Sultan and Yang Di-Pertuan of Brunei Darussalam the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or administration of Brunei Darussalam, and in relation to the Government of the Republic of the Philippines the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or administration of the Republic of the Philippines;

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

(f) the term "Schedule" means the Schedule of routes annexed to this Agreement and any amendments thereto as agreed in accordance with the provisions of Article 16 of this Agreement. The Schedule shall form an integral part of this Agreement.

ARTICLE 2 GRANT OF RIGHTS

Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the purpose of establishing scheduled international air services on the routes specified in the appropriate Section of the Schedule annexed to this Agreement. Such services and routes are hereinafter called "the agreed services" and "the specified routes" respectively.

Subject to the provision of this Agreement the airline designated by each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following rights;

(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 embark and disembark in the said territory at the points specified in the Schedule of this Agreement passengers, baggage, cargo and mail destined for or coming from points in the territory of the other Contracting Party;

(d) to embark and disembark in the territory of third countries at the points specified in the Schedule of this Agreement passengers, baggage, cargo and mail destined for or coming from points in the territory of the other Contracting Party specified in the Schedule of this Agreement.

Nothing in this Article shall be deemed to confer on the airline of one Contracting Party the privilege of embarking, in the territory of the other Contracting Party, passengers, baggage, cargo and mail, destined for another point in the territory of that other Contracting Party.

ARTICLE 3 DESIGNATION AND OPERATING AUTHORIZATION

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

(2) On receipt of such designation, the other Contracting Party shall, subject to the provisions of paragraphs (3), (4) and (5) of this Article, without undue delay, grant to the airline designated the appropriate operating authorizations.

(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 to the operation of international air services by such authorities in a manner not inconsistent with the provisions of the Convention.

(4) Each Contracting Party shall have the right to refuse to accept the designation of an airline and to refuse to grant the operating authorization referred to in

paragraphs 1 and 2 of this Article, or to impose such conditions as it may deem necessary for the exercise of the rights specified in Article 2 of this Agreement, whenever the said Contracting Party is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals.

(5) The exercise by the designated airline of the privileges granted in the appropriate operating authorization mentioned in paragraph (2) of this Article shall be subject to the statutory powers of the aeronautical authorities of the Contracting Parties in order, to ensure the implementation of the provisions of Article 6 of this Agreement.

(6) Having received the operating authorization provided for under paragraph 2 of this Article, the designated airline may at any time operate the agreed services, provided that tariffs established in accordance with the provisions of Article 10 of this Agreement are in force.

ARTICLE 4 REVOCATION AND SUSPENSION OF OPERATING AUTHORIZATION

(1) Each Contracting Party shall have the right to revoke an operating authorization or to suspend the exercise of the rights specified in Article 2 of this Agreement by the airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of these rights:

(a) in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in accordance with paragraph (4) of Article 3; or

(b) in the case of failure by that airline to comply with the laws or regulations in force in the territory of the Contracting Party granting these rights; or

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

(2) Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph (1) of this Article is essential to prevent further infringements of laws or regulations, such right shall be exercised only after consultation with the other Contracting Party.

ARTICLE 5 EXEMPTION FROM DUTIES AND TAXES

(1) Aircraft operated on international services by the designated airline of either Contracting Party, as well as its regular equipment, spare parts, supplies of fuels 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) Supplies of fuels, lubricants, spare parts, regular equipment and aircraft stores introduced into the territory of one Contracting Party by or on behalf of a designated airline of the other Contracting Party or taken on board the aircraft operated by such designated airline and intended solely for use in the operation of international air

services shall be exempt from all duties and charges, including customs duties and inspection fees imposed in the territory of the first Contracting Party, even when these supplies are to be used on the parts of the journey performed over the territory of the Contracting Party in which they are taken on board. The materials referred to above may be required to be kept under customs supervision or control.

(3) The regular airborne equipment, spare parts, aircraft stores and supplies of fuels and lubricants retained on board the aircraft of either Contracting Party may be unloaded in the territory of the other Contracting Party only with the approval of the customs authorities of that Party, who may require that those materials be placed under their supervision up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.

ARTICLE 6 EXERCISE OF RIGHTS

For the purpose of achieving and maintaining equilibrium between the capacity of the specified air services and the requirement of the public for air transportation, as determined by the aeronautical authorities of the Contracting Parties, it is agreed that:

(1) There shall be fair and equal opportunity for the airlines designated by both Contracting Parties to operate the agreed services on the specified routes between their respective territories.

(2) In operating the agreed services, the airline designated by each Contracting Party shall take into account the interests of the airline of the other Contracting Party so as not to affect unduly the services which the latter provides on the whole or part of the same routes.

(3) The agreed services provided by the airlines designated by the Contracting Parties shall bear close relationship to the requirements of the public for transportation on the specified 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 for the carriage of passengers, baggage, cargo and mail between the territories of the two Contracting Parties.

(4) Provision for the carriage of passengers, baggage, cargo and mail both taken up and put down 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) traffic requirements of the area through which the agreed service passes, after taking account of other transport services established by airlines of the States comprising the area; and

(c) the requirements of through airline operation.

ARTICLE 7 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.