

AIR SERVICES AGREEMENT BETWEEN THE REPUBLIC OF THE PHILIPPINES AND JAPAN

Note: The Agreement entered into force, May 14, 1970.

Reference: This Agreement is also published in IX DFA TS No. 1, p. 14.

THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES and the GOVERNMENT OF JAPAN,

DESIRING to conclude an agreement for the purposes of establishing and operating air services between and beyond their respective territories,

BEING PARTIES to the Convention on International Civil Aviation and the International Air Services Transit Agreement both opened for signature at Chicago on December 7, 1944,

HAVE AGREED as follows:

ARTICLE 1

1. 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 on civil aviation at present exercised by the said Civil Aeronautics Board or similar functions, and, in the case of Japan, the Minister of Transport and/or any person or body authorized to perform any functions on civil aviation at present exercised by the said Minister or similar functions;

b. the term "designated airline" means an airline which one Contracting Party has designated by written notification to the other Contracting Party for the operation of air services on the routes specified in the Schedule, and to which the appropriate operating permission has been given by that other Contracting Party, in accordance with the provisions of Article 3 of the present Agreement;

c. the term "territory" in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or trusteeship of that State;

d. the term "air service" means any scheduled air service performed by aircraft for the public transport of passengers, cargo or mail;

e. the term "international air service" means an air service which passes through the air space over the territory of more than one State;

f. the term "airline" means any air transport enterprise offering or operating an international air service;

g. the term "stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging passengers, cargo or mail;

h. the term "Schedule" means the Schedule to the present Agreement or as amended in accordance with the provisions of Article 13 of the present Agreement;

i. the term "the Convention" means the Convention on International Civil Aviation opened for signature at Chicago on December 7, 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;

j. the term "agreed services" means any scheduled air service operated on the routes specified in the Schedule;

k. the term "specified routes" means routes specified in the Schedule.

2. The Schedule forms an integral part of the present Agreement, and all reference to the "Agreement" shall include reference to the Schedule except where otherwise provided.

ARTICLE 2

1. Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement to enable its designated airlines to establish and operate international air services on the specified routes.

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

a. to fly without landing in the said 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 specified for that route in the Schedule for the purposes of discharging and of taking on international traffic in passengers, cargo and mail.

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.

ARTICLE 3

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more 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 delay grant to the airline or airlines designated the appropriate operating permission.

3. The aeronautical authorities of one Contracting Party may require an airline designated by the 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 air services.

4. Each Contracting Party shall have the right to refuse, withhold or revoke the grant to an airline of the operating permission referred to in paragraph 2 of this Article or to impose such conditions as it may deem necessary on the exercise by such airline of those privileges specified in paragraph 2 of Article 2, in any case where it is satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in its nationals.

5. Subject to the statutory powers of the aeronautical authorities of the Contracting Parties with regard to the capacity referred to in Article 8 of the present Agreement, an airline designated and authorized in accordance with the provisions of paragraphs 1 and 2 of this Article may begin to operate the agreed services provided that tariffs established in accordance with the provisions of Article 9 of the present Agreement are in force in respect of those services.

6. Each Contracting Party shall have the right to suspend the exercise by a designated airline of the privileges specified in paragraph 2 of Article 2 or to impose such conditions as it may deem necessary on the exercise by a designated airline of those privileges, in any case where that airline fails to comply with the laws and regulations referred to in Article 7 hereof 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 such laws or regulations, this right shall be exercised only after consultation with the other Contracting Party.

ARTICLE 4

The charges which either of the Contracting Parties may impose, or permit to be imposed, on the designated airlines of the other Contracting Party for the use of airports and other facilities under its control shall be just and

reasonable and not higher than would be paid for the use of such airports and facilities by the airlines of any third country, or national airline of the first Contracting Party engaged in international air services.

ARTICLE 5

1. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board aircraft engaged in the agreed services operated by the designated airlines of either Contracting Party shall be exempt from customs duties, excise taxes, inspection fees and other similar duties, taxes or charges in the territory of the other Contracting Party, even when they are consumed or used on the part of the journey performed over that territory.

2. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores taken on board aircraft of the designated airlines of either Contracting Party in the territory of the other Contracting Party and used in the agreed services shall, subject to the regulations of the latter Contracting Party, be exempt from customs duties, excise taxes, inspection fees and other similar duties, taxes or charges.

3. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores introduced for the account of the designated airlines of either Contracting Party and stored in the territory of the other Contracting Party under customs supervision for the purpose of supplying aircraft of those designated airlines, shall, subject to the regulations of the latter Contracting Party, be exempt from customs duties, excise taxes, inspection fees and other similar duties, taxes or charges.

ARTICLE 6

Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one Contracting Party, and still in force, shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services, provided that the requirements under which such certificates or licenses were issued or rendered valid are equal to or above the minimum standards which may be established pursuant to the Convention. Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licenses granted to its own nationals by another State.

ARTICLE 7

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 navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of the designated airlines of 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 relating 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 passengers, crew or cargo of the aircraft of the designated airlines of the other Contracting Party upon entrance into or departure from or while within the territory of the first Contracting Party.

ARTICLE 8

In order to develop the air services along the specified routes or segments thereof, for the purpose of achieving and maintaining equilibrium between the capacity of the agreed services and the requirements of the public for air transportation, as determined by the aeronautical authorities of the Contracting Party:

1. The designated airline or airlines of each Contracting Party shall enjoy fair and equal opportunity for the operation of the agreed services between the territories of the two Contracting Parties.

2. In the operation by the designated airline or airlines of either Contracting Party of the agreed services, the interests of the designated airlines of the other Contracting Party shall be taken into consideration so as not to affect unduly the services which the latter provide on all or part of the same routes.

3. The agreed services provided by the designated airlines of the Contracting Parties shall bear a close relationship to the requirements of the public for such services.