

AIR TRANSPORT AGREEMENT BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE KINGDOM OF THE NETHERLANDS

Note; The Agreement entered into force, March 19, 1970.

Reference: This Agreement is also published in VIII DFA TS No. 1, p. 32

THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES and the GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS 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,

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 Kingdom of the Netherlands;

HEREBY AGREE as follows:

ARTICLE I

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 or any person or body authorized to perform any function exercised at present by the said Civil Aeronautics Board or similar functions, and, in the case of the Kingdom of the Netherlands, the Director of Civil Aviation or any person or body authorized to perform any function exercised at present by the said Director General of Civil Aviation or similar functions;

h. the term "designated airline or airlines" means an airline or airlines which one Contracting Party shall have designated, by written notification to the other Contracting Party, in accordance with the provisions of Article III of the present Agreement, for operation of air services on the routes specified in the Annex hereto;

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

d. 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 the Convention and any amendment of the Annexes or Convention under Articles 90 and 94 thereof;

e. the terms "air services," "international air service," and "stop for non-traffic purposes" have the meaning respectively assigned to them in

Article 96 of the Convention;

f. the term "agreed services" means any scheduled air service operated on the routes specified in the Annex to the Agreement.

ARTICLE II

1. Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing the agreed services.

2. Subject to the provisions of the present Agreement, the airline or air lines 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 specified for that route in the Annex 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 so specified.

3. Nothing in paragraph (2) of this Article shall be deemed to confer on the airline or 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 III

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 through its aeronautical authorities shall, subject to the provisions of paragraphs 3, 4 and 5 of this Article, grant without delay to the airline designated the appropriate operating authorization.

3. The aeronautical authorities of one Contracting Party may require an airline or airlines 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.

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

5. The exercise by the designated airline or airlines of the privileges granted in the appropriate operating authorization as mentioned in paragraph (2) of this Article, shall be subject to the statutory powers of aeronautical authorities of the

Contracting Parties in order to ensure implementation of the provisions of Article VIII of the present Agreement.

6. Each Contracting Party shall have the right to suspend the exercise by an airline or airlines of the privileges specified in paragraph (2) of Article II or to impose such conditions as it may deem necessary on the exercise by an airline or airlines of those privileges in any case where the airline or airlines fail to comply with the laws and regulations referred to in Article VII hereof or otherwise fail 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 consultation with the other Contracting Party.

ARTICLE IV

1. Aircraft operated on international services by the designated airline or airlines of either Contracting Party, as well as their 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 part 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 V

Each designated airline or airlines 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

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

ARTICLE VII

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 or airlines 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 party.
2. The laws and regulations of one Contracting Party as to the entrance into, stay within, 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 of the airline or airlines designated by the other Contracting Party upon entrance into or departure from, or while within the territory of the first party.
3. Passengers in direct transit across the territory of either Contracting Party shall be subject to no more than a very simplified control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes. For purposes of this paragraph, the term "direct transit" shall apply only to passengers, baggage and/or cargo who/which are never out of the control of the customs authorities of the Contracting Parties.

ARTICLE VIII

In order to develop the air transport services along the routes of agreements thereof specified in the Annex hereof, for the purpose of achieving and maintaining equilibrium between the capacity of the specified air service and the requirements of the public for air transportation, as determined by the aeronautical authorities of the Contracting Parties, it is agreed that;

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

ARTICLE IX

1. The tariffs to be charged by the airline or airlines of one Contracting Party for carriage to or from the territory of the other Contracting Party shall be established at reasonable levels, due regard being paid to relevant factors including cost of operation, reasonable profit, and the tariff of other airlines as applied on the specified routes or segments thereof.
2. The tariffs referred to in paragraph (1) of this Article shall, if possible, be agreed by the designated airline or airlines concerned of both Contracting Parties, in consultation with other airlines operating over a whole or part of the route, and such agreement shall, where possible, be reached through the rate-fixing machinery of the International Air Transport Association.