

## **[ CIVIL AERONAUTICS BOARD, May 02, 2011 ]**

### **IMPLEMENTING RULES AND REGULATIONS OF EXECUTIVE ORDER NO. 29**

Pursuant to Executive Order No. 29 dated 14 March 2011, the following rules and regulations are hereby adopted:

#### **RULE 1 GENERAL PROVISIONS**

- 1.0 The following Rules and Regulations shall be known and cited as the "IMPLEMENTING RULES AND REGULATIONS OF EXECUTIVE ORDER NO. 29 series of 2011."
- 1.1 Executive Order No. 29 seeks to further liberalize civil aviation in the Philippines specifically to Airports other than the NINYOY AQUINO INTERNATIONAL AIRPORT (NAIA) subject to the conditions required by existing laws. Its provisions are intended to promote a more liberalized policy for the expansion of direct air services, both passenger and cargo to secondary gateways outside of Metro-Manila in order to advance domestic tourism, boost investment in the countryside, foster trade and generate employment.
- 1.2 These Implementing Rules and Regulations are designed to facilitate access to secondary airports and shall be liberally construed to favor grant of and/or increase in additional frequency/capacity and route rights.
- 1.3 The following definitions shall control in the application and construction of these Implementing Rules and Regulations:
  - 1.3.1 "Air Carrier" means a person who undertakes, whether directly or indirectly, or by a lease or any other arrangements, to engage in air transportation or air commerce.
  - 1.3.2 "Air Commerce" means and includes air transportation for pay or hire, the navigation of aircraft in furtherance of a business, or the

navigation of an aircraft from one place to another for operation in conduct of a business.

1.3.3 "Air Services Agreement" (ASA), governs the civil aviation relationship between State parties. Where the context so requires, the term ASA shall also mean or include "other air services arrangements" or "similar air services arrangements" such as, but are not limited to Exchange of Notes, Exchange of Letters, Agreed Minutes, Memorandum of Understanding, Memorandum of Consultations and other documents that govern or relate to any of (but not limited to) the following:

1. implementation of certain provisions of the bilateral
2. amendment of certain provisions of the bilateral
3. elaboration of clarification of certain provisions of the bilateral
4. establishment and operation of air transportation and related services pending the conclusion of a bilateral
5. any matter relating to the civil aviation relationship for two or more States or their respective authorized agencies.

1.3.4 "Air Transportation" means service or carriage of persons, property or mail, in whole or in part, by aircraft.

1.3.5 "Board" means the Civil Aeronautics Board

1.3.6 "Cabotage" the right to transport passengers and goods between two or more points within the Philippines

1.3.7 "Capacity" refers to the quantitative measurement of the supply of air transportation service expressed either in (a) number of flight frequencies, or (b) number of seats (for passenger options), or (c) units of weight or space (for cargo operations), or (d) aircraft types, or (f) a combination of any of the above.

1.3.8 "Chairman" shall refer to the Chairman of the Philippine air panel

- 1.3.9 "Endorsement" for this purpose shall mean to authenticate, recommend, and sanction the application for traffic rights and operating permits of the foreign air carrier with the Philippine Government by the government of the state of registry of the carrier.
- 1.3.10 "Foreign Air Carrier" means an air carrier who is not a citizen of the Philippines, and/or an air carrier other than a domestic air carrier.
- 1.3.11 "Foreign Air Carrier's Permit or FACP" is a permit issued by the Board, and approved by the President of the Philippines, authorizing a foreign carrier to engage in foreign air transportation.
- 1.3.12 "Foreign air transportation" means air transportation between the Philippines and place outside it, or wholly outside the Philippines.
- 1.3.13 "Gateway" refers to any point of last departure or first arrival of air transportation from or into the State granting rights under the Air Services Agreement or other arrangements. A "secondary gateway" is a gateway other than the Ninoy Aquino International Airport (NAIA), capable of servicing international commercial flights.
- 1.3.14 "National Interest" - determined by the promotion of international trade, foreign investments, employment and tourism, national security, users of air services, the status of bilateral relations, the development and viability of civil aviation in the country, the need to enhance competitiveness of Philippine domestic carriers and to spur competition and other political or diplomatic considerations.
- 1.3.15 "Negotiation of ASA" includes both initial negotiation leading to its execution and subsequent consultation talks.
- 1.3.16 "Non-cabotage traffic rights – any right to carry persons, property and mail to/from any secondary gateway in foreign air transportation.
- 1.3.17 "Point" is a destination, specified or unspecified, on a route
- 1.3.18 "Route rights" refers to a market access right

which is expressed as agreed geographic specification, or combination of geographic specifications, of the route or routes over which an air service or services may be held out and performed and of the order in which authorized places may be served

1.3.19 "Traffic" means the quantity of air transportation that has been sold and transported.

1.3.20 "Traffic right" is a market access right expressed as an agreed physical or geographic specification, or combination of specification of who or what may be transported over an authorized route or parts thereof in the aircraft.

1.3.21 "Temporary Operating Permit or TOP" refers to an authorization issued by the Board for a fixed term for the operation of scheduled or non-scheduled services by an air carrier pending the issuance of an authority to operate or a Foreign Air Carrier's Permit (FACP).

1.4 Any other term used in these Implementing Rules and Regulations that is defined in Republic Act No. 776 as amended or Executive Order Nos. 219 (series 1995) and 32 (series 2001) and their respective implementing rules and regulations establishing the domestic and international civil aviation liberalization policy shall be interpreted in accordance with such definition.

## **RULE II**

### **NEGOTIATION OF ASAs**

2.1 The Air Panels may offer and promote third, fourth or fifth freedom traffic rights without restrictions on frequency, capacity and type of aircraft and other arrangements to and from any secondary gateway, that will serve national interest as may be determined by the CAB. Traffic rights herein offered and/or granted are deemed to develop tourism, trade, investment, generate employment, and spur competition.

2.2 The CAB, acting as the Secretariat of the Philippine Air Panels constituted in accordance with EO 28 series of 2011, shall, under the authority of the Philippine Air Panels, make the necessary preparations for the negotiation or consultation meetings with other states, in accordance with the customary procedure of conducting the same. The