

November 21, 2001

**AIR SERVICES AGREEMENT BETWEEN THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG AND THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES**

**THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG AND THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES**, 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 the territories of the Grand Duchy of Luxembourg and the Republic of the Philippines; and

**DESIRING FURTHER** to ensure the highest degree of safety and security in international air transport,

AGREE AS FOLLOWS:

**ARTICLE I**

**DEFINITIONS**

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

(a) the term "aeronautical authorities" means in the case of the Grand Duchy of Luxembourg, the Minister responsible for the subject of Civil Aviation and/or any person or body authorized to perform any functions exercised at present by the said authority, and, 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 the said authority;

(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 the Annex thereto;

(c) the term "territory of the Contracting Party" means the territory of the Grand Duchy of Luxembourg and the territory of the Republic of the Philippines, 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 archipelago,

regardless of their breadth and dimensions, form part of the internal waters of the Philippines;

(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 that Convention and any amendment of the Annexes or Convention under Article 90 and 94 thereof, so far as those Annexes and amendments have been adopted or ratified by both Contracting Parties;

(e) the term "Agreement" means this Agreement, its Annex, and any amendments thereto;

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

(g) the term "agreed services" means scheduled air services on the routes specified in the Annex to this Agreement for the transport of passengers/ cargo and mail, separately or in combination;

(h) the term "specified route" means a route specified in the Annex to this Agreement; and

(i) the term "Annex" means the Annex to this Agreement or as amended in accordance with the provisions of Article XIV of this Agreement. The Annex forms an integral part of this Agreement and all references to the Agreement shall include the Annex except where explicitly agreed otherwise.

## **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 the Annex to this Agreement.

2. Subject to the provisions of the present Agreement, the airline designated by each Contracting Party shall enjoy 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 for the purpose of putting down and taking on international traffic in passengers, cargo and mail, separately or in combination, coming from or destined for other points so 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.

## **ARTICLE III**

### **PRINCIPLES GOVERNING THE DESIGNATIONS OF AIRLINES AND THE REVOCATION OR SUSPENSION OF OPERATING AUTHORIZATION**

1. Each Contracting Party shall have the right to designate in writing to the other Contracting Party two (2) or more airlines for the purpose of operating the agreed services on the specified routes, and may withdraw or alter such designations.
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 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 the operating authorization in any case where it is not satisfied that the airline:
  - (a) is substantially owned and under the effective control of the Contracting Party designating the said airline or of the nationals of the Contracting Party designating the airline;
  - (b) is incorporated and has its principal place of business in the territory of the other Contracting Party; and
  - (c) holds a current Air Operator's Certificate issued by the aeronautical authority of the other Contracting Party.
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 of the operating authon airline of the operating autho(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(s) 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 consultation 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 service performed:

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

(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**

1. 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**

### **COMMERCIAL OPPORTUNITIES AND REMITTANCE OF EARNINGS**

1. Each designated airline shall have the right to engage in the sale of air transportation in the territory of the other Contracting Party directly and, at its discretion, through its agents. Each designated airline shall have the right to sell transportation in the currency of that territory or, to the extent permitted by national law, in freely convertible currencies of other countries, and to the same

extent, any person shall be free to purchase such transportation in currencies accepted for sale by that airline.

2. Each Contracting Party undertakes to grant the other 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 the 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, the 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, remaining in 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, remaining in 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 designated by the other Contracting Party upon entrance into or departure from, or while within the territory of the first party.

3. Neither of the Contracting Parties shall give preference to its own or any other airline over an airline to the other Contracting Party engaged in similar international air services in the application of its customs, immigration, quarantine and similar regulations.

4. Passengers, baggage and cargo in direct transit through the territory of either Contracting Party and not leaving the area of the airport reserved for such purpose shall be subject to no more than a simplified control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

## **ARTICLE VIII**

### **PRINCIPLES GOVERNING THE OPERATION**

#### **OF THE AGREED SERVICES**

In order to develop the air transport services along the routes or sections thereof in the schedule made part of the Annex and 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;