

AIR SERVICES AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF MONGOLIA

PREAMBLE

The Government of the Republic of the Philippines and the Government of Mongolia, hereinafter referred to as the "Contracting Parties";

Being Parties to the Convention on International Civil Aviation, which was opened for signature at Chicago on 7 December 1944; and

Desiring to conclude an Agreement supplementary to the said Convention for the purpose of establishing air services between their respective territories;

Have agreed as follows;

ARTICLE 1 DEFINITIONS

For the purpose of this Agreement, the terms enumerated hereunder shall have the following meanings, unless the context otherwise requires:

(a) "The Chicago Convention"- the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944 and includes: {1) any amendment thereto which has entered into force under Article 94(a) thereof and has been ratified by both Contracting Parties; and (2) any Annex or any amendment thereto adopted under Article 90 of that Convention, in so far as such amendment or is at any given time effective for both Contracting Parties:

(b) "Aeronautical authorities"- in the case of the Philippines, the Civil Aeronautics Board; in the case of Mongolia, the Ministry of Infrastructure, and for the purpose of Article 7. the Civil Aviation Authority; or in both cases, any person or body, authorized to perform any functions at present exercised by the above-mentioned authorities or similar functions;

(c) "Designated airline"- an airline which has been designated and authorized in accordance with Article 4 of this Agreement;

(d) "Territory"- the term territory shall mean the national territory of the Contracting Parties as defined in their respective Constitutions;

(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 Chicago Convention;

(f) "The Agreement"- includes Annexes and any amendments to this Agreement,

(g) "User charges"-a charge made to airlines by the competent authority or permitted by them to be made for the provision of airport property or facilities or of air navigation facilities, including related services and facilities, for aircraft, their crews, passengers and cargo;

(h) "Specified route"- the routes specified in the Annex to the present Agreement

(i) "Agreed services"-the air services operated on the specified routes.

ARTICLE 2

APPLICABILITY OF THE CHICAGO CONVENTION

The provisions of this Agreement shall be subject to the provisions of the Chicago Convention insofar as those provisions are applicable to international air services.

ARTICLE 3

GRANT OF RIGHTS

1. Each Contracting Party grants to the other Contracting Party the following rights in respect of its international air services:

- a) The right to fly across its territory without landing
- b) The right to make stops in its territory for non-traffic purposes

2. Each Contracting Party grants to the other Contracting Party the rights hereinafter specified in this Agreement for the purpose of operating 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.

While operating an agreed service on a specified route the airline or airlines designated by each Contracting Party shall enjoy in addition to the rights specified in paragraph (1) of this Article the right to make stops in the territory of the other Contracting Party at the points specified for that route in the Schedule to this Agreement for the purpose of taking on board and discharging passengers and cargo, including mail separately or in combination.

3. Nothing in paragraph (2) of this Article shall be deemed to confer on the designated airline or airlines of one Contracting Party the right to take on board, in the territory of the other Contracting Party, passengers and cargo, including mail, carried for hire or reward and destined for another point in the territory of the other Contracting Party.

4. If because of armed conflict, political disturbances or developments, or special and unusual circumstances, a designated airline of one Contracting Party is unable to operate a service on its normal route, the other Contracting Party shall use its best efforts to facilitate the continued operation of such service through appropriate temporary rearrangements of routes.

ARTICLE 4
DESIGNATION AND AUTHORIZATION OF AIRLINES

1. Each Contracting Party may designate in writing to the other Contracting Party one or more airlines for the purpose of operating the agreed services on the specified routes and to withdraw or alter such designations.
2. On receipt of such a 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 so designated, the appropriate operating authorizations.
3. The aeronautical authority 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 that authority in conformity with the provisions of the Chicago Convention.
4. Each Contracting Party may refuse to grant the operating authorizations referred to in paragraph (2) of this Article, or impose such conditions as it may deem necessary on the exercise by a designated airline of the rights specified in Article 3 (2) of this Agreement, in any case where 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. When an airline has been so designated and authorized it may begin to operate the agreed services, provided that the airline complies with the applicable provisions of this Agreement.

ARTICLE 5
REVOCATION OR SUSPENSION OF OPERATING AUTHORIZATIONS

1. The aeronautical authorities of each Contracting Party may revoke an operating authorization or suspend the exercise of the rights specified in Article 3 (2) of this Agreement by an airline designated by the other Contracting Party, or impose such conditions as it may deem necessary on the exercise of those rights:
 - a) In any case where it is not satisfied that the substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of such Contracting Party, or
 - b) In the case of failure by that airline to comply with the laws or regulations normally and reasonably applied by the Contracting Party granting those rights; or
 - c) If 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 aeronautical authorities of the other Contracting Party.

ARTICLE 6

CAPACITY

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

2. In operating the agreed services the designated airline or airlines of each Contracting Party shall take into account the interests of the designated airline or airlines of the other Contracting Party so as not to affect unduly the services which the latter provide on the whole 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 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 and cargo, including mail, coming from or destined for the territory of the other Contracting Party which has designated the airline. Provision for the carriage of passengers and cargo, including mail, both taken on board and discharged 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 the other transport services established by airlines of the States comprising the area; and

(c) the requirements of through airline operation.

ARTICLE 7

TARIFFS

(1) The tariffs to be charged by the airline or airlines of one Contracting Party for carriage of traffic to or from the territory of the other Contracting Party shall be established at reasonable levels, due regard being paid to all relevant factors including cost of operation, reasonable profit, and the tariffs of other airlines.

(2) The tariffs referred to in paragraph (1) of this Article shall, if possible, be agreed to by the designated airlines concerned of both Contracting Parties, in consultation with other airlines operating over the whole or part of the route.

(3) The tariffs so agreed shall be submitted for the approval of the aeronautical authorities of the Contracting Parties at least thirty (30) days before the proposed date of their introduction; in special cases, this time limit may be reduced, subject to the agreement of the said authorities.

(4) If the designated airline or airlines cannot agree on any of these tariffs, or if for some other reason a tariff cannot be fixed in accordance with the provisions of paragraph (2) of this Article, or if during the first fifteen (15) days of the thirty (30) days period referred to in paragraph (3) of this Article one Contracting Party gives the other Contracting Party notice of its dissatisfaction with any tariff agreed in accordance with the provisions of paragraph (2) of this Article, the aeronautical authorities of the Contracting Parties shall try to determine the tariff by agreement between themselves.

(5) If the aeronautical authorities cannot agree on the approval of any tariff submitted to them under paragraph (3) of this Article and on the determination of any tariff under paragraph (4), the dispute shall be settled in accordance with the provisions of Article 16 of the present Agreement.

(6) No tariff shall come into force if the aeronautical authorities of either Contracting Party have not approved it.

(7) The tariffs established in accordance with the provisions of this Article shall remain in force until new tariffs have been established in accordance with the provisions of this Article.

ARTICLE 8 CUSTOMS DUTIES

1) Aircraft operated in international air services by the designated airline or airlines of either Contracting Party shall be relieved from all customs duties, national excise taxes and similar national fees, as shall:

a) The following items introduced by a designated airline of one Contracting Party into the territory of the other Contracting Party:

(i) repair, maintenance and servicing equipment and component parts;

(ii) passenger handling equipment and component parts;

(iii) cargo-loading equipment and component parts;

(iv) security equipment including component parts for incorporation into security equipment;

(v) instructional material and training aids;

(vi) air me and operators' documents; and