

November 28, 1988

**AIR TRANSPORT AGREEMENT BETWEEN THE GOVERNMENT OF
THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF
THE SOCIALIST REPUBLIC OF VIETNAM**

The Government of the Republic of the Philippines and the Government of the Socialist Republic of Vietnam, hereinafter described as the Contracting Parties,

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on 7th day of December, 1944, and

Desiring to conclude an agreement for the purpose of establishing and operating services between their respective territories.

Hereby agree as follows :

ARTICLE 1

For the purpose of this 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 duly authorized to perform any function exercised at present by said Civil Aeronautics Board or similar functions, and, in the case of the Socialist Republic of Vietnam, the General Civil Aviation Administration, of Vietnam and/or any person or body duly authorized to perform any function exercised at present by the said General Civil Aviation Administration of Vietnam or similar functions;

(b) the term "designated airline" means an airline which one Contracting Party shall have designated, by written notification to the other Contracting Party, in accordance with Article 3 of this Agreement, for the operation of the air services on the routes specified in the Annex hereto;

(c) the term "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;

(d) the term "territory" has the meaning assigned to it in Article 2 of the Convention;

(e) the term "air services", "international air service", "airline", and "stop for no-traffic purposes" have the meanings 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 this Agreement; and

(g) the term "tariff" means the prices to be paid for the carriage of passengers, baggage and freight and the condition under which those

prices apply, including prices and conditions for agency and other auxiliary services, but excluding remuneration or conditions for the carriage of mail.

ARTICLE 2

(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 on the specified routes specified in the Annex.

(2) Subject to the provisions of the present Agreement, the airline designated by each Contracting Party shall enjoy, while operating an agreed service on specified route, the following privileges:

(a) to fly without landing across the territory of the other Contracting Party through the airways specified by the latter;

(b) to make stops in the said territory for non-traffic purposes at the airports open to commercial operations in the said territory (it is clearly understood that this privilege may be exercised only by a designated airline while operating an agreed service on any route specified in the Annex to this Agreement); and

(c) to make stops on the said territory at the points enumerated on any route specified in the Annex to the present Agreement for the purpose of putting down and taking on international traffic in passengers, cargo and mail.

(3) Nothing in paragraph (2) of this Article shall be deemed to confer on the designated airline of one Contracting Party the privilege of taking up in the territory of the other Contracting Party, passengers, cargo and mail carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

(4) The aircraft of the designated airline enjoying the privilege mentioned in paragraph (2) of this Article shall under no circumstance, be used for any purpose prejudicial to the security of the other Party.

ARTICLE 3

(1) Each Contracting Party shall have the right to designate in writing to the other Contracting Party one airline for the purpose of operating the agreed services.

(2) On receipt of such 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 undue delay to the air line 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 Convention for 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 to withhold or revoke the grant to an airline of the operating

authorization referred to in paragraph (2) of this Article or to impose such conditions as it may deem necessary on the exercise by an airline of the privileges specified in such authorization in any case where it 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) The exercise by the designated airline 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 the aeronautical authorities of the Contracting Parties in order to ensure the implementation by said authorities of the provisions of Article 8 of the present Agreement.

(6) Each Contracting Party shall have the right to suspend the exercise by an 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 an airline of those privileges in any case where the 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 laws or regulations, this right shall be exercised only after consultation with the other Contracting Party.

ARTICLE 4

(1) Aircraft operated on the agreed services by the designated airline 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 fuel, lubricants, spare parts, regular equipment and aircraft stores introduced into, or taken on board aircraft in the territory of one Contracting Party by, or on behalf of, a designated airline of the other Contracting Party and intended solely for use in the operation of the agreed services performed, be exempt from the same customs duties, fees and other duties or taxes imposed in the territory of the first Contracting Party, even when these supplies are to be used on the parts of the journey performed over the territory into or taken on board. Printed ticket stocks, airway bills and any printed material which bears the insignia of the said designated airline shall also be exempt from the same duties and taxes with the exception of charges corresponding to the service performed. The materials referred to above may be required to be kept under customs supervision and control.

(3) Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes levied on imports.

(4) The exemptions granted under this Article may be subject to compliance with particular formalities normally applicable in the territory of the Contracting Party granting the exemption.

ARTICLE 5

(1) For the operation of the specified route, the designated airline of each Contracting Party has the right to set up its office of representative at the point of call on the specified route in the territory of the other Contracting Party. The staff of such office of representative shall be citizens of the Republic of the Philippines or the Socialist Republic of Vietnam, and the number of staff shall be agreed upon through consultation between the designated airlines of both Contracting Parties, and subject to the approval of the proper authorities of both Contracting Parties. The staff of such office must observe the applicable laws and regulations of the country where such office is located.

(2) Each Contracting Party shall extend assistance and facilities to the office of representative of the designated airline of the other Contracting Party and ensure the safety of the office and its staff as well as the safety of the aircraft, stores and other properties used on agreed services in the territory of the first Contracting Party.

ARTICLE 6

Either Contracting Party undertakes to grant to the designated airline of the other Party free transfer, in United States dollars or another freely convertible currency at the rate of exchange in the official market at the time of remittance, of the excess of receipts over expenditure achieved in its territory in connection with the carriage of passengers, baggage, mail shipments and freight or the sale of air transport services and ancillary or supplemental services made directly by the designated airline of the other Party or through an agent, subject only to the formalities that may be required by either Contracting Party. Wherever the payments system between the Contracting Parties is governed by a special agreement the said agreement shall apply.

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 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 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 or mail, such as regulations relating to entry, clearance immigration, passports, customs, and quarantine shall be complied with upon entrance into or departure or while within the territory of the first party.

(3) Unless otherwise required for security reasons, passengers in transit across the territory of either Contracting Party shall be subject to no more than simplified control.

ARTICLE 8

For the purpose of achieving and maintaining equilibrium between the capacity of the specified air services and the requirements of the public for air transportation, as determined by the aeronautical authorities of the Contracting Parties, it is agreed that: