

No. 2920

**SPAIN
and
PHILIPPINES**

**Air Transport Agreement (with annex). Signed at Madrid,
on 6 October 1951**

**Exchange of notes constituting an agreement modifying the
schedule of routes of the annex to the above-mentioned
Agreement. Madrid, 3 June and 24 July 1953**

Official texts of the Agreement: English and Spanish.

Official text of the exchange of notes: Spanish.

Registered by the International Civil Aviation Organization on 13 September 1955.

**ESPAGNE
et
PHILIPPINES**

**Accord relatif aux transports aériens. Signé à Madrid,
le 6 octobre 1951**

**Échange de notes constituant un accord modifiant le tableau
des routes figurant dans l'annexe de l'Accord susmen-
tionné. Madrid, 3 juin et 24 juillet 1953**

Textes officiels de l'Accord: anglais et espagnol.

Texte officiel de l'échange de notes: espagnol.

Enregistrés par l'Organisation de l'aviation civile internationale le 13 septembre 1955.

No. 2920. AIR TRANSPORT AGREEMENT¹ BETWEEN THE GOVERNMENT OF SPAIN AND THE GOVERNMENT OF THE PHILIPPINES. SIGNED AT MADRID, ON 6 OCTOBER 1951

The Government of the Republic of the Philippines and the Government of Spain, desiring to conclude an Agreement for the purpose of establishing as soon as possible air transport services between the territories of the Philippines and Spain and beyond, have designated for this purpose the undersigned Plenipotentiaries who, being duly authorized by their respective Governments to this end, have agreed as follows :

Article I

Each of the Contracting Parties grants to the other the rights as specified in the Annex² to this Agreement, with the object of establishing the air transport services described in said Annex and which shall hereinafter in this Agreement be described as "Agreed Services".

Article II

The development of air transport service between their respective territories constitutes for the Contracting Parties a fundamental and primordial right.

Article III

For the purpose of this Agreement and its Annex, except where the text provides otherwise :—

- a) The term "Aeronautical Authorities" shall mean in the case of the Republic of the Philippines, the Civil Aeronautics Board, and in the case of Spain the Central Office of Civil Aviation of the Ministry of Air (Dirección General de Aviación Civil), or their respective legal successors.
- b) The term "designated airlines" shall mean those airlines that the aeronautical authorities of one of the Contracting Parties have communicated in writing to the aeronautical authorities of the other Contracting Party as the airlines that they have designated in conformity with Article IV of the present Agreement for the routes specified in such notice.

¹ In accordance with article XVII, the Agreement came into force provisionally on 6 October 1951, as from the date of signature, and definitively on 4 December 1953 by ratification.

² See p. 206 of this volume.

The term "Airline" shall be used in the present Agreement to refer to the airline or airlines designated by the Contracting Parties in conformity with the foregoing.

- c) The term "territory" shall have the meaning given to it by Article II of the Convention on International Civil Aviation, signed at Chicago on December 7, 1944.¹
- d) The definitions contained in paragraphs a), b) and d) of Article 96 of the Convention on International Civil Aviation, signed at Chicago on December 7, 1944, are applicable in this Agreement.

Article IV

1) Each of the agreed services may be inaugurated immediately or at a later date, at the option of the Contracting Party to whom the rights have been granted, but not before :—

- a) The Contracting Party to whom the rights have been granted shall have designated an airline for the route or routes specified ; and
- b) The Contracting Party granting the rights shall have given the corresponding operating permit to the airline so designated in that manner, which it shall do without delay, subject to the provision contained in paragraph 2 of this Article and to the provisions of Article VIII.

2) Each airline so designated may be required to satisfy the aeronautical authorities of the Contracting Party granting the rights that it is in a position to fulfill the requirements prescribed by the laws, rules and other regulations applicable to the operation of commercial airlines.

3) Each Contracting Party on prior notification to the other Party shall have the right to substitute another airline for the airlines designated for the operation of the agreed services, as well as to designate additional airlines. The new airline that may be designated shall have the same rights and obligations as the previous ones.

Article V

1) The charges that either of the Contracting Parties may impose or permit to be imposed on the airline designated by the other Contracting Party for the use of airports and other facilities shall not be higher than those paid for the use of such airports and facilities by its national airlines or by the airline of the most favored nation engaged in similar international services.

2) Aircraft of the designated airline of one Contracting Party and supplies of fuel, lubricating oils, spare parts, normal equipment and aircraft stores on

¹ See footnote 3, p. 162 of this volume.

board such aircraft upon arrival in the territory of the other Contracting Party and retained on board upon its departure, shall enjoy exemption from customs duties, inspection fees and similar duties or charges of national or local character in said territory.

3) Fuel, lubricating oils, spare parts, normal equipment and aircraft stores of aircraft not otherwise included in the above paragraph 2) and that are introduced in the territory of a Contracting Party or placed on board said aircraft by the designated airline of the other Party or on its behalf, solely for the use of the aircraft of said airline, shall enjoy the following treatment with regard to customs duties and other charges :—

- a) In the case of fuel and lubricating oils placed on board aircraft in said territory and found on board at the last airport where the aircraft landed prior to departure of said aircraft from this territory : exit exemption.
- b) In the case of spare parts and normal aircraft equipment introduced in said territory : entry exemption.
- c) In the case of fuel, lubricating oils, spare parts and normal equipment and aircraft stores not included in paragraphs a) and b) : treatment no less favorable than that which is accorded to articles of similar character introduced in said territory and destined for the use of the aircraft of the national airline or of the most favored foreign airlines operating international air services.

Article VI

Certificates of airworthiness, certificates of competency and licenses issued or authorized by one Contracting Party and still in force shall be recognized as valid by the other Party for the purpose of operating the agreed routes. Each Contracting Party reserves the right, however, to refuse to recognize for the purpose of flight above its own territory, certificates of competency and licenses granted to its own nationals by the other Party or by another state.

Article VII

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. It is hereby understood that this authorization relates to minimum number of personnel necessary for the normal conduct of the services.

Article VIII

The Postal Administrations of both Contracting Parties shall enter into an arrangement for the carriage of airmail, in conformity with the principles of existing International Conventions on the matter.

Article IX

The aeronautical authorities of the Contracting Parties, within the limits imposed on them by the provisions of the Multilateral Treaties which they may have entered into, shall do the utmost to reach an understanding as to the minimum facilities they will mutually provide for each other at the airports and at other points on the specified routes, in regard to matters such as air navigation facilities, exchange of information, units of measures, language and key words to be used.

Article X

1) The laws, rules and other regulations of one Contracting Party relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft, shall be applied to the aircraft of the airline designated by the other Party, while within its territory.

2) The laws, rules and other regulations of one Contracting Party relating to the admission to or departure from its territory of passengers, crew, or cargo of aircraft (such as regulations concerning entry, clearance, passports, customs, immigration, emigration, police, quarantine and exchange control), shall be respectively applied to the passengers, crew or cargo of the aircraft of the airline designated by the other Party while within the boundary of the territory referred to.

3) While the requirement of a visa for the admission of foreigners into the territory of either Contracting Party is maintained, the registered crew of the agreed services under the present Agreement shall be exempted from the requirement of a visa provided they are nationals of the other Party and are in possession of a valid passport and an identity document issued by the designated airline to which the aircraft belongs.

Article XI

Upon prior consultation with the other Party, which shall be held within a period of sixty days counted from the date of the request therefor, each Contracting Party reserves the right to withhold or revoke the exercise of the rights specified in the Annex to the present Agreement, or to impose such conditions as it may deem proper on the airline designated by the other Party in the event substantial ownership and effective control of such airlines are not vested in the other Contracting Party or in its nationals. Also, and upon prior notification, each Contracting Party may withhold or revoke the exercise of the rights aforesaid or to impose such conditions as it may deem proper, in any case where the airline fails to comply with the laws, rules and other regulations referred to in Article X of this Agreement, or otherwise fails to comply with the conditions under which such rights have been given.

Article XII

This Agreement shall be registered with the Council of the International Civil Aviation Organization, in accordance with Article 83 of the Convention on International Civil Aviation, signed at Chicago on December 7, 1944.

Article XIII

In the event either of the Contracting Parties considers it advisable to modify the routes or conditions set forth in the attached Annex, it may request consultation between the aeronautical authorities of both Parties, such consultation to begin within the period of sixty days from the date of the request. When these authorities mutually agree on modifications affecting the Annex, such modifications will come into effect after they have been confirmed by exchange of diplomatic notes.

In case the Parties fail to reach an agreement, they may exercise the rights reserved to them by Article XVI of this Agreement from the date of the termination of the consultation.

Article XIV

1) Any controversy relative to the interpretation or application of this Agreement, or its Annex, which cannot be settled through consultation between the Parties to be held within the period of sixty days from the date of the request therefor by either Party, may be submitted, for purposes of an advisory report, to the Council of the International Civil Aviation Organization, or to arbitration by any person or body or Tribunal designated by mutual agreement of the Parties. The Parties undertake to abide by the decision resulting from such arbitration.

2) In the event the dispute is submitted to an Arbitral Tribunal, the composition and rules of procedure of the same shall be in accordance with the following paragraphs :

- a) The Tribunal shall be composed of three arbiters. Each Contracting Party shall appoint one arbiter and the third shall be appointed by mutual agreement of the two aforesaid arbiters, and will not be a national of either of the two parties.
- b) The appointment of the first two arbiters shall be done within the period of fifteen days counted from the date of the receipt by one Party of the diplomatic note from the other Party requesting the arbitration. The third arbiter shall be named within thirty days following the designation of the first two.
- c) If, within the period specified, no agreement is reached as to the appointment of the third arbiter, the Contracting Parties may request the President of the Council of the International Civil Aviation Organization to designate the third arbiter, to be picked out from the list of names which for that purpose said Organization keeps.

- d) The Arbitral Tribunal thus created should issue its decision within a period not exceeding thirty days counted from the date it is constituted.
- e) The time limit prescribed in the preceding paragraph may be extended by mutual agreement of the Parties.

Article XV

If a multilateral air navigation convention ratified by both Contracting Parties enters into effect, this Agreement shall be amended to conform with the provisions of such Convention.

Article XVI

Each Contracting Party may, at any time, notify the other Party of its desire to terminate this Agreement. Said notice shall be communicated simultaneously to the Council of the International Civil Aviation Organization. In which case, the Agreement shall terminate 180 days after the date of the receipt by one Contracting Party from the other Party of the notice to terminate, unless such notice is withdrawn by common agreement before the expiry of this period. If the other Contracting Party fails to acknowledge receipt of the notice, this shall be considered as received fourteen days following the receipt of same by the Council of the International Civil Aviation Organization.

Article XVII

a) The present Agreement will come into force provisionally from the date it is signed, and definitely upon its ratification.

b) Until such time as the instruments of ratification shall have been deposited and this Agreement shall have definitely come into effect, the Contracting Parties undertake to respect its provisions to the extent permissible under their respective constitutional prerogatives, from the date of its signature.

In the absence of reciprocity or if it be desired to cancel the provisional applicability of this Agreement, prior written notice to that effect should be given to the other Party, three months in advance.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized by their respective Governments, have signed the present Agreement and affixed thereto their seals.

DONE at Madrid, on the 6th of October 1951, in quadruplicate, two in the Spanish language and two in the English language, both texts being equally authentic.

For the Government of the Republic of the Philippines :
(Signed) Manuel V. MORÁN

For the Government of Spain :
(Signed) Alberto MARTÍN ARTAJO

ANNEX

For the purpose of developing the air transport services along the routes specified in the schedule attached to this Annex, the airline of each Contracting Party shall enjoy in the territory of the other the rights of transit and non-traffic stops at airports open in each country for international traffic, as well as the right to embark or disembark thereat international traffic consisting of passengers, cargo and mail, from the territory of either of the Contracting Parties, under the conditions established in this Annex.

In order that such services shall be regulated in an orderly manner, the Contracting Parties agree that :—

- a) The air transport capacity that is offered shall have as an essential objective meeting the traffic requirements between the terminal points on the specified routes.
- b) The airlines of both Contracting Parties shall enjoy an equal opportunity in the operation of the specified routes.
- c) The services made available by each airline shall retain as primary objective the provision of adequate capacity for the normal, reasonable and anticipated demands of traffic coming from or destined to the territory of the Party designating the airline.
- d) The capacities which the designated airlines may initially offer, after due consideration being given to the foregoing principles, may be modified when statistical traffic data shall establish that there exists a need for additional capacity with reference to the principal traffic for each airline, that justifies these changes economically.

The new frequencies shall be determined by consultation between the Aeronautical Authorities.

If traffic statistics show that, during the six months prior to the proposed increase, the load factor of the airline designated by the Contracting Party desiring the increase in capacity, has been lower than 60 %, the other Party may refuse to accept an increase in frequency.

- e) The designated airline of each Contracting Party may embark and disembark in the territory of the other Party air traffic consisting of passengers, cargo and mail destined for or coming from the points specified along the routes and situated in third countries. This traffic shall be exercised as complimentary to the principal traffic between the territories of both Parties and its capacity may not unduly affect the development of the corresponding local and regional services.
- f) For the purpose of determining whether the principles of this Annex are being duly observed by the designated airlines, the aeronautical authorities of both Parties shall consult each other periodically, or at any time on request of either of them, the consultations to start within 15 days following the request.

The aeronautical authorities of each Party shall, on request, furnish to the other the following :—

- 1) Traffic statistical data that may be appropriate for any revision of frequencies and capacities of the agreed services ;
- 2) Information which may reasonably be needed relating to traffic transported by its airlines along the agreed routes, including that concerning the origin and destination of such traffic.

- g) The fares and rates for the transport of passengers, cargo and mail, by the airlines to which this Annex has reference may be established, in the first instance, by mutual agreement between the Parties in consultation with other airlines which operate the same routes, or any segment thereof, and which shall be based, as far as possible, on the data made available by the Fares and Rates Committee of the International Air Transportation Association (I.A.T.A.).

The fares and rates thus established shall be subject to the approval of the Contracting Parties. In case of a disagreement among the airlines, the Contracting Parties shall endeavour to arrive at a solution, and, in the absence of an agreement, the dispute shall be submitted for arbitration, as provided in Article XIV of this Agreement.

- h) The fares and rates that may be established in accordance with paragraph g), shall be fixed at a just and reasonable level, taking into account all relevant factors, such as operating costs, reasonable profit, differences in characteristics of services, including speed and comfort, as well as the fares and rates collected by other airlines that serve the same route.
- i) Each Contracting Party shall within the limit of its ability, insure that no new or revised fare or rate shall be made effective while a disagreement exists thereon between the aeronautical authorities of both Parties.

SCHEDULE OF ROUTES

A) *Spanish routes*

Madrid—Rome—Athens—Lydda—Karachi—Calcutta—Manila
and points beyond in both directions

Any of the stops on the routes stated above, which is situated in a third country, may be omitted at the convenience of the airline operating that route.

B) *Philippine routes*

Manila—Calcutta—Karachi—Lydda—Athens—Rome—Madrid—London
and points beyond in both directions

Any of the stops on the routes stated above, which is situated in a third country, may be omitted at the convenience of the airline operating that route.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN SPAIN AND THE PHILIPPINES MODIFYING
THE SCHEDULE OF ROUTES OF THE ANNEX TO THE
AIR TRANSPORT AGREEMENT OF 6 OCTOBER 1951.²
MADRID, 3 JUNE AND 24 JULY 1953

I

[SPANISH TEXT — TEXTE ESPAGNOL]

EMBAJADA DE FILIPINAS, MADRID

Nº 81

La Embajada de Filipinas saluda atentamente al Ministerio de Asuntos Exteriores y de conformidad con el artículo 13 del Convenio Aéreo filipino-español, firmado el 6 de octubre de 1951, el Gobierno filipino solicita la modificación del cuadro de la ruta filipina especificado en el anexo a dicho Tratado, añadiendo la ciudad de Bangkok, Siam, para que la empresa filipina, Philippine Air Lines, pueda gozar de la quinta libertad de derechos de tráfico de Madrid a Bangkok y viceversa una vez a la semana. —Esta Embajada agradecería la conformidad del Gobierno español sobre la modificación arriba mencionada aprovechando esta oportunidad para reiterar a ese Ministerio el testimonio de su más alta consideración.

3 de junio de 1953

Al Ministerio de Asuntos Exteriores
Madrid

[TRANSLATION — TRADUCTION]

EMBASSY OF THE PHILIPPINES, MADRID

No. 81

The Embassy of the Philippines presents its compliments to the Ministry of Foreign Affairs and, in conformity with article XIII of the Air Transport Agreement between the Philippines and Spain signed on 6 October 1951,² the Government of the Philippines requests that the Philippine schedule of routes specified in the Annex to the said Agreement should be modified through the addition of

¹ Came into force on 24 July 1953 by the exchange of the said notes.

² See p. 193 of this volume.

the city of Bangkok, Siam, in order that the Philippine airline, Philippine Air Lines, may enjoy fifth-freedom traffic rights from Madrid to Bangkok and vice versa once weekly. This Embassy would be grateful if the Spanish Government would agree to the aforesaid modification, and has the honour to be, etc.

3 June 1953

To the Ministry of Foreign Affairs
Madrid

II

[SPANISH TEXT — TEXTE ESPAGNOL]

P.E. n° 68

El Ministerio de Asuntos Exteriores saluda atentamente a la Embajada de Filipinas y con referencia a su Nota Verbal n° 81, de fecha 3 de junio último, por la que solicitaba la modificación del Cuadro de Rutas filipino anejo al Convenio aéreo hispano-filipino de 6 de octubre de 1951, añadiendo la ciudad de Bangkok (Siam), a fin de que la empresa filipina P.A.L. pueda gozar de 5ª libertad de Madrid a Bangkok y v/v una vez a la semana, tiene la honra de comunicarle que por parte de las Autoridades españolas competentes no hay inconveniente en acceder a la modificación solicitada.

Madrid 24 de julio de 1953

A la Embajada de Filipinas

[TRANSLATION — TRADUCTION]

P.E. No. 68

The Ministry of Foreign Affairs presents its compliments to the Embassy of the Philippines, and with reference to the Embassy's Note Verbale No. 81, dated 3 June 1953, requesting that the Philippine schedule of routes annexed to the Air Transport Agreement between the Philippines and Spain of 6 October 1951 should be modified through the addition of the city of Bangkok, Siam, in order that the Philippine airline, P.A.L., may enjoy the fifth freedom from Madrid to Bangkok and vice versa once weekly, has the honour to inform the Embassy that the competent Spanish authorities have no objection to accepting the desired modification.

Madrid, 24 July 1953

To the Embassy of the Philippines