

No. 9972

PHILIPPINES
and
FRANCE

**Air Transport Agreement (with annex). Signed at Paris
on 29 October 1968**

Authentic texts: English and French.

Registered by the Philippines on 22 October 1969.

PHILIPPINES
et
FRANCE

**Accord de transport aérien (avec annexe). Signé à Paris
le 29 octobre 1968**

Textes authentiques : anglais et français.

Enregistré par les Philippines le 22 octobre 1969.

AIR TRANSPORT AGREEMENT ¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES

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

Being parties to the Convention on International Civil Aviation ² and the International Air Services Transit Agreement ³ both opened for signature at Chicago on the 7th day of December, 1944,

Desiring to apply to air transport the principles and provisions therein established, and

Desiring to conclude an agreement for the purpose of establishing and operating air services between and beyond the territories of France and the Philippines;

Hereby agree as follows:

Article I

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

- (a) the term "aeronautical authorities" means,
in the case of the French Republic, the Secretariat General a l'Aviation Civile or any person or body authorized to perform any functions exercised at present by the said Secretariat General a l'Aviation Civile or similar functions, and,
in the case of the Republic of the Philippines, the Civil Aeronautics Board or any person or body authorized to perform any functions exercised at present by the said Civil Aeronautics Board or similar functions;
- (b) the term "designated airline or airlines" means an airline or airlines which one Contracting Party shall have designated, by written notification to the other Contracting Party, in accordance with the provisions of Article III of the present Agreement, for the operation of air services on the routes specified in the Annex hereto;
- (c) the term "territory" in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection, trusteeship or administration of that State;

¹ Came into force on 30 September 1969, the date of the exchange of diplomatic notes notifying the approval by each of the Contracting Parties, in accordance with article XVI.

² United Nations, *Treaty Series*, vol. 15, p. 295; for the texts of the Protocols amending this Convention, see vol. 320, pp. 209 and 217; vol. 418, p. 161, and vol. 514, p. 209.

³ *Ibid.*, vol. 84, p. 389.

- (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 Articles 90 and 94 thereof;
- (e) the terms "air services," "international air service," "airline" and "stop for non-traffic purposes" have the meaning 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.

Article II

(1) Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement for the purpose of establishing air services on the routes specified in the Annex to this Agreement.

(2) Subject to the provisions of the present Agreement, the airline or airlines designated by each Contracting Party shall enjoy, while operating an agreed service on a specified route, 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 to the present Agreement for the purpose of putting down and taking on international traffic in passengers, cargo and mail coming from or destined for other points so specified.

(3) Nothing in paragraph (2) of this Article shall be deemed to confer on the airline or 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

(1) Each Contracting Party shall have the right to designate in writing to the other Contracting Party one or more airlines for the purpose of operating the agreed services on the specified routes;

(2) On receipt of the 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 designated the appropriate operating authorization.

(3) The aeronautical authorities of one Contracting Party may require an airline or airlines 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 or airlines and to withhold or revoke the grant to an airline or airlines of the privileges specified in paragraph (2) of this Article or to impose such conditions as it may deem necessary in the exercise by an airline or airlines of those privileges in any case where it is not satisfied that substantial ownership and effective control of that airline or airlines are vested in the Contracting Party designating the airline or airlines or in nationals of the Contracting Party designating the airline or airlines.

(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 or airlines 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 or airlines of the privileges specified in paragraph (2) of this Article or to impose such conditions as it may deem necessary on the exercise by an airline or airlines of those privileges in any case where the airline or airlines fails to comply with the laws and regulations of the Contracting Party granting those privileges 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

(1) Aircraft operated on international services by the designated airline or airlines of either Contracting Party, as well as their regular equipment, 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) 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, within limits fixed by the authorities of said 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 or airlines of the other Contracting Party;
- (c) fuel and lubricants destined to supply aircraft operated on international air services by the designated airline or airlines 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.

(3) The supplies of regular equipment and aircraft stores on board aircraft of one Contracting Party may not be unloaded on the territory of the other Contracting Party except with the permission of the customs authorities of that territory. In that case, the supplies shall be kept under the supervision of such authorities pending re-exportation or compliance with normal customs procedures.

Article V

Each designated airline or airlines 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

Either Contracting Party undertakes to grant the other Party free transfer, at the official rate of exchange, of the excess of receipts over expenditure achieved on its territory in connection with the carriage of passengers, baggage, mail shipments and freight by the designated airline or airlines of the other Party. Wherever the payments system between Contracting Parties is governed by a special agreement, said agreement shall apply.

Article VII

(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 or airlines 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 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 or airlines designated by the other Contracting Party upon entrance into or departure from, or while within the territory of the first party.

Article VIII

In order to develop the air transport services along the routes or segments thereof specified in the Annex hereof, 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 :

(1) The designated airline or airlines of each Contracting Party shall enjoy fair and equal opportunity for the operation of agreed services for the carriage of traffic between the territories of the two parties ;

(2) In the operation by the designated airline or airlines of either Contracting Party of the agreed services, the interests of the designated airlines of the other Contracting Party shall be taken into consideration so as not to affect unduly the services which the latter provide on all or part of the same routes.

(3) The agreed services provided by a designated airline on the specified routes shall bear a close relationship to the requirements of the public for such services, and shall retain as their primary objective the provision at a reasonable load factor of capacity adequate to current and reasonably anticipated requirements for the carriage of passengers, cargo and mail originating from or destined for the territory of the Contracting Party which have designated such airline. Provision for the carriage of passengers, cargo and mail both taken up 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 between the territory of the Contracting Party which has designated the airline or airlines and the countries of destination of the traffic ;

- (b) traffic requirements of the area through which the airline passes; and
- (c) the requirements of through airline operations.

Article IX

(1) The tariffs to be charged by the airline or airlines of one Contracting Party for carriage 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 as applied on the specified routes or segments thereof.

(2) The tariffs referred to in paragraph (1) of this Article shall, if possible, be agreed by the designated airline or airlines concerned of both Contracting Parties, in consultation with other airlines operating over the whole or part of the route, and such agreement shall, where possible, be reached through the rate-fixing machinery of the International Air Transport Association.

(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 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 15 days of the 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 XII of the present Agreement.

(6) Subject to the provisions of paragraph (3) of this Article, 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 X

In a spirit of close cooperation, the aeronautical authorities of the Contracting Parties shall consult each other from time to time with a view to ensuring the implementation of, and satisfactory compliance with, the provisions of the present Agreement and the Annex hereto.

Article XI

Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one Contracting Party shall be recognized as valid by the other Contracting Party for the purpose of operating the routes and services described in the Annex to this Agreement. Each Contracting Party reserves the right to refuse to recognize for the purpose of flight above its own territory, certificates of competency and licenses granted to its own nationals by another state.

Article XII

(1) If any dispute arises between the Contracting Parties relating to the interpretation or application of the present Agreement, the Contracting Parties shall in the first place endeavor to settle it by negotiation between themselves. This negotiation shall begin within 60 days after receipt of the request by one Party from another.

(2) If the Contracting Parties fail to reach a settlement by negotiation, the dispute shall be submitted for decision to a tribunal of three arbitrators, one to be named by each Contracting Party and the third to be agreed upon by the two arbitrators so chosen, provided that such third arbitrator shall not be a national of either Contracting Party. Each of the Contracting Parties shall designate an arbitrator within two months of the date of delivery by either Party to the other Party of a diplomatic note requesting arbitration of the dispute and the third arbitrator shall be agreed upon within one month after such period of two months. If either Contracting Party fails to designate its arbitrator within the period specified, or if the third arbitrator is not agreed, the President of the Council of the International Civil Aviation Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators as the case requires. In such case, the third arbitrator shall be a national of a third state and shall act as President of the arbitral body.

(3) Unless otherwise provided by the Contracting Parties, the arbitral body shall determine its seat and prescribe its own rules of procedure.

(4) The arbitral body shall endeavor to resolve the dispute by unanimous vote. However, if this is not possible, the decision of the arbitral body shall be determined by a majority vote.

(5) The Contracting Parties undertake to comply with any decision given under paragraphs (2), (3) and (4) of this Article.

Article XIII

(1) If either of the Contracting Parties considers it desirable to modify the terms of the present Agreement, it may request consultation with the other Contracting Party; such consultation, which may be between aeronautical authorities and which may be through discussion or by correspondence, shall begin within a period of sixty (60) days of the date of the request.

(2) Modifications to routes may be made by direct agreement between the competent aeronautical authorities of the Contracting Parties.

(3) Any modification so agreed upon pursuant to paragraphs (1) and (2), above, shall come into effect after confirmation thereof by an exchange of diplomatic notes.

Article XIV

The present Agreement and any modification thereto in accordance with Article XIII, above, shall be registered with the International Civil Aviation Organization.

Article XV

Either Contracting Party may at any time give notice to the other Contracting Party of its decision to terminate the present Agreement; such notice shall be simultaneously communicated to the International Civil Aviation Organization. In such case the Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of acknowledgment of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

Article XVI

The present Agreement shall be signed by each Contracting Party and shall enter into force and effect on the date of the exchange of diplomatic notes indicating such approval.

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

DONE in two copies, one in English and the other in French, both texts being equally authentic, this 29th day of October, 1968 at Paris.

For the Government
of the French Republic:
Augustin JORDAN

For the Government
of the Republic of the Philippines:
Gauttier F. BISNAR

ANNEX

SCHEDULE OF ROUTES

A. *Route to be served by the designated airline or airlines of the Republic of the Philippines in both directions*

<i>Points of Departure</i>	<i>Intermediate Points</i>	<i>Points in France</i>	<i>Points Beyond</i>
The Philippines	Hongkong Vietnam Thailand India Pakistan Iran Persian Gulf Saudi Arabia Egypt Israel Lebanon Greece Italy	Nice Paris	Point in Europe New York with compulsory intermediate point in Europe between France and New York

B. *Route to be served by the designated airline or airlines
of the French Republic in both directions*

<i>Points of Departure</i>	<i>Intermediate Points</i>	<i>Points in the Philippines</i>	<i>Points Beyond</i>
France	Greece Turkey Lebanon Israel Egypt Saudi Arabia Persian Gulf Iran Pakistan India Thailand Cambodia Vietnam	Manila	Tokyo

NOTE. Except for points of departure and the compulsory intermediate point between France and New York, points on the route may, at the option of the designated airline(s), be omitted on any or all flights.
