

No. 10199

**PHILIPPINES
and
REPUBLIC OF KOREA**

**Air Transport Agreement (with annex). Signed at Seoul on
22 July 1969**

Authentic texts: English and Korean.

Registered by the Philippines on 14 January 1970.

**PHILIPPINES
et
RÉPUBLIQUE DE CORÉE**

**Accord relatif aux transports aériens (avec annexe). Signé à
Séoul le 22 juillet 1969**

Textes authentiques: anglais et coréen.

Enregistré par les Philippines le 14 janvier 1970.

AIR TRANSPORT AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF THE REPUBLIC OF KOREA

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

Being parties to the Convention on International Civil Aviation² and the International Air Services Transit Agreement³ both opened for signature at Chicago on the 7th day of December, 1944, and

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

Hereby agree as follows:

Article 1

(1) For the purpose of the present 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 authorized to perform any function exercised at present by said Civil Aeronautics Board or similar functions, and, in the case of the Republic of Korea, the Minister of Transportation and/or any person or body authorized to perform any function exercised at present by the said Minister of Transportation 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 the present Agreement, for the operation of the air services on the routes specified in the Annex hereto;
- (c) The term “territory” in relation to a Contracting Party means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection, trusteeship or administration of that Contracting Party;
- (d) 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

¹ Came into force on 11 August 1969, the date of the exchange of notes indicating that the formalities required by each Contracting Party had been complied with, in accordance with article 17.

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.

that Convention and any amendment of the Annexes or Convention under Articles 90 and 94 thereof;

- (e) The term “air service”, “international air service”, “airline” and “stop for non-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 or as modified in accordance with paragraph (2) of Article 13 of the present Agreement.

(2) The Annex forms an integral part of the present Agreement and all reference to the “Agreement” shall be deemed to include the Annex except where otherwise provided.

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.

(2) Subject to the provisions of the present Agreement, the airline designated by each Contracting Party shall enjoy, while operating an agreed service, 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 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 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 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 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 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 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 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 in 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 the 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) Spare parts and equipment imported into the territory of one Contracting Party for incorporation in or use on an aircraft of the designated airline of the other Contracting Party in its operation of the agreed services shall be admitted free of customs duty, subject to compliance with the regulations of the Contracting Party concerned, which may provide that the articles shall be kept under customs supervision and control.

(3) 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 exemptions.

Article 5

The designated airline of either Contracting Party is authorized to maintain in the territory of the other Contracting Party its own technical and administrative personnel for the purpose of operating the agreed services, without prejudice to the national regulations of the respective Contracting Parties.

Article 6

(1) Either Contracting Party grants to the designated airline of the other Contracting Party the free transfer, in United States dollars or, if both parties agree, in any other authorized currency at the rate of exchange in the official market at the time of the remittance, the excess over expenditures of receipts earned in the territory of the first Contracting Party in connection with the operation of the agreed services by such designated airline. The procedure for such remittance, however, shall be in accordance with the foreign exchange regulations of the Contracting Party in the territory of which the revenue accrued.

(2) Wherever the payments system between the Contracting Parties is governed by a special agreement, 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 of aircraft, 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.

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:

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

(2) In the operation of the agreed services by the designated airline of either Contracting Party, the interest of the designated airline 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 route;

(3) The air transport service offered by the designated airline of each Contracting Party on different sections of the specified air routes or segments thereof shall bear a close relationship to the needs of the public for air transport and to the traffic interests of the airlines concerned as provided in this Agreement;

(4) The services provided by a designated airline on the specified routes shall retain, as their primary objective, the provision of capacity adequate to the traffic demands between the country of which such airline is a national and the country of ultimate destination of the traffic. The right of the designated airline of either Contracting Party to embark and to disembark, at points in the territory of the other Contracting Party, international traffic destined for or coming from third countries on the specified air routes shall be applied in accordance with the general principles of orderly development to which both Contracting Parties subscribe and shall be subject to the general principles that capacity shall be related to:

- (a) The traffic requirements between the territory of the Contracting Party which has designated the airline and the destinations of the traffic on the specified air routes;
- (b) The requirements of through airline operations;
- (c) The air transport needs of the area through which the airline passes after taking into account local and regional services; and
- (d) The adequacy of other air transport services established by the airline of either Contracting Party and of other States concerned between their respective territories.

(5) The capacity of the aircraft to be operated on the route specified in the Annex and the frequency to be operated by such aircraft shall be determined by the aeronautical authorities of the Contracting Parties prior to the inauguration of the service and after consultation between the designated airlines concerned.

Article 9

(1) The tariffs to be charged by the airline of one Contracting Party for the 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, characteristics of service (such as standards of

speed and accommodation) and the tariffs of other airlines as applied on the specified routes or sections thereof.

(2) The tariffs referred to in paragraph (1) of this Article, together with the rates of agency commission used in conjunction therewith, shall, if possible, be agreed by the designated airlines concerned of both Contracting Parties, in consultation, where it is deemed suitable, 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 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 paragraph (2) of this Article, or if during the first twenty (20) 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 endeavor 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 12 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 10

In the 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 thereto.

Article 11

Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one Contracting Party, and still in force, shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services. 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 or rendered valid by another State.

Article 12

(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 sixty (60) days after receipt of the request by one Party from the other.

(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 its arbitrator within two (2) months from 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 (1) month after such period of two (2) 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 dispute shall be resolved by majority vote.

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

Article 13

(1) If either of the Contracting Parties considers it desirable to amend the terms of the present Agreement, it may request consultation with the other Contracting Party. Such consultation shall begin within a period of sixty (60) days from the date of the request. Any amendment so agreed shall come into effect after confirmation thereof by an exchange of diplomatic notes.

(2) Modifications to routes not involving amendment to the present Agreement may be made by direct agreement between the aeronautical authorities of the Contracting Parties.

Article 14

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 communicated simultaneously to the International Civil Aviation Organization. If such notice is given, the present 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 between the Contracting Parties before the expiration of that 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 15

If a general multilateral convention concerning air transport comes into force in respect of both Contracting Parties, the present Agreement shall be amended so as to conform with the provisions of such Convention.

Article 16

The present Agreement and any amendment thereto in accordance with Article 13 hereof shall be registered with the International Civil Aviation Organization.

Article 17

The present Agreement shall enter into force and effect on the date of the exchange of diplomatic notes indicating that the formalities required by each Contracting Party have been complied with.

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

DONE at Seoul this 22nd day of July, 1969 in the Korean and English languages, all texts being equally authentic. However, in case of any divergence of interpretation, the English text shall prevail.

For the Government of the
Republic of the Philippines :
Romeo S. BUSUEGO

For the Government
of the Republic of Korea :
PIL SHIK CHIN

ANNEX

I

1. Route to be served by the designated airline of the Republic of the Philippines in both directions :

<i>Point of Departure</i>	<i>Intermediate Points</i>	<i>Point of Destination</i>	<i>Points Beyond</i>
Manila	—	Seoul	—

2. Route to be served by the designated airline of the Republic of Korea in both directions :

<i>Point of Departure</i>	<i>Intermediate Points</i>	<i>Point of Destination</i>	<i>Points Beyond</i>
Seoul	—	Manila	—

II

It is agreed that the “intermediate points” and “points beyond” in the routes in paragraphs 1 and 2 of Section I, above, shall be the subject of future consultations between the Contracting Parties. Such consultation shall commence within sixty (60) days after receipt by one Contracting Party of the written request therefore from the other Contracting Party.