

No. 15094

**FEDERAL REPUBLIC OF GERMANY
and
PHILIPPINES**

**Air Transport Agreement. Signed at Manila on 6 August
1971**

**Exchange of notes constituting an arrangement relating to
the route schedule of the above-mentioned Agreement.
Manila, 6 August 1971**

Authentic texts: German and English.

*Registered by the International Civil Aviation Organization on 8 November
1976.*

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
PHILIPPINES**

**Accord relatif aux transports aériens. Signé à Manille le
6 août 1971**

**Échange de notes constituant un arrangement concernant le
tableau des routes de l'Accord susmentionné. Manille,
6 août 1971**

Textes authentiques: allemand et anglais.

*Enregistrés par l'Organisation de l'aviation civile internationale le
8 novembre 1976.*

AIR TRANSPORT AGREEMENT¹ BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE REPUBLIC OF THE PHILIPPINES

The Federal Republic of Germany and the Republic of the Philippines, hereinafter described as the Contracting Parties,

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on the 7th day of December, 1944,² and

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

Have agreed as follows:

Article 1. For the purpose of the present Agreement, unless the context otherwise requires:

(a) the term “aeronautical authorities” means, in the case of the Federal Republic of Germany, the Federal Minister of Transport or any person or body authorized to perform any function exercised at present by the said Minister 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 function exercised at present by said Civil Aeronautics Board 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 accordance with paragraph (3) of Article 2 of the present Agreement;

(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 7th 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 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 services operated on the routes specified in accordance with paragraph (3) of Article 2 of the present Agreement.

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.

¹ Came into force on 12 March 1976, i.e. 30 days after the date of the exchange of diplomatic notes indicating that the formalities constitutional or otherwise of 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; vol. 514, p. 209; vol. 740, p. 21; vol. 893, p. 117, and vol. 958, p. 217.

(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 Route Schedule referred to in paragraph (3) of this article for the purpose of putting down and taking on international traffic in passengers, mail and cargo coming from or destined for other points so specified.

(3) The routes over which the designated airlines of the Contracting Parties will be authorized to operate shall be specified in a Route Schedule to be agreed upon in an exchange of notes between the Governments of the Contracting Parties.

(4) 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, mail or cargo 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 delay to the airline designated the appropriate operating authorization.

(3) The aeronautical authorities of one Contracting Party may require the 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, 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 this 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 of this Agreement, or to impose such conditions as it may deem necessary in 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 by the designated airline of either Contracting Party and entering, departing again from, or flying across the territory of the other Contracting Party, as well as fuel, lubricants, spare parts, regular equipment and aircraft stores (including food, beverages and tobacco) on board such aircraft, shall be exempt from customs duties and other charges levied on the occasion of importation, exportation or transit of goods. This shall also apply to goods on board the aircraft consumed during the flight across the territory of the latter Contracting Party.

(2) Fuel, lubricants, spare parts, regular equipment and aircraft stores intended solely for use in the operation of the agreed services and temporarily imported into the territory of either Contracting Party, there to be immediately or after storage installed in or otherwise taken on board the aircraft of the designated airline of the other Contracting Party, or to be otherwise exported again from the territory of the former Contracting Party, shall, with the exception of charges corresponding to the service performed, be exempt from the same customs duties and other charges mentioned in paragraph (1) of this Article.

(3) Fuel, lubricants, spare parts, regular equipment and aircraft stores taken on board the aircraft of the designated airline of either Contracting Party and used in the operation of the agreed services, shall be exempt from customs duties and other charges mentioned in paragraph (1) of this Article, as well as from any other special consumption charges.

(4) The materials referred to in paragraphs (1) to (3) of this Article may be required to be kept under customs supervision and control. 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 airports and cities in the territory of the other Contracting Party its own technical and managerial personnel for the purpose of operating the agreed services. Work permits or prearranged employment visas shall be granted subject to the laws and regulations of the Contracting Parties.

Article 6. The charges imposed in the territory of either Contracting Party for the use of airports and other aviation facilities on the aircraft of the designated airline of the other Contracting Party shall not be higher than those imposed on aircraft of a national airline engaged in similar international air services.

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 Contracting 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 from or while within the territory of the first Contracting Party.

Article 8. For the purpose of achieving and maintaining equilibrium between the capacity of the agreed services and the requirements of the public for air transport, as determined by the aeronautical authorities of the Contracting Parties, it is agreed that:

(1) There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to operate the agreed services between the territories of the Contracting Parties;

(2) In the operation of the agreed services, the designated airline of either Contracting Party shall take into account the interest of the designated airline of the other Contracting Party so as not to affect unduly the air services which the latter airline operates over the same routes or parts thereof;

(3) The capacity provided by the designated airline of each Contracting Party on different sections of the specified routes or parts 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 the present 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 foreseeable traffic demand 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 routes shall be applied in the interest of an orderly development of international air transport and 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 destination of the traffic on the specified routes;
- (b) the requirements of an economical operation of through traffic routes; and
- (c) the air transport needs of the area through which the airline passes after taking into account local and regional services.

Article 9. (1) The tariffs to be charged on any agreed service shall be fixed with due regard to all factors such as cost of operation, a reasonable profit, the characteristics of the services on the various routes (such as standards of speed and accommodation), and the tariffs charged by any other airlines which operate over the same routes or parts thereof.

(2) The tariffs shall, if possible, be agreed for each route between the designated airlines. For this purpose the designated airlines shall be guided by such decisions as are applicable under the tariff conference procedures of the International Air Transport Association (IATA), or shall agree on such tariffs directly between themselves after consultation, where deemed suitable, with airlines of third countries which operate over the same routes or parts thereof.

(3) The tariffs so agreed shall be submitted for approval by 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 no agreement has been reached between the designated airlines in accordance with paragraph (2) of this Article, or if the aeronautical authority of one Contracting Party does not consent to the tariffs submitted for its approval in accordance with paragraph (3) of this Article, the aeronautical authorities of the two Contracting Parties shall by common accord fix those tariffs for the routes or parts thereof on which there is lack of agreement or consent.

(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 13 of this Agreement.

(6) 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. 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 certificates of competency and licenses granted to its own nationals or rendered valid by another State.

Article 11. In the spirit of close cooperation, the aeronautical authorities of the Contracting Parties shall, from time to time, exchange views in order to ensure the implementation of, and satisfactory compliance with, the provisions of the present Agreement and the Route Schedule.

Article 12. (1) Consultation may be requested at any time by either Contracting Party for the purpose of discussing amendments to the present Agreement or questions relating to its interpretation or implementation. The same applies to matters pertaining to the Route Schedule if either Contracting Party considers that an exchange of views within the meaning of Article 11 has not produced any satisfactory results. Such consultation shall begin within sixty (60) days from the date of receipt by the other Contracting Party of any such request.

(2) Should agreement be reached on amendment of this Agreement such amendment shall become effective when it has been approved in accordance with the procedure set forth in Article 17 of this Agreement.

(3) Should agreement be reached on amendment of the Route Schedule, as a result of a consultation as provided in paragraph (1) of this Article, or as a result of an exchange of views by the aeronautical authorities as provided in Article 11 of this Agreement, such amendment shall become effective on the date of the exchange of diplomatic notes.

Article 13. (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 Contracting Party from the other.

(2) If the Contracting Parties fail to reach a settlement by negotiation, the dispute shall be submitted for decision to an arbitral tribunal. Such tribunal shall be constituted *ad hoc* as follows: each Contracting Party shall appoint one member, and these two members shall agree upon a national of a third State as

their chairman to be appointed by the Governments of the two Contracting Parties. Such members shall be appointed within sixty (60) days, and such chairman within ninety (90) days, from the date on which either Contracting Party has informed the other Contracting Party of its intention to submit the disagreement to an arbitral tribunal.

(3) If either Contracting Party fails to designate its arbitrator within the period specified, or if the third arbitrator is not agreed upon, 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 chairman of the arbitral tribunal. If the President of the Council is a national of either Contracting Party or if he is otherwise prevented from discharging this function, the Vice-President deputizing for him should make the necessary appointments.

(4) The arbitral tribunal shall endeavor to resolve the dispute by unanimous vote. However, if this is not possible, the dispute shall be resolved by majority vote. Such decisions shall be binding on both Contracting Parties. Each Contracting Party shall bear the costs of its own member as well as of its representation in the arbitral proceedings; the cost of the chairman and any other costs shall be borne in equal parts by the Contracting Parties. In all other respects the arbitral tribunal shall prescribe its own procedure and shall determine its seat.

Article 14. Either Contracting Party may at any time give to the other Contracting Party written notice of termination of 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 within 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 acknowledgement 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. (1) In the event of a general multilateral air transport convention accepted by the Contracting Parties entering into force, the provisions of such convention shall prevail.

(2) Any discussions with a view to determining the extent to which the present Agreement is terminated, superseded, amended or supplemented by the provisions of the multilateral convention, shall take place in accordance with the provisions of Article 12 of this Agreement.

Article 16. The present Agreement, any amendments to it and any exchange of notes relating to the Route Schedule shall be communicated to the International Civil Aviation Organization for registration.

Article 17. The present Agreement shall enter into force and effect thirty (30) days after the exchange of diplomatic notes indicating that the formalities constitutional or otherwise, required by each Contracting Party for the entry into force of the present Agreement, have been complied with.

ZU URKUND DESSEN haben die unterzeichneten, von ihren Regierungen hierzu gehörig befugten Bevollmächtigten dieses Abkommen unterschrieben und mit ihrem Siegel versehen.

GESCHEHEN zu Manila am 6. August 1971 in vier Urschriften, je zwei in deutscher und in englischer Sprache, wobei jeder Wortlaut gleichermaßen verbindlich ist.

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

DONE at Manila, on 6 August 1971 in four originals, two each in the English and German languages, all four texts being equally authentic.

Für die Bundesrepublik Deutschland:
For the Federal Republic of Germany:
VON BUDDENBROCK

Für die Republik der Philippinen:
For the Republic of the Philippines:
CARLOS P. ROMULO

EXCHANGE OF NOTES CONSTITUTING AN ARRANGEMENT¹
 BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND
 THE REPUBLIC OF THE PHILIPPINES RELATING TO THE
 ROUTE SCHEDULE OF THE AIR TRANSPORT AGREEMENT
 OF 6 AUGUST 1971²

I

[GERMAN TEXT—TEXTE ALLEMAND]

Manila, den 6. August 1971

Herr Minister,

Ich beehre mich, Ihnen in Ausfuehrung des Artikels 2 Abs. 3 des am 6. August 1971 unterzeichneten Abkommens zwischen der Bundesrepublik Deutschland und der Republik der Philippinen ueber den Luftverkehr namens der Regierung der Bundesrepublik Deutschland folgende Vereinbarung vorzuschlagen:

Der Fluglinienverkehr zwischen unserer Hoheitsgebieten kann auf den in nachstehendem Fluglinienplan festgelegten Linien durchgefuehrt werden:

FLUGLINIENPLAN

I. Die Fluglinien, die von dem seitens der Republik der Philippinen bezeichneten Unternehmen betrieben werden:

<i>Abgangs- punkt</i>	<i>Zwischenlande- punkte</i>	<i>Bestimmungs- punkt</i>	<i>Punkt darüber hinaus</i>
Ein Punkt in den Philippinen	Bangkok Karatschi Teheran Tel Aviv Rom	Ein Punkt in Deutsch- land	Ein Punkt im Osten der Ver- einigten Staaten

II. Fluglinien, die von dem seitens der Bundesrepublik Deutschland bezeichneten Unternehmen betrieben werden:

<i>Abgangs- punkt</i>	<i>Zwischenlande- punkt</i>	<i>Bestimmungs- punkt</i>	<i>Punkt darueber hinaus</i>
Ein Punkt in Deutsch- land	Rom oder Athen Karatschi New Delhi Colombo Bangkok Hongkong*	Manila	Tokio

III. a) Mit Ausnahme des Abgangspunkts und des Bestimmungspunkts kann das bezeichnete Unternehmen nach seiner Wahl auf einem oder auf allen Flügen Punkte auf der Linie auslassen.

b)* Auf der Teilstrecke Hongkong-Manila und zurueck werden keine Verkehrsrechte gewahrt, jedoch sind Flugunterbrechungen gestattet.

¹ Came into force on 12 March 1976, the date of entry into force of the Agreement of 6 August 1971, in accordance with the provisions of the said notes.

² See p. 11 of this volume.

Falls sich die Regierung der Republik der Philippinen mit dem vorstehenden Fluglinienplan einverstanden erklart, beehre ich mich vorzuschlagen, dass diese Note und die das Einverstaendnis Ihrer Regierung zum Ausdruck bringende Antwortnote Eurer Exzellenz eine Vereinbarung zwischen unseren Regierungen bilden sollen, die am gleichen Tage wie das eingangs erwaehte Abkommen in Kraft tritt.

Genehmigen Sie, Herr Minister, die Versicherung meiner ausgezeichneten Hochachtung.

J. W. VON BUDDENBROCK
Botschafter

Seiner Exzellenz dem Minister des Auswaertigen
der Republik der Philippinen
Herrn Carlos P. Romulo

[TRANSLATION — TRADUCTION]

Manila, 6 August 1971

Sir,

[See note II]

Accept, Excellency, etc.

J. W. VON BUDDENBROCK
Ambassador

His Excellency Carlos P. Romulo
Minister for Foreign Affairs
of the Republic of the Philippines

II

Manila, 6 August 1971

20344

Excellency:

I have the honor to refer to your Note of 6 August 1971 which reads as follows:

“I have the honour in implementation of paragraph (3) of Article 2 of the Air Transport Agreement between the Federal Republic of Germany and the Republic of the Philippines signed on 6 August 1971,¹ to propose to you on behalf of the Government of the Federal Republic of Germany that the following Arrangement be concluded:

“Air Services between our respective territories may be operated over the routes specified in the following Route Schedule:

ROUTE SCHEDULE

I. Routes to be operated by the designated airline of the Republic of the Philippines:

¹ See p. 11 of this volume.

<i>Point of Origin</i>	<i>Intermediate Points</i>	<i>Point of Destination</i>	<i>Point Beyond</i>
One point in the Philippines	Bangkok Karachi Teheran Tel Aviv Rome	One point in Germany	One point in Eastern United States

II. Routes to be operated by the designated airline of the Federal Republic of Germany:

<i>Point of Origin</i>	<i>Intermediate Points</i>	<i>Point of Destination</i>	<i>Point Beyond</i>
One point in Germany	Rome or Athens Karachi New Delhi Colombo Bangkok Hongkong*	Manila	Tokyo

III. *a.* Except for points of departure and destination, points on the route may, at the option of the designated airline, be omitted on any or all flights.

b. No traffic rights are granted on the sector Hongkong to Manila, *v.v.* but lay-over right is authorized.*

“If the Government of the Republic of the Philippines agrees to the above Route Schedule, I have the honour to propose that the present note and your Excellency’s note in reply expressing your Government’s agreement shall constitute an Arrangement between our Governments, to enter into force on the same date as the Air Transport Agreement mentioned above.

“Accept, Excellency, the assurance of my highest consideration.”

I am pleased to inform Your Excellency that my Government is agreeable to your aforementioned proposal and that your Note and this reply shall constitute an Arrangement between our Governments, to enter into force on the date of the effectivity of the Air Transport Agreement between the Republic of the Philippines and the Federal Republic of Germany.

Accept, Excellency, the renewed assurances of my highest consideration.

[Signed—Signé]¹

Secretary of Foreign Affairs

His Excellency Jobst Freiherrn von Buddenbrock
Ambassador Extraordinary and Plenipotentiary
of the Federal Republic of Germany
Manila

¹ Signed by Carlos P. Romulo—Signé par Carlos P. Romulo.