



Treaty Series No. 9 (1948)

Agreement

between the Government of the United Kingdom and the
Government of the Philippine Republic

for Air Services between and beyond
their respective Territories

[with Schedules]

Manila, 7th January, 1948

*Presented by the Secretary of State for Foreign Affairs
to Parliament by Command of His Majesty*

LONDON
HIS MAJESTY'S STATIONERY OFFICE
TWO PENCE NET

Cmd. 7341

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND
THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES
FOR AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE
TERRITORIES

Manila, 7th January, 1948

THE Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of the Philippines,

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944,⁽¹⁾ and

Desiring to conclude an Agreement for the purpose of establishing air services between and beyond United Kingdom and Philippine territories,

Have agreed as follows:—

ARTICLE 1

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

- (a) 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;
- (b) the term “ aeronautical authorities ” means, in the case of the United Kingdom, the Minister of Civil Aviation, and any person or body authorised to perform any functions presently exercised by the said Minister or similar functions; and, in the case of the Philippines, the Civil Aeronautics Board and any person or body authorised to perform the functions presently exercised by the Civil Aeronautics Board or similar functions;
- (c) the term “ designated airline ” means an airline which the aeronautical authorities of either Contracting Party shall have notified in writing to the aeronautical authorities of the other Contracting Party as the airline designated by it in accordance with Article 3 of the present Agreement for the routes specified in such notification;
- (d) the term “ change of gauge ” means the operation of one of the agreed services by a designated airline in such a way that the section of the route nearer the terminal in the territory of the Contracting Party designating the airline is flown by aircraft different in capacity from those used on the more distant section;
- (e) the terms “ territory,” “ air service,” “ international air service,” “ airline ” and “ stop for non-traffic purposes ” shall have the meanings respectively assigned to them in Articles 2 and 96 of the Convention.

(1) Miscellaneous No. 6 (1945),” Cmd. 6614.

ARTICLE 2

Both Contracting Parties being parties to the Convention, Articles 11, 13, 15, 22, 24, 31, 32 and 33 of the Convention, being now in force, shall remain in force in their present form between the Contracting Parties for the duration of the present Agreement, unless both Contracting Parties ratify any amendment to these Articles which shall have come into force in accordance with Article 94 of the Convention, in which case the Article as amended shall remain in force for the duration of the present Agreement.

ARTICLE 3

(1) Each Contracting Party shall designate in writing to the other Contracting Party one or more airlines for the purpose of operating by virtue of the present Agreement services on the routes specified in the Schedule to the present Agreement (hereinafter respectively referred to as the agreed services and the specified routes).

(2) On receipt of the designation, the other Contracting Party shall, subject to the provisions of paragraph (3) of this Article and of Article 4 of the present Agreement, without delay grant to the airline or airlines designated the appropriate operating permission.

(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 fulfil the conditions prescribed under the laws and regulations which they normally apply in conformity with the provisions of the Convention to the operations of commercial airlines.

(4) At any time after the provisions of paragraphs (1) and (2) of this Article have been complied with, an airline so designated and authorised may begin to operate the agreed services.

ARTICLE 4

(1) Each Contracting Party shall have the right, after consultation with the other Contracting Party, to refuse to accept the designation of an airline and to withhold or revoke the grant to an airline of the rights specified in Article 5 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those rights in any case where substantial ownership and effective control of that airline are not vested in the Contracting Party designating the airline or in nationals of the Contracting Party designating the airline.

(2) Each Contracting Party shall have the right, after consultation with the other Contracting Party, to suspend the exercise by an airline of the rights specified in Article 5 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those rights in any case where the airline fails to comply with the laws or regulations of the Contracting Party granting those rights or otherwise to operate in accordance with the conditions prescribed in the present Agreement.

ARTICLE 5

(1) Subject to the provisions of the present Agreement, the airlines designated by each Contracting Party shall enjoy, while operating the agreed services, the rights (a) to fly their aircraft across the territory of the other Contracting Party, (b) to make stops therein for non-traffic purposes, and (c) to make stops therein for the purpose of putting down and taking on international traffic in passengers, cargo and mail.

(2) Paragraph (1) of this Article shall not be deemed to confer on the airlines of one Contracting Party the right to take 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.

(3) Each Contracting Party undertakes not to enter into any arrangements which specifically grant any privilege of the nature referred to in paragraph (2) of this Article, on an exclusive basis, to any other State or an airline of any other State and not to obtain any such exclusive privilege from any other State.

ARTICLE 6

(1) There shall be fair and equal opportunity for the airlines of both Contracting Parties to operate the agreed services on the specified routes between their respective territories.

(2) In operating the agreed services, the airlines of each Contracting Party shall take into account the interests of the airlines of the other Contracting Party so as not to affect unduly the services which the latter provide on the whole or part of the same routes.

(3) The agreed services provided by the designated airlines of the Contracting Parties shall bear close relationship to the requirements of the public for transportation on the specified routes, and shall have as their primary objective the provision, at a reasonable load factor, of capacity adequate to carry the current and reasonably anticipated requirements for the carriage of passengers, cargo and mail between the territory of the Contracting Party designating the airline and the country of ultimate destination of the traffic. Provision for the carriage of passengers, cargo and mail both taken up and put down 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—

- (i) traffic requirements between the countries in which the terminals of the route are situated;
- (ii) the requirements of through airline operation; and
- (iii) traffic requirements of the area through which the airline passes after taking account of other air transport services established by airlines of the States comprising the area.

ARTICLE 7

A designated airline of one Contracting Party may only make a change of gauge at a point in the territory of the other Contracting Party on the following conditions:—

- (i) that it is justified by reason of economy of operation;
- (ii) that the aircraft used on the section more distant from the terminal in the territory of the former Contracting Party are smaller in capacity than those used on the nearer section;
- (iii) that the aircraft of smaller capacity shall operate only in connection with the aircraft of larger capacity and shall be scheduled so to do; the former shall arrive at the point of change for the purpose of carrying traffic transferred from, or to be transferred into, the aircraft of larger capacity, and their capacity shall be determined with primary reference to this purpose;
- (iv) that there is an adequate volume of through traffic; and
- (v) that the provisions of Article 6 of the present Agreement shall govern all arrangements made with regard to change of gauge.

ARTICLE 8

The aeronautical authorities of each Contracting Party shall supply to the aeronautical authorities of the other Contracting Party at their request—

- (a) such traffic statistics as may be appropriate for the purpose of reviewing the frequency and capacity of the agreed services; and
- (b) such periodic statements as may be reasonably required, relating to the traffic carried by its designated airlines on services to, from or through the territories of that other Contracting Party, including information concerning the origin and destination of such traffic.

ARTICLE 9

(1) The tariffs to be charged on any of the agreed services shall be fixed at reasonable levels, due regard being paid to all relevant factors, including economical operation, reasonable profit, difference of characteristics of service (including standards of speed and accommodation) and the tariffs charged by other airlines on any part of the route. These tariffs shall be determined in accordance with the following provisions of this Article.

(2) The tariffs shall, if possible, be agreed in respect of each route between the designated airlines concerned, in consultation with other airlines operating on the same route or any section thereof. Such agreement shall, where possible, be reached through the rate-fixing machinery of the International Air Transport Association. The tariffs so agreed shall be subject to the approval of the Contracting Parties.

(3) In the event of disagreement between the designated airlines concerning the tariffs, the Contracting Parties shall endeavour to determine them by arrangement between themselves.

(4) If the Contracting Parties should fail to agree, the matter shall be referred to arbitration or settled as provided in Article 10 of the present Agreement.

ARTICLE 10

(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 endeavour to settle it by negotiation between themselves.

(2) If the Contracting Parties fail to reach a settlement by negotiation—

- (a) they may agree to refer the dispute for decision to an arbitral tribunal appointed by agreement between them or to some other person or body; or
- (b) if they do not so agree or if, having agreed to refer the dispute to an arbitral tribunal, they cannot reach agreement as to its composition, either Contracting Party may submit the dispute for decision to any tribunal competent to decide it which may hereinafter be established within the International Civil Aviation Organisation or, if there is no such tribunal, to the Council of the said Organisation, or, failing that, to the International Court of Justice.

(3) The Contracting Parties undertake to comply with any decision given under paragraph (2) of this Article.

(4) If and so long as either Contracting Party or a designated airline of either Contracting Party fails to comply with a decision given under paragraph (2) of this Article, the other Contracting Party may limit, withhold or revoke any rights which it has granted by virtue of the present Agreement to the Contracting Party in default or to the designated airline or airlines of that Contracting Party or to the designated airline in default.

ARTICLE 11

If a general Multilateral Convention on traffic rights for scheduled international air services 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 12

(1) A designated airline of either Contracting Party may on any or all flights omit calling at any point or points on any specified route.

(2) If either of the Contracting Parties considers it desirable in any other way to modify the terms of the present Agreement, it may request consultation between the aeronautical authorities of the two Contracting Parties and such consultation shall begin within 60 days from the date of the request. When the aforesaid authorities agree to modifications to the present Agreement, such modifications shall come into effect when they have been confirmed by an Exchange of Notes through the diplomatic channel and shall forthwith be communicated to the Council of the International Civil Aviation Organisation.

ARTICLE 13

The present Agreement shall terminate one year after the date of receipt by one Contracting Party from the other Contracting Party of notice to terminate, unless the notice is withdrawn by agreement before the expiry of this period. Such notice shall be simultaneously communicated to the Council of the International Civil Aviation Organisation. In the absence of acknowledgment of receipt, notice shall be deemed to have been received fourteen days after receipt of the notice by the Council of the International Civil Aviation Organisation.

ARTICLE 14

The present Agreement shall enter into force on the date of signature.

In witness whereof the undersigned plenipotentiaries, being duly authorised by their respective Governments, have signed the present Agreement and affixed thereto their seals.

Done in duplicate at Manila this seventh day of January in the year of our Lord one thousand nine hundred and forty-eight and of the independence of the Republic of the Philippines, the second.

For the Government of the United Kingdom of Great Britain
and Northern Ireland:

(L.S.) L. H. FOULDS.

For the Government of the Republic of the Philippines:

(L.S.) ELPIDIO QUIRINO.

SCHEDULE I

Routes to be Served by the Designated Air Lines of the Republic of the Philippines

(In both directions)

- Route 1. Manila-Hong Kong.
- Route 2. Manila-Hong Kong-Shanghai and points in Japan.
- Route 3. Manila-Hong Kong-French Indo-China-Siam.
- Route 4. Manila-French Indo-China-Siam-Burma-India-Pakistan-Middle East-Africa-Europe-London and/or points beyond.
- Route 5. Manila-French Indo-China-Singapore-Netherlands East Indies.
- Route 6. Manila-North Borneo-Borneo-Celebes-Timor-Australia.

SCHEDULE II

Routes to be Served by the Designated Airlines of the United Kingdom

(In both directions)

- Route 1. Hong Kong-Manila.
- Route 2. Hong Kong-Manila-British North Borneo-Sarawak-Singapore.
- Route 3. Singapore-Sarawak-British North Borneo-Manila.
- Route 4. Hong Kong-Manila-Points in the Netherlands East Indies-Australia.

LONDON

PRINTED AND PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE

To be purchased directly from H.M. Stationery Office at the following addresses:

York House, Kingsway, London, W.C.2; 13a Castle Street, Edinburgh, 2;

39-41 King Street, Manchester, 2; 1 St. Andrew's Crescent, Cardiff;

Tower Lane, Bristol, 1; 80 Chichester Street, Belfast

OR THROUGH ANY BOOKSELLER

1948

Price 2*d.* net