

No. 553

PHILIPPINES
and
PAKISTAN

Agreement relating to air services (with annex and exchange of notes). Signed at Karachi, on 16 July 1949

English official text communicated by the Secretary-General of the International Civil Aviation Organization. The registration took place on 7 September 1949.

PHILIPPINES
et
PAKISTAN

Accord relatif aux services aériens (avec annexe et échange de notes). Signé à Karachi, le 16 juillet 1949

Texte officiel anglais communiqué par le Secrétaire général de l'Organisation de l'aviation civile internationale. L'enregistrement a eu lieu le 7 septembre 1949.

No. 553. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF PAKISTAN RELATING TO AIR SERVICES. SIGNED AT KARACHI, ON 16 JULY 1949

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

Being parties to the Convention² on International Civil Aviation and the International Air Services Transit Agreement 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 the territories of the Philippines and of Pakistan,

Agree as follows:

Article I

(A) Each Contracting Party grants to the other Contracting Party the right to operate the air services specified in the Annex to this Agreement (hereinafter referred to as the "specified air services") and to carry traffic to, from and in transit over its territory as provided in this Agreement.

(B) The airlines designated as provided in Article II hereof shall have the right to use:

- (1) for traffic purposes, airports provided for public use at the points specified in the Annex to this Agreement and ancillary services provided for public use on the air routes specified in the Annex (hereinafter referred to as the "specified air routes"); and
- (2) for non-traffic purposes, all airports and ancillary services provided for public use on the specified air routes, provided that the places of first

¹ Came into force on 16 July 1949, as from the date of signature, in accordance with article XV.

² United Nations, *Treaty Series*, Volume 15, page 295; Volume 26, page 420; Volume 32, page 402, and Volume 33, page 352.

landing and final departure, save in emergency, shall be Customs airports.

Article II

(A) Each of the specified air services may be inaugurated immediately or at a later date at the option of the Contracting Party to whom the rights under this Agreement are granted, on condition that:

- (1) the Contracting Party to whom the rights have been granted shall have designated an airline (hereinafter referred to as a "designated airline") for each specified air route; and
- (2) the Contracting Party which grants the rights shall have given the appropriate operating permission to the airline pursuant to Paragraph (B) of this Article which it shall do with the least possible delay.

(B) The designated airline may be required to satisfy the aeronautical authorities of the Contracting Party granting the rights that it is qualified to fulfil the conditions prescribed by or under the laws and regulations normally applied by those authorities to the operation of international air services.

(C) Each Contracting Party shall have the right, after consultation with the other Contracting Party, to withhold an operating permission from a designated airline, or to revoke such permission granted to a designated airline, or to impose such conditions as it may deem necessary on the exercise by a designated airline of any of the rights specified in Article III of this Agreement, if substantial ownership and effective control of that airline are not vested in the Contracting Party designating the airline or in nationals of that Contracting Party.

Article III

(A) Subject to the provisions of this Agreement, a designated airline of one Contracting Party shall enjoy, while operating the specified air services on a specified air route, the rights:

- (1) to fly its aircraft across the territory of the other Contracting Party;
- (2) to make stops in the said territory for nontraffic purposes; and

- (3) to make stops in the said territory at the points specified for that route in the Annex to this 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.

(B) Paragraph (A) 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.

(C) Each Contracting State undertakes not to enter into any arrangements which specifically grant any privilege of the nature referred to in Paragraph (B) of this Article on an exclusive basis to any other State or airline of any other State and not to claim any such exclusive privilege from any other State.

Article IV

In order to achieve and maintain equilibrium between the capacity of the specified air services and the requirements of the public for air transport on the specified air routes or sections thereof, and in order to achieve and maintain proper relationship between the specified air services, the Contracting Parties agree as follows:

- (A) The designated airlines of each Contracting Party shall enjoy fair and equal opportunity for the operation of air services for the carriage of traffic between the territories of the two parties;
- (B) To the extent that the airlines of one of the Contracting Parties are temporarily unable to make use of the rights referred to in Paragraph (A), the situation will be mutually examined by the two parties for the purpose of aiding, as soon as possible, the airlines concerned increasingly to make their proper contribution to the services contemplated;
- (C) In the operation by the designated airlines of either Contracting Party of the specified air services, the interests of the 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 route;

- (D) The air transport offered by the designated airlines of each Contracting Party on different sections of the specified air routes 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;
- (E) The services provided by a designated airline under this Agreement shall retain, as their primary objective, the provision of capacity adequate to the traffic demand between the country of which such airline is a national and the country of ultimate destination of the traffic, and the right of the designated airlines 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 principle that capacity shall be related:
- (1) to the requirements of the traffic between the country of origin of the air service and destinations on the specified air routes;
 - (2) to the requirements of through airline operations;
 - (3) to the air transport needs of the area through which the airline passes; and
 - (4) to the adequacy of other air transport services established by airlines of the States concerned between their respective territories.

Article V

A designated airline of one Contracting Party may, for the purpose of economy of operation, make a change of gauge (that is, change to aircraft of different capacity) in the territory of the other Contracting Party subject to the following conditions:

- (1) that the aircraft used on the section of the specified air route more distant from the terminal in the territory of the first Contracting Party shall be smaller in capacity than those used on the nearer section;

- (2) that such smaller aircraft shall be scheduled to provide a connecting service with and shall normally await the arrival of the aircraft of larger capacity;
- (3) that such smaller aircraft shall be operated for the primary purpose of carrying onward to their ultimate destinations passengers who have travelled in the larger aircraft. The capacity of such smaller aircraft shall be determined with primary reference to the traffic travelling in the larger aircraft and normally requiring to be carried onward, and to the provisions of Article IV of this Agreement.

Article VI

(A) The tariffs to be charged by the designated airlines on any of the specified air services operated under this Agreement 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 the route or any section thereof. These tariffs shall be determined in accordance with the following provisions of this Article.

(B) 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.

(C) If the tariffs cannot be agreed in accordance with the provisions of the preceding paragraph, or in the event of disagreement between the designated airlines concerning the tariffs, the Contracting Parties shall endeavour to determine them by agreement between themselves.

(D) If the Contracting Parties fail to agree, the matter shall be dealt with in accordance with the provisions of Article XI of this Agreement.

(E) Pending the settlement of any disagreement of the nature referred to in Paragraphs (C) and (D) above the tariffs already in force shall be charged.

Article VII

(A) The aeronautical authorities of both Contracting Parties shall, upon request, exchange information as promptly as possible concerning the authorisations extended to their respective designated airlines to render service to, through and from the territory of the other Contracting Party. This will include copies of current certificates and authorisations for service on the specified air routes, together with amendments, exemption orders and authorised service patterns as applicable.

(B) Each Contracting Party shall cause its designated airlines to provide to the aeronautical authorities of the other Contracting Party, as long in advance as practicable, copies of timetables, tariff schedules and all other relevant information concerning the operation of the specified air services and of all modifications thereof.

(C) Each Contracting Party shall, upon request, cause its designated airlines to provide to the aeronautical authorities of the other Contracting Party, statistics relating to the traffic carried on their air services to, from or over the territory of the other Contracting Party showing the origin and destination of the traffic.

Article VIII

(A) Aircraft on a flight to, from or across the territory of the other Contracting Party shall be exempted temporarily from all duty subject to the customs regulations. Fuel, lubricating oils and spare parts introduced into, or taken on board, aircraft in the territory of one Contracting Party by, or on behalf of, the other Contracting Party, or its designated airlines, and intended solely for use by or in the aircraft of those designated airlines, shall be accorded, with respect to customs duty, inspection fees or other charges imposed by the former Contracting Party, treatment not less favourable than that granted to its national airlines engaged in international public transport, or to the airlines of the most favoured nation.

(B) Supplies of fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board aircraft of the designated airlines of one Con-

tracting Party, shall be exempt in the territory of the other Contracting Party from customs duties, inspection fees, or similar duties or charges, even though such supplies be used by such aircraft on flights in that territory. Goods so exempted may only be unloaded with the approval of the customs authorities of the other Contracting Party, and shall be kept, until re-exportation, under customs supervision and control.

Article IX

Each Contracting Party reserves the right to itself to withhold, or revoke, or impose such appropriate conditions as it may deem necessary with respect to an operating permission, in case of failure by a designated airline of the other Contracting Party to comply with the laws and regulations of the first Contracting Party, or in case, in the judgment of the first Contracting Party, there is a failure to fulfil the conditions under which the rights are granted in accordance with this Agreement. Such action shall be taken only after consultation between the Contracting Parties. In the event of action by one Contracting Party under this Article, the rights of the other Contracting Party under Article XI shall not be prejudiced.

Article X

(A) In a spirit of close collaboration, the aeronautical authorities of the two Contracting Parties will consult regularly with a view to ensuring the observance of the principles of this Agreement.

(B) Either Contracting Party may, at any time, request consultation with the other with a view to initiating any amendments to this Agreement which may be desirable. Such consultation shall begin within a period of sixty days from the date of the request. Any modification of this Agreement, agreed to as a result of such consultation, shall come into effect when it has been confirmed by an exchange of notes through the Diplomatic Channel.

(C) When the procedure for consultation provided for in Paragraph (B) of this Article has been initiated, either Contracting Party may, at any time, give notice to the other of its desire to terminate this Agreement in accordance with the provision of Article XIV. Such notice shall be simultaneously communicated to the International Civil Aviation Organisation.

(D) Changes made by either Contracting Party in the specified air routes, except those which change (1) the final point of departure within its own territory and (2) the points served by its designated airlines in the territory of the other Contracting Party, shall not be considered as modifications of this Agreement. The aeronautical authorities of either Contracting Party may therefore proceed unilaterally to make such changes, provided however, that notice of any change shall be given without delay to the aeronautical authorities of the other Contracting Party. If such latter aeronautical authorities find that, having regard to the principles set forth in Article IV of this Agreement, the interests of any of their airlines are prejudiced by the carriage by a designated airline of the first Contracting Party of traffic between the territory of the second Contracting Party and the new point in the territory of a third country, the second Contracting Party may request consultation in accordance with the provisions of Paragraph (B) of this Article.

Article XI

(A) If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement, the Contracting Parties shall, in the first place, endeavour to settle it by negotiation between themselves.

(B) If the Contracting Parties fail to reach a settlement by negotiation:

- (1) 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
- (2) 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 hereafter be established within the International Civil Aviation Organisation or, if there be no such tribunal, to the Council of the said Organisation.

(C) The Contracting Parties undertake to comply with any decision given under Paragraph (B) of this Article.

(D) 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 (B) of this Article, the other Contracting Party may limit, withhold or

revoke any rights which it has granted by virtue of this Agreement and its Annex.

Article XII

In the event of the conclusion of a multilateral convention or agreement concerning air transport to which both Contracting Parties adhere, this Agreement shall be modified to conform with the provisions of such convention or agreement.

Article XIII

(A) For the purpose of this Agreement the terms "Air service", "international air service" and "airline" shall have the meanings respectively assigned to them in the Convention on International Civil Aviation.

(B) The term "territory" in relation to a State shall mean the land areas and territorial waters adjacent thereto under the sovereignty, protection or trusteeship of that State.

(C) The term "aeronautical authorities" shall mean, in the case of the Republic of the Philippines, the Civil Aeronautics Board, and in the case of Pakistan, the Director General of Civil Aviation, and, in both cases, any person or body authorised to perform the functions presently exercised by the above-mentioned authorities.

(D) The Annex to this Agreement shall be deemed to be part of the Agreement and all references to the "Agreement" shall include references to the "Annex", except where otherwise expressly provided.

Article XIV

This Agreement shall terminate one year after the date of receipt by the other Contracting Party of the notice to terminate, unless the notice is withdrawn by agreement before the expiration of this period. In the absence of acknowledgement of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen days after the receipt of the notice by the International Civil Aviation Organisation in accordance with the provisions of Paragraph (C) of Article X.

Article XV

This Agreement shall come into force on the day it is signed. The Agreement and all relative contracts shall be registered with the International Civil Aviation Organisation.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed the present Agreement.

DONE this 16th day of July 1949, in duplicate at Karachi in the English language.

For the Government
of the Republic
of the Philippines:
(Signed) Lucas V. MADAMBA

For the Government
of Pakistan:
(Signed) A. T. NAQVI

ANNEX

1. An airline designated by the Government of Pakistan shall be entitled to operate air services in both directions on routes to be agreed and on a reciprocal basis.

2. An airline designated by the Government of the Republic of the Philippines shall be entitled to operate air services in both directions on each of the routes specified, and to land for traffic purposes in Pakistan at the points specified in this Paragraph:

(A) *Terminating Services.*

<i>From</i>	<i>To</i>	<i>Intermediate Points</i>	
		<i>Outside Pakistan</i>	<i>In Pakistan</i>
Manila	Karachi	French Indo-China Burma Siam India	Karachi

(B) *Transit Services.*

<i>From</i>	<i>To</i>	<i>Intermediate Points</i>	
		<i>Outside Pakistan</i>	<i>In Pakistan</i>
Manila	Points in Near East and Europe Saudi Arabia Iraq Palestine (Israel) Greece Italy Spain France England Holland, and if desired beyond	French Indo-China Burma Siam India	Karachi

3. Points on any of the air routes specified may, at the option of a designated airline of one Contracting Party, be omitted on any or all flights, however, provided that services on air routes specified as transit services shall not, except with the consent of the other Contracting Party, be operated otherwise than as through services terminating beyond the territory of that other Contracting Party.

EXCHANGE OF NOTES

I

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FOREIGN AFFAIRS

Dated Karachi, the 16th July, 1949

Excellency,

I have the honor to propose as an additional understanding between our respective Governments that during the effectivity of the Agreement between the Government of the Republic of the Philippines and the Government of Pakistan relating to Air Services signed this date, the designated airlines of each of the Contracting Parties shall, in the normal operation of business, be authorized to withdraw and/or export its funds from the territory of the other Contracting Party, the provisions of existing laws to the contrary notwithstanding. The other Contracting Party shall be given at least thirty days notice if the purpose of the withdrawal of funds is to retire from operations in the territory of such other Contracting Party.

Accept, Excellency, the assurances of my highest consideration.

(Signed) Lucas V. MADAMBA
Chairman, Philippine Air Mission

His Excellency
The Minister of External Affairs and
Commonwealth Relations, Government of Pakistan
Karachi

II

GOVERNMENT OF PAKISTAN
MINISTRY OF DEFENCE
(AVIATION DIVISION)

Dated Karachi, the 16th July, 1949

Sir,

I have the honour to refer to your note of today's date which is as follows:

[See note I]

and to state that the Government of Pakistan is agreeable to the above understanding.

I have the honour to be, with the highest consideration, Sir, your obedient servant,

(Signed) A. T. NAQVILucas V. Madamba, Esquire
Chairman, Philippine Air Mission
Karachi