



Philippines No. 1 (2013)

Agreement

between the Government of the United Kingdom of Great Britain and
Northern Ireland and the Government of the Republic of the Philippines
Concerning Air Services

Manila, 11 December 2012

[The Agreement has not yet entered into force]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
February 2013*

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**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES
CONCERNING AIR SERVICES**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of the Philippines hereinafter referred to as the "Contracting Parties";

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944¹;

Desiring to conclude an Agreement supplementary to the said Convention for the purpose of establishing air services between their respective territories;

Have agreed as follows:

ARTICLE 1

Definitions

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

- (a) the term "the Chicago Convention" means the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944 and includes: (i) any amendment thereof which has been ratified by both Contracting Parties; and (ii) any Annex or any amendment thereto adopted under Article 90 of that Convention, insofar as such amendment or annex is at any given time effective for both Contracting Parties;
- (b) the term "aeronautical authority" means in the case of the United Kingdom, the Secretary of State for Transport and, for the purpose of Article 7 of this Agreement, the Civil Aviation Authority and in the case of the Republic of the Philippines, the Civil Aeronautics Board, and for the purpose of Articles 6 and 22 of this Agreement, the Philippine Air Negotiating Panel, or, in both cases, any person or body who may be authorised to perform any functions at present exercisable by the above-mentioned authority or similar functions;
- (c) the term "designated airline" means an airline which has been designated and authorised in accordance with Article 4 of this Agreement;

¹ Treaty Series No.08 (1953) Cmd 8742

- (d) the term "territory" in relation to a State has the meaning assigned to it in Article 2 of the Chicago Convention and in accordance with international law;
- (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 Chicago Convention;
- (f) the term "this Agreement" includes the Annex hereto and any amendments to it or to this Agreement;
- (g) the term "user charges" means a charge made to airlines by the competent authority or permitted by that authority to be made for the provision of airport property or facilities or of air navigation facilities (including facilities for overflights), or related services and facilities, for aircraft, their crews, passengers and cargo;
- (h) the term "Air Operator's Certificate" means a document issued to an airline which affirms that the airline in question has the professional ability and organisation to secure the safe operation of aircraft for the aviation activities specified in the certificate;
- (i) the term "EU Member State" means a State that is now or in the future a contracting party to the Treaty on the functioning of the European Union;
- (j) references to airlines of the United Kingdom of Great Britain and Northern Ireland shall be understood as referring to airlines designated by the United Kingdom of Great Britain and Northern Ireland;
- (k) references to nationals of the United Kingdom of Great Britain and Northern Ireland shall be understood as referring to nationals of EU Member States;
- (l) "Tariff" means any price, fare, rate or charge for the carriage of passengers (and their baggage) and/or cargo (excluding mail), including transportation on an intra-or interline basis, and including the conditions governing the availability of such price, fare, rate or charge and the prices and conditions for agency and other auxiliary services;
- (m) The term "substantial ownership" as applied to Philippine designated airlines means ownership in a corporation or association created or organized under the laws of the Philippines, of which all the executive and managing officers and two-thirds or more of the Board of Directors are citizens of the Philippines, and which sixty percent (60%) of the voting interest is owned and controlled by persons who are citizens of the Philippines.

ARTICLE 2

Applicability of the Chicago Convention

The provisions of this Agreement shall be subject to the provisions of the Chicago Convention insofar as those provisions are applicable to international air services.

ARTICLE 3

Grant of Rights

(1) Each Contracting Party grants to the other Contracting Party the following rights in respect of its international air services:

- (a) the right to fly across its territory without landing;
- (b) the right to make stops in its territory for non-traffic purposes.

(2) Each Contracting Party grants to the other Contracting Party the rights hereinafter specified in this Agreement for the purpose of operating international air services on the routes specified in the appropriate Section of the Schedule annexed to this Agreement. Such services and routes are hereinafter called "the agreed services" and "the specified routes" respectively. While operating an agreed service on a specified route the airline or airlines designated by each Contracting Party shall enjoy in addition to the rights specified in paragraph (1) of this Article the right to make stops in the territory of the other Contracting Party at the points specified for that route in the Schedule to this Agreement for the purpose of taking on board and discharging passengers and cargo, including mail.

(3) Nothing in paragraph (2) of this Article shall be deemed to confer on the designated airline or airlines of one Contracting Party the right to take on board, in the territory of the other Contracting Party, passengers and cargo, including mail, carried for hire or reward and destined for another point in the territory of the other Contracting Party.

(4) If, because of armed conflict, political disturbances or developments, or special and unusual circumstances, a designated airline of one Contracting Party is unable to operate a service on its normal routeing, the other Contracting Party shall use its best efforts to facilitate the continued operation of such service through appropriate temporary rearrangements of routes.

ARTICLE 4

Designation and Authorisation

(1) Each Contracting Party shall have the right to designate one or more airlines for the purpose of operating the agreed services on each of the specified routes and to withdraw or alter such designations. Such designations shall be made in writing and shall be transmitted to the other Contracting Party through diplomatic channels.

(2) On receipt of such a designation, and of applications from the designated airline, in the form and manner prescribed for operating authorisations and technical permissions, the other Contracting Party shall grant the appropriate authorisations and permissions with minimum procedural delay, provided:

- (a) in the case of an airline designated by the United Kingdom of Great Britain and Northern Ireland:
 - (i) it is established in the territory of the United Kingdom under the Treaty on the functioning of the European Union and has a valid operating licence in accordance with European Union law; and
 - (ii) effective regulatory control of the airline is exercised and maintained by the EU Member State responsible for issuing its Air Operator's Certificate and the relevant aeronautical authority is clearly identified in the designation; and
 - (iii) the airline is owned, directly or through majority ownership, and it is effectively controlled by one or more EU Member States or member States of the European Free Trade Association and/or by nationals of such states; and
- (b) in the case of an airline designated by the Republic of the Philippines:
 - (i) substantial ownership and effective control of such airline are vested in the Republic of the Philippines and/or its nationals; and
 - (ii) it is incorporated in the territory of the Republic of the Philippines and is licensed in accordance with the applicable law of the Republic of the Philippines; and
 - (iii) the Republic of the Philippines has and maintains effective regulatory control of the airline; and
- (c) the designated airline is qualified to meet the conditions prescribed under the laws and regulations normally applied to the operation of international air services by the Contracting Party considering the application or applications.

(3) When an airline has been so designated and authorised it may begin to operate the agreed services, provided that the airline complies with the applicable provisions of this Agreement.

ARTICLE 5

Revocation or Suspension of Operating Authorisations

(1) Either Contracting Party may revoke, suspend or limit the operating authorisation or technical permissions of an airline designated by the other Contracting Party:

- (a) where, in the case of an airline designated by the United Kingdom of Great Britain and Northern Ireland:
 - (i) it is not established in the territory of the United Kingdom under the Treaty on the functioning of the European Union or does not have a valid operating licence in accordance with European Union law; or
 - (ii) effective regulatory control of the airline is not exercised or not maintained by the EU Member State responsible for issuing its Air Operator's Certificate or the relevant aeronautical authority is not clearly identified in the designation; or
 - (iii) the airline is not owned, directly or through majority ownership, or is not effectively controlled by one or more EU Member States or member States of the European Free Trade Association and/or by nationals of such states; or
 - (iv) the airline is already authorised to operate under a bilateral agreement between the Republic of the Philippines and another EU Member State which is exercising traffic rights under this Agreement on a route that includes a point in that other EU Member State, and the airline would be circumventing restrictions on the traffic rights in that other agreement; or
 - (v) the designated airline holds an Air Operators Certificate issued by a EU Member State, there is no bilateral air services agreement between the Republic of the Philippines and that EU Member State and the traffic rights necessary to conduct the operation proposed by such designated airline are not reciprocally available to the designated airlines of the Republic of the Philippines;

- (b) where, in the case of an airline designated by the Republic of the Philippines:
 - (i) substantial ownership and effective control of such airline is not vested in the Republic of the Philippines and/or its nationals; or
 - (ii) it is not incorporated in the territory of the Republic of the Philippines or is not licensed in accordance with the applicable law of the Republic of the Philippines; or
 - (iii) the Republic of the Philippines does not have or maintain effective regulatory control of the airline; or
- (c) in the case of failure by that airline to comply with the laws or regulations normally and reasonably applied by the Contracting Party granting those rights; or
- (d) if the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement; or
- (e) in the case of failure by the other Contracting Party to take appropriate action to improve safety in accordance with paragraph (2) of Article 10 of this Agreement; or
- (f) in accordance with paragraph (6) of Article 10 of this Agreement.

(2) Unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph (1) of this Article is essential to prevent further infringements of laws or regulations, such right shall be exercised only after consultation with the other Contracting Party.

(3) Either Contracting Party that exercises the rights under paragraph (1) of this Article shall notify in writing the other Contracting Party as soon as possible of the reasons for the refusal, suspension or limitation of the operating authorisation or technical permission of an airline designated by it.

(4) In exercising their rights under paragraph (1) of this Article the Contracting Parties shall not discriminate between airlines on the grounds of nationality.

ARTICLE 6

Capacity, Fair Competition and State Aids

(1) There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to compete in operating the agreed services on the specified routes.

(2) The agreed services shall have as their primary objective the provision of capacity adequate for the transportation of traffic between the territories of both Contracting Parties.

(3) Unless otherwise agreed by the Contracting Parties, neither Contracting Party shall impose on the other Contracting Party's designated airlines a first-refusal requirement, uplift ratio, no-objection fee, or any other requirement with respect to capacity, frequency or traffic that would be inconsistent with the purposes of this Agreement.

(4) Either Contracting Party may require the filing of schedules, or operational plans by airlines of the other Contracting Party for approval, but only on a non-discriminatory basis. If a Contracting Party requires filings for information purposes, it shall minimise the administrative burdens on air transport intermediaries and on designated airlines of the other Contracting Party of such filing requirements and procedures.

(5) Each Contracting Party shall not allow its designated airline or airlines, either in conjunction with any other airline or airlines or separately, to abuse market power in a way which has or is likely or intended to have the effect of severely weakening a competitor or excluding a competitor from a route.

(6) Each Contracting Party shall ensure that the fair and equal opportunity of the airlines of the other Contracting Party to compete in providing the international air transportation governed by this Agreement shall not be adversely affected by the provision of state subsidy or support for or to its designated airline or airlines.

(7) State subsidy or support means the provision of support on a discriminatory basis to a designated airline, directly or indirectly, by the state or by a public or private body designated or controlled by the state. Without limitation, it may include the setting-off of operational losses; the provision of capital, non-refundable grants or loans on privileged terms; the granting of financial advantages by forgoing profits or the recovery of sums due; the forgoing of a normal return on public funds used; tax exemptions; compensation for financial burdens imposed by the public authorities; or discriminatory access to airport facilities, fuel or other reasonable facilities necessary for the normal operation of air services.

(8) Where a Contracting Party provides state subsidy or support to a designated airline in respect of services operated under this Agreement, it shall require that airline to identify the subsidy or support clearly and separately in its accounts.

(9) If one Contracting Party believes that its designated airlines are being subjected to discrimination or unfair practices, or that a subsidy or support being considered or provided by the other Contracting Party for or to the airlines of that other Contracting Party would adversely affect or is adversely affecting the fair and equal opportunity of the airlines of the first Contracting Party to compete in providing the international air transportation governed by this Agreement, it may request consultations and notify the other Contracting Party of the reasons for its dissatisfaction. These consultations shall be held not later than 30 days after receipt of the request.

ARTICLE 7

Tariffs

(1) Each Contracting Party shall allow tariffs for air services to be established by each designated airline based upon commercial considerations in the market place. Neither Contracting Party shall require their airlines to consult other airlines about the tariffs they charge or propose to charge for services covered by these arrangements.

(2) Each Contracting Party may require notification or filing for approval of any tariff to be charged for carriage between their respective territories by airlines of the other Contracting Party within a reasonable period of time before it is proposed that the tariff will take effect. Tariffs shall remain in effect unless subsequently disapproved under paragraphs 4 and 5 of this Article. Where a Contracting Party requires the filing of tariffs for approval, it shall use best endeavours to approve any such tariff within 7 (seven) days of it being filed. Any tariff not disapproved within 14 (fourteen) days shall be treated as having been approved with effect from the proposed date of effectiveness.

(3) Intervention by the Contracting Parties shall be limited to:

- (a) the protection of consumers from tariffs that are excessive due to the abuse of market power;
- (b) the prevention of tariffs whose application constitutes anti-competitive behaviour which has or is likely to have or is intended to have the effect of preventing, restricting or distorting competition or excluding a competitor from the route.

(4) Each Contracting Party may unilaterally disallow any tariff filed or charged by one of its own designated airlines. However, such intervention shall be made only if it appears to the aeronautical authority of that Contracting Party that a tariff charged or proposed to be charged meets either of the criteria set out in paragraph 3 of this Article.

(5) If one Contracting Party believes that any tariff filed by a designated airline of the other Contracting Party is inconsistent with the considerations set out in paragraph 3 of this Article, it may request consultations and notify the other Contracting Party of the reasons for its dissatisfaction. These consultations shall be held not later than 14 (fourteen) days after receipt of the request. Without a mutual agreement the tariff shall take effect or continue in effect.

ARTICLE 8

Duties, Taxes and Fees

(1) The Contracting Parties shall relieve from all customs duties, national excise taxes and similar national fees:

- (a) aircraft operated in international air services by the designated airline or airlines of either Contracting Party; and
- (b) the following items introduced by a designated airline of one Contracting Party into the territory of the other Contracting Party:
 - (i) repair, maintenance and servicing equipment and component parts;
 - (ii) passenger handling equipment and component parts;
 - (iii) cargo-loading equipment and component parts;
 - (iv) security equipment including component parts for incorporation into security equipment;
 - (v) instructional material and training aids;
 - (vi) airline and operators' documents; and
- (c) the following items introduced by a designated airline of one Contracting Party into the territory of the other Contracting Party or supplied to a designated airline of one Contracting Party in the territory of the other Contracting Party:
 - (i) aircraft stores (including but not limited to such items as food, beverages and tobacco) whether introduced into or taken on board in the territory of the other Contracting Party;
 - (ii) fuel (subject to paragraph(s) (5) and (6) of this Article), lubricants and consumable technical supplies;
 - (iii) spare parts including engines; and

- (d) computer equipment and component parts introduced by a designated airline of one Contracting Party into the territory of the other Contracting Party to assist in one or more of the following matters:
 - (i) the repair, maintenance or servicing of aircraft;
 - (ii) the handling of passengers at the airport or on board aircraft;
 - (iii) the loading of cargo onto or the unloading of cargo from aircraft;
 - (iv) the carrying out of security checks on passengers or cargo;

provided in the case of sub-paragraphs (b)-(d) they are for use on board an aircraft or within the limits of an international airport in connection with the establishment or maintenance of an international air service by the designated airline concerned.

(2) The relief from customs duties, national excise taxes and similar national fees shall not extend to charges based on the cost of services provided to the designated airline or airlines of a Contracting Party in the territory of the other Contracting Party.

(3) Equipment and supplies referred to in paragraph (1) of this Article may be required to be kept under the supervision or control of the appropriate authorities.

(4) The reliefs provided for by this Article shall also be available in situations where the designated airline or airlines of one Contracting Party have entered into arrangements with another airline or airlines for the loan or transfer in the territory of the other Contracting Party of the items specified in paragraph (1) of this Article, provided such other airline or airlines similarly enjoy such relief from such other Contracting Party.

(5) Nothing in this Agreement shall prevent the United Kingdom from imposing, on a non-discriminatory basis, taxes, levies, duties, fees or charges on fuel supplied in its territory for use in an aircraft of a designated airline of the Republic of the Philippines that operates between a point in the territory of the United Kingdom and another point in the territory of the United Kingdom or in the territory of another EU Member State.

(6) Nothing in this Agreement shall prevent the Republic of the Philippines from imposing, on a non-discriminatory basis, taxes, levies, duties, fees or charges on fuel supplied in its territory for use in an aircraft of a designated airline of the United Kingdom that operates between a point in the territory of the Republic of the Philippines and another point in the territory of the Republic of the Philippines or in the territory of an ASEAN Member State.

ARTICLE 9

Aviation Security

(1) Each Contracting Party may request consultations at any time concerning security standards in any area relating to aircrews, aircraft or their operation adopted by the other Contracting Party. Such consultations shall take place within 30 days of that request.

(2) Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement. Without limiting the generality of their rights and obligations under international law, the Contracting Parties shall in particular act in conformity with the provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963², the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970³, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971⁴, the Montreal Supplementary Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988⁵, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991⁶ and any aviation security agreement that becomes binding on both Contracting Parties.

(3) The Contracting Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, their passengers and crew, airports and air navigation facilities, and any other threat to the security of civil aviation.

(4) The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Chicago Convention to the extent that such security provisions are applicable to the Contracting Parties. Each Contracting Party shall require that its airlines and the operators of airports in its territory act in conformity with such aviation security provisions.

(5) Each Contracting Party agrees that its designated airlines shall be required to observe the aviation security provisions referred to in paragraph (4) of this Article required by the other Contracting Party for entry into the territory of that other Contracting Party. For departure from, or while within, the territory of the United Kingdom of Great Britain and Northern Ireland, designated airlines shall be required

² Treaty Series No. 126 (1969) Cmnd 4230

³ Treaty Series No. 039 (1972) Cmnd 4956

⁴ Treaty Series No. 010 (1974) Cmnd 5524

⁵ Treaty Series No. 020 (1991) Cm 1470

⁶ Treaty Series No. 134 (2000) Cm 5018

to observe aviation security provisions in conformity with European Union law. For departure from, or while within, the territory of the Republic of the Philippines, designated airlines shall be required to observe aviation security provisions in conformity with the law in force in that country. Each Contracting Party shall ensure that adequate measures are effectively applicable to security applied within its territory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also act favourably upon any request from the other Contracting Party for reasonable special security measures to meet a particular threat.

(6) When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of such aircraft, their passengers and crew, airports or air navigation facilities occurs, the Contracting Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

ARTICLE 10

Aviation Safety

(1) Each Contracting Party may request consultations at any time concerning safety standards in any area relating to aircrews, aircraft or their operation adopted by the other Contracting Party. Such consultations shall take place within 30 days of that request.

(2) If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards in any such area that are at least equal to the minimum standards established at that time pursuant to the Chicago Convention, the first Contracting Party shall notify the other Contracting Party of those findings and the steps considered necessary to conform with those minimum standards, and the other Contracting Party shall take appropriate corrective action. Failure by the other Contracting Party to take appropriate action within 15 days or such longer period as may be agreed, shall be grounds for the application of Article 5(1) of this Agreement (Revocation or Suspension of Operating Authorisations).

(3) Notwithstanding the obligations mentioned in Article 33 of the Chicago Convention it is agreed that any aircraft operated by or, under a lease arrangement, on behalf of the airline or airlines of one Contracting Party on services to or from the territory of the other Contracting Party may, while within the territory of the other Contracting Party, be made the subject of an examination by the authorised representatives of the other Contracting Party, on board and around the aircraft to check both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment (in this Article called “ramp inspection”), provided this does not lead to unreasonable delay.

- (4) If any such ramp inspection or series of ramp inspections gives rise to:
- (a) serious concerns that an aircraft or the operation of an aircraft does not comply with the minimum standards established at that time pursuant to the Chicago Convention; or
 - (b) serious concerns that there is a lack of effective maintenance and administration of safety standards established at that time pursuant to the Chicago Convention;

the Contracting Party carrying out the inspection shall, for the purposes of Article 33 of the Chicago Convention, be free to conclude that the requirements under which the certificate or licences in respect of that aircraft or in respect of the crew of that aircraft had been issued or rendered valid or that the requirements under which that aircraft is operated are not equal to or above the minimum standards established pursuant to the Chicago Convention.

(5) In the event that access for the purpose of undertaking a ramp inspection of an aircraft operated by the airline or airlines of one Contracting Party in accordance with paragraph (3) of this Article is denied by a representative of that airline or airlines, the other Contracting Party shall be free to infer that serious concerns of the type referred to in paragraph (4) of this Article arise and draw the conclusions referred in that paragraph.

(6) Each Contracting Party reserves the right to suspend or vary the operating authorisation of an airline or airlines of the other Contracting Party immediately in the event the first Contracting Party concludes, whether as a result of a ramp inspection, a series of ramp inspections, a denial of access for ramp inspection, consultation or otherwise, that immediate action is essential to the safety of an airline operation.

(7) Any action by one Contracting Party in accordance with paragraphs (2) or (6) of this Article shall be discontinued once the basis for the taking of that action ceases to exist.

ARTICLE 11

Regulatory Control

Where the United Kingdom of Great Britain and Northern Ireland has designated an airline whose regulatory control is exercised and maintained by another EU Member State, the rights of the Republic of the Philippines under Article 10 of this Agreement shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other EU Member State and in respect of the operating authorisation of that airline.

ARTICLE 12

Codeshare

The designated airlines of either Contracting Party may, subject to applicable laws and regulations governing competition, enter into code-sharing arrangements with a designated airline or airlines of the other Contracting Party, provided that:

- (i) each flight forming part of a service to which the arrangements apply is operated by an airline entitled to operate that flight;
- (ii) no service is held out by an airline of one state for the carriage of passengers between a point in the territory of the other state and a point in a third state, or between two points in the territory of the other state, and no such passengers are carried, unless that airline is entitled to operate and exercise traffic rights between those two points in its own right;
- (iii) in respect of each ticket sold, the purchaser is informed at the point of sale which airline will operate each flight forming part of the service; and
- (iv) where a designated airline operates services under codeshare arrangements, as the operating airline, the operated capacity shall be counted against the capacity entitlements of the Contracting Party designating that airline, and capacity offered by a designated airline acting as the marketing airline shall not be counted against the capacity entitlements of the Contracting Party designating that airline.

ARTICLE 13

Aircraft Leasing

(1) The designated airlines of each Contracting Party shall have the right to perform the agreed services on the specified routes using aircraft leased from any company, including other airlines, subject to arrangements made from time to time between the Contracting Parties.

(2) Aircraft can be either wet-leased (aircraft and crew), dry-leased (aircraft only). In either case, the Contracting Parties may require evidence of permission for the lease from the other Contracting Party. They may also require evidence of valid certification of the relevant aircraft, details of the lease agreement and confirmation of the safety responsibility for the operation. If this information is not made available, this may be sufficient reason for permission for the services using leased aircraft to be refused.

(3) If any proposed leasing operation involves aircraft, airline(s) or aircraft register(s) that are the subject of operational restrictions for safety or other reasons, this may be sufficient reason for permission for the services using the leased aircraft to be refused.

ARTICLE 14

Ground Handling

Subject to the laws and regulations of each Contracting Party including, in the case of the United Kingdom, European Union law, each designated airline shall have in the territory of the other Contracting Party the right to perform its own ground handling (“self-handling”) or, at its option, the right to select among competing suppliers that provide ground handling services in whole or in part. Where such laws and regulations limit or preclude self-handling and where there is no effective competition between suppliers that provide ground handling services, each designated airline shall be treated on a non-discriminatory basis as regards their access to self-handling and ground handling services provided by a supplier or suppliers.

ARTICLE 15

Transfer of Earnings

Each designated airline may on demand convert and remit local revenues in excess of sums locally disbursed to the country of its choice. Prompt conversion and remittance shall be permitted without restrictions at the rate of exchange applicable to current transactions which is in effect at the time such revenues are presented for conversion and remittance, and shall not be subject to any charges except those normally made by banks for carrying out such conversion and remittance.

ARTICLE 16

Statistics

The aeronautical authority of a Contracting Party shall supply to the aeronautical authority of the other Contracting Party at its request such periodic or other statements of statistics as may be reasonably required to determine the amount of traffic carried on the agreed services by the designated airline or airlines of the Contracting Party referred to first in this Article.

ARTICLE 17

Airline Representation and Sales

A designated airline which:

- (a) is incorporated and has its principal place of business in the territory of one Contracting Party or an EU Member State; and
- (b) holds a current Air Operator's Certificate issued by the aeronautical authority of that Contracting Party or an EU Member State;

may:

- (i) in accordance with the laws and regulations relating to entry, residence and employment of the other Contracting Party bring in and maintain in the territory of the other Contracting Party those of their own managerial, technical, operational and other specialist staff which the airline reasonably considers necessary for the provision of air services;
- (ii) use the services and personnel of any other organisation, company or airline operating in the territory of the other Contracting Party;
- (iii) establish offices in the territory of the other Contracting Party; and
- (iv) engage in the sale and marketing of air transportation and ancillary services in the territory of the other Contracting Party, either directly or through agents or other intermediaries appointed by the airline. The airline may sell, and any person shall be free to purchase, such transportation in local currency or in any freely convertible other currency.

ARTICLE 18

User Charges

(1) User charges that may be imposed by the competent charging authorities or bodies of each Contracting Party on the airlines of the other Contracting Party shall be just, reasonable, not unjustly discriminatory, and equitably apportioned among categories of users. In any event, any such user charges shall be imposed on the airlines of the other Contracting Party on terms no less favourable than the most favourable terms available to any other airline at the time the charges are imposed.

(2) User charges imposed on the airlines of the other Contracting Party may reflect, but not exceed, the full cost to the competent charging authorities or bodies of providing appropriate and not excessive airport, airport environmental, air navigation and aviation security facilities and services at the airport or within the airport system. Such charges may include a reasonable return on assets, after depreciation. Facilities and services for which charges are made shall be provided on an efficient and economic basis.

(3) Each Contracting Party shall use its best efforts to ensure that consultations take place between the competent charging authorities or bodies in its territory and the airlines using the services and facilities, and that the competent charging authorities or bodies and the airlines exchange such information as may be necessary to permit an accurate review of the reasonableness of the charges in accordance with the principles of paragraphs 1 and 2 of this Article. Each Contracting Party shall use its best efforts to ensure that the competent charging authorities provide users with reasonable notice of any proposal for changes in user charges to enable users to express their views before changes are made.

(4) Neither Contracting Party shall be held, in dispute resolutions procedures pursuant to Article 21 of this Agreement, to be in breach of a provision of this Article, unless:

- (a) it fails to undertake a review, or fails to commission an independent review of the charge or practice that is the subject of complaint by the other Contracting Party within a reasonable time; or
- (b) following such a review, it fails to take all steps within its power to remedy any charge or practice that is inconsistent with this Article.

ARTICLE 19

Intermodal Transport

The airlines of each Contracting Party shall be permitted to employ, in connection with air transport, any intermodal transport to or from any points in the territories of the Contracting Parties or third countries. Airlines may elect to perform their own intermodal transport or to provide it through arrangements, including code share, with other carriers. Such intermodal services may be offered as a through service and at a single price for the air and intermodal transport combined, provided that passengers and shippers are informed as to the providers of the transport involved.

ARTICLE 20

Consultation

Either Contracting Party may at any time request consultations on the implementation, interpretation, application or amendment of this Agreement or compliance with this Agreement. Such consultations, which may be between aeronautical authorities, shall begin within a period of 60 days from the date the other Contracting Party receives a written request, unless otherwise agreed by the Contracting Parties.

ARTICLE 21

Settlement of Disputes

(1) 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 try to settle it by negotiation.

(2) If the Contracting Parties fail to reach a settlement of the dispute by negotiation, it may be referred by them to such person or body as they may agree on or, at the request of either Contracting Party, shall be submitted for decision to a tribunal of three arbitrators which shall be constituted in the following manner:

- (a) within 30 days after receipt of a request for arbitration, each Contracting Party shall appoint one arbitrator. A national of a third State (who shall not be a national of an EU Member State or of an ASEAN Member State), who shall act as President of the tribunal, shall be appointed as the third arbitrator by agreement between the two arbitrators, within 60 days of the appointment of the second;
- (b) if within the time limits specified above any appointment has not been made, either Contracting Party may request the President of the Council of the International Civil Aviation Organisation (ICAO) to make the necessary appointment within 30 days. If the President has the nationality of one of the Contracting Parties, the most senior Vice-President shall be requested to make the appointment. If that Vice-President has the nationality of one of the Contracting Parties, the Vice President next in seniority who does not have the nationality of one of the Contracting Parties shall be requested to make the appointment.

(3) Except as hereinafter provided in this Article or as otherwise agreed by the Contracting Parties, the tribunal shall determine the limits of its jurisdiction and establish its own procedure. At the direction of the tribunal, or at the request of either of the Contracting Parties, a conference to determine the precise issues to be arbitrated and the specific procedures to be followed shall be held not later than 30 days after the tribunal is fully constituted.

(4) Except as otherwise agreed by the Contracting Parties or prescribed by the tribunal, each Contracting Party shall submit a memorandum within 45 days after the tribunal is fully constituted. Each Contracting Party may submit a reply within 60 days of submission of the other Contracting Party's memorandum. The tribunal shall hold a hearing at the request of either Contracting Party, or at its discretion, within 30 days after replies are due.

(5) The tribunal shall attempt to give a written decision within 30 days after completion of the hearing or, if no hearing is held, 30 days after the date both replies are submitted. The decision shall be taken by a majority vote.

(6) The Contracting Parties may submit requests for clarification of the decision within 15 days after it is received and such clarification shall be issued within 15 days of such request.

(7) The decision of the tribunal shall be binding on the Contracting Parties.

(8) Each Contracting Party shall bear the costs of the arbitrator appointed by it. The other costs of the tribunal shall be shared equally by the Contracting Parties including any expenses incurred by the President or Vice-President of the Council of ICAO in implementing the procedures in paragraph (2)(b) of this Article.

ARTICLE 22

Amendment

(1) The Contracting Parties agree that amendments to this Agreement may be made by an exchange of diplomatic notes. Any such amendments shall enter into force one month after the date of the later note.

(2) Any amendments to the Annex to this Agreement may be agreed directly between the competent aeronautical authorities of the Contracting Parties and shall come into force when confirmed by an exchange of letters.

ARTICLE 23

Termination

Either Contracting Party may at any time give notice in writing to the other Contracting Party of its decision to terminate this Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organisation. This Agreement shall terminate at midnight (at the place of receipt of the notice) immediately before the first anniversary of the date of receipt of the notice by the other Contracting Party, unless the notice is withdrawn by agreement before the end of this period. In the absence of acknowledgement of receipt by the other Contracting

Party, the notice shall be deemed to have been received 14 days after receipt of the notice by the International Civil Aviation Organisation.

ARTICLE 24

Entry into Force

(1) This Agreement shall enter into force one month after the date of the later note in an exchange of diplomatic notes between the Contracting Parties confirming that their respective internal requirements have been fulfilled.

(2) The Agreement between 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 signed in Manila on 31 January 1955⁷ shall terminate from the date of entry into force of this Agreement.

(3) This Agreement shall be provisionally applied from the date of signature.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

Done in duplicate at Manila this eleventh day of December 2012

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

HUGO SWIRE

**For the Government of the
Republic of the Philippines:**

ALBERT DEL ROSARIO

⁷ Treaty Series No.068 (1955) Cmd

ANNEX
ROUTE SCHEDULE

SECTION 1

Routes to be operated by the designated airline or airlines of the United Kingdom:

Points in the territory of the United Kingdom – Intermediate Points – Points in the Republic of the Philippines – Points Beyond

NOTES:

1. Intermediate points or points beyond may be omitted on any flight provided that the service begins or ends in the territory of the United Kingdom.
2. No traffic may be picked up at an intermediate point to be set down in the territory of the Republic of the Philippines or may be picked up in the territory of the Republic of the Philippines to be set down at a point beyond, and vice versa, except as may from time to time be agreed by the aeronautical authorities of the Contracting Parties. This restriction applies to all forms of stop-over traffic.

SECTION 2

Routes to be operated by the designated airline or airlines of the Republic of the Philippines

Points in the Republic of the Philippines – Intermediate Points – Points in the territory of the United Kingdom – Points Beyond

NOTES:

1. Intermediate points or points beyond may be omitted on any flight provided that the service begins or ends in the Republic of the Philippines.
2. No traffic may be picked up at an intermediate point to be set down in the territory of the United Kingdom or may be picked up in the territory of the United Kingdom to be set down at a point beyond, and vice versa, except as may from time to time be agreed by the aeronautical authorities of the Contracting Parties. This restriction applies to all forms of stop-over traffic.



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