BILATERAL

RECORD OF DISCUSSIONS BETWEEN THE AERONAUTIONAL AUTHORITIES OF JAPAN AND THE REPUBLIC OF THE PHILIPPINES

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Delegations representing the Aeronautical Authorities of Japan and the Republic of the Philippines held consultations in Tokyo, Japan on 28 and 29 October 2002 in accordance with Article 8, Article 11 and Article 13 of the Air Services Agreement between the Government of Japan and the Government of the Republic of the Philippines signed on 20 January 1970 (hereinafter referred to as "the Agreement"), to discuss matters relating to further development of the aviation relations between the two countries.
The discussions were conducted in a friendly and cordial manner.
The delegation lists are attached as Annexes A and B.

During the course of discussion, both delegations confirmed the following:

1. Route Schedule

Both delegations made the new Schedule to the Agreement as set out in Annex C, which should enter into force after confirmation by an exchange of diplomatic notes in accordance with the provisions of paragraph 3 of Article 13 of the Agreement.

Both delegations also confirmed the following.

a) The designated airline or airlines of the Republic of the Philippines may operate to and from "another point in Japan other than Nagoya to be specified later" by the Republic of the Philippines on the Philippine route in the new Schedule to the Agreement after the said airline or airlines have completed the coordination with C. I. Q. authorities as well as the agencies concerned at the respective airport, where so required.

b) For all-cargo operations, the designated airline or airlines of each country will be allowed to carry 3rd/4th freedom traffic between the Republic of the Philippines and Japan via any beyond point(s) on the specified route.

2. Capacity / Frequency Entitlements

Both delegations confirmed that the current capacity / frequency entitlements should be replaced by the following subparagraphs.

a) The designated airline or airlines of Japan will be allowed to operate up to forty-five (45) weekly scheduled round trip frequencies in terms of DC-8/B707/B727 aircraft between points in Japan and the Republic of the Philippines via any intermediate points specified in the Schedule to the Agreement with full traffic rights provided that the designated airline or airlines of Japan should not exercise local traffic rights between Hong Kong and Manila in both directions and that the weekly scheduled round trip frequencies via Taipei in terms of DC-8/B707/B727 aircraft should be limited to three (3).

b) The designated airline or airlines of the Republic of the Philippines will be allowed to operate up to forty-five (45) weekly scheduled round trip frequencies in terms of DC-8/B707/B727 aircraft between points in the Republic of the Philippines and Japan, with full traffic rights unless otherwise stipulated in the new Schedule, subject to the following conditions.

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1) The designated airline or airlines of the Republic of the Philippines should not be permitted to operate more than five (5) weekly frequencies to and from Fukuoka as flights without co-terminal operations, regardless of the type of aircraft used within the allowed capacity / frequency entitlements.

2) The designated airline or airlines of the Republic of the Philippines should not be permitted to operate more than four (4) weekly frequencies to and from "another point in Japan other than Nagoya to be specified later" as flights without co-terminal operations, regardless of the type of aircraft used within the allowed capacity / frequency entitlements.

3) The designated airline or airlines of the Republic of the Philippines should not be permitted to operate more than seven (7) weekly frequencies to and from Fukuoka and "another point in Japan other than Nagoya to be specified later" as flights using Fukuoka and "another point in Japan other than Nagoya to be specified later" as co-terminals, regardless of the type of aircraft used within the allowed capacity / frequency entitlements.

4) The designated airline or airlines of the Republic of the Philippines should not be permitted to operate more than seven (7) weekly frequencies to and from Fukuoka or "another point in Japan other than Nagoya to be specified later" respectively, as the combination of flights without co-terminal operations and flights using Fukuoka and "another point in Japan other than Nagoya to be specified later" as co-terminals, regardless of the type of aircraft used within the allowed capacity / frequency entitlements.

c) It is understood that each of the additional frequencies made available to the designated airline or airlines of each country by virtue of the subparagraphs 2. a) and b) above can only be operated without increasing the total number of slots per week already allocated through the IATA slot coordinating mechanism for the designated airline or airlines of each country at Narita airport.

d) Within the frequency entitlements stipulated in subparagraphs 2. a) and b) above, the designated airline or airlines of either country will be allowed to operate in total up to eight (8) weekly scheduled round trip frequencies in terms of DC-8/B707/B727 aircraft beyond the territory of the other country to any point or points specified in the Schedule to the Agreement with traffic rights.

e) Notwithstanding the above, in case and while the designated airline or airlines of either country operate more than six (6) weekly scheduled round trip frequencies in terms of DC-8/B707/B727 aircraft beyond the territory of the other country to any point or points specified in the Schedule to the Agreement, the actual carriage of fifth freedom passenger traffic by the said designated airline or airlines should be restricted to sixty (60) fifth freedom passengers per one-way flight in terms of DC-8/B707/B727 aircraft and the said airline or airlines should submit a report on the actual carriage of fifth freedom passengers to the aeronautical authorities of the other country monthly on an accumulative basis within the month following the month covered by the report.

f) In case the designated airline or airlines of either country operate to any of the points specified in the Schedule beyond the territory of the other country unilaterally, the airline or airlines of the other country will be allowed to operate in total up to two (2) more weekly scheduled round trip frequencies in terms of DC-8/B707/B727 aircraft between Japan and the Republic of the Philippines with traffic rights in addition to the weekly scheduled round trip frequencies stipulated in subparagraphs 2. a) and b) above. In case of the designated airline or airlines of Japan, these two (2) weekly scheduled round trip of frequencies should not be operated via Taipei.

g) In operating their scheduled services to the extent of the herein allowed capacity / frequency level, the designated airline or airlines may use any type of passenger, combi or all-cargo aircraft listed below with the corresponding aircraft coefficients. Aircraft Type Aircraft Coefficients

Aircraft Type Aircraft Coefficients

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Any type of DC-8/B707/B727/B737/A320/B757 aircraft 1.0

Any type of DC-10/L1011/A300/B767 series 300
/B777*/A330*/A340*/MD-11*aircraft 1.5

Any type of B747/B777**/A330**/A340**/
MD-11** aircraft 2.0

* : with below 300 seats

** : with 300 seats and above; or freighter version

Notwithstanding the above, the designated airline or airlines of Japan cannot operate wide-bodied aircraft on their scheduled services via Taipei, unless otherwise agreed in advance.

3. Code Sharing

Both delegations confirmed that the current code sharing scheme should be replaced by the following subparagraphs.

a) The designated airline or airlines of each country may enter into commercial arrangements on code sharing operation on the specified route between the Republic of the Philippines and Japan with any airline or airlines which have authority to exercise traffic rights over the route concerned. In determining the capacity exercised by the code sharing operation, aircraft coefficient should be counted as one-half of the corresponding aircraft coefficient prescribed in subparagraph 2. g) above.

b) It is understood that the designated airlines of both countries may only commence code sharing operations with the third country airlines simultaneously, unless otherwise agreed by aeronautical authorities of both countries.

4. Others

a) Both delegations confirmed that the designated airline or airlines of each country should be authorized to operate its or their services under the same conditions as the agreed services with the new Schedule set out in Annex C on a provisional basis until the exchange of diplomatic notes, as described in paragraph 1.

b) Both delegations confirmed to count the aircraft coefficient of A330 aircraft with 302 passenger seats operated by the Philippine Airlines as 1.5 instead of 2.0, provided that the number of passenger seats available for sale on each of the said aircraft is below 300.

c) The delegation of the Republic of the Philippines requested the operations of the designated airline or airlines of the Republic of the Philippines to Nagoya. The delegation of Japan responded that they would favorably consider such operations to Nagoya towards the opening of the Central Japan International Airport scheduled for 2005.

d) The delegation of Japan stated that they would be ready to discuss weekly frequencies increase with the delegation of the Republic of the Philippines if the designated airline of Japan discontinues its operations beyond the territory of the Republic of the Philippines while the designated airline or airlines of the Republic of the Philippines exercise additional weekly frequencies stipulated in subparagraph 2 f). The delegation of Japan also stated that they would allow the continuous operation of such designated airlines of Philippines until

a mutually acceptable solution is concluded.

e) The delegation of the Republic of the Philippines strongly encouraged the delegation of Japan to use the Diosdado Macapagal International Airport (DMIA) in Clark Field, Pampanga.

f) Both delegations confirmed that consultations should be held as often as necessary in accordance with the Agreement.

Signed in Tokyo, Japan on 30 October 2002

(Sgd.)

(Sgd.)

(MORISHIGE Toshiya)

(Arturo T. VALDEZ)

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The Republic of

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SCHEDULE

1. Route to be operated in both directions by the designated airline or airlines of Japan:

Points in Japan - Taipei - Kaohsiung - Hong Kong - Manila, Cebu and/or two points in the Philippines to be specified later by Japan - Points in Indochina - Bangkok - Kuala Lumpur and/or Singapore - Jakarta ~ Denpasar - Points in Australia - Points in New Zealand - Points in the South Pacific - Honolulu

Notes 1: Any flight operating to and from Points in the South Pacific or Honolulu shall make a scheduled stop at a point in Australia or New Zealand.

2: The designated airline or airlines of Japan may operate the agreed services to Cebu as a point immediately before and/or immediately after Manila, by using Cebu and Manila as co-terminals.

3: The designated airline or airlines of Japan may not exercise traffic right for its or their own stopover passengers between Cebu and Manila.

4: The designated airline or airlines of Japan may operate the agreed services to each of two points in the Philippines to be specified later as a point immediately before and/or immediately after Manila, by using the said point and Manila as co-terminals.

5: The designated airline or airlines of Japan may not exercise traffic right for its or their own stopover passengers between each of two points in the Philippines to be specified later and Manila.

2. Route to be operated in both directions by the designated airline or airlines of the Republic of the Philippines:

Points in the Philippines - Fukuoka and/or another point in Japan other than Nagoya to be specified later by the Philippines - Osaka - Tokyo - Honolulu - San Francisco - One point in Canada to be specified later by the Philippines

Notes 1: Any flight operating to and from One point in Canada to be specified later shall make a scheduled stop at San Francisco.

2: Any flight operating to and from Fukuoka may not be operated respectively to and from any point beyond of Japan.

3: Any flight operating to and from Osaka may not be operated respectively to and from any point beyond of Japan.

4: Any flight operating to and from another point in Japan other than Nagoya to be specified later may not be operated respectively to and from any point beyond of Japan.

5: The designated airline or airlines of the Republic of the Philippines may operate the agreed services to another point in Japan other than Nagoya to be specified later as a point immediately before and/or immediately after Fukuoka, by using the said point and Fukuoka as co-terminals.

6: The designated airline or airlines of the Republic of the Philippines may not exercise traffic right for its or their own stopover passengers between Fukuoka and another point in Japan other than Nagoya to be specified later.

7: Osaka may not be served on the same flight with Fukuoka, Tokyo and/or another point in Japan other than Nagoya to be specified later.

8: Tokyo may not be served on the same flight with Fukuoka, Osaka and/or another point in Japan other than Nagoya to be specified later.

3. The agreed services provided by the designated airline or airlines of either contracting Party shall begin at a point in the territory of that contracting Party, but, except where otherwise provided, other points on the specified route may at the option of the designated airline be omitted on any or all flights.

INSTRUMENT OF RATIFICATION

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

KNOW YE, that whereas, the Record of Discussion Between the Aeronautical Authorities of Japan and Republic of the Philippines was signed at Tokyo, Japan on 30 October 2002;

WHEREAS, the Record of Discussion, consisting of four (4) articles, amends the Air Services Agreement between the Parties which was signed on 20 January 1970;

WHEREAS, the Record of Discussion provides that the designated ariline(s) of the Philippines may operate to and from another point in Japan other than Nagoya after the said airline(s) have coordinated with the C.I.Q. authorities as well as the agencies concerned at airports where so required. For all-cargo operations, the designated airlines will be allowed to carry third and fourth freedom traffic between the Philippines and Japan via any beyond points;

WHEREAS, the Record of Discussions further provides for revisions on the capacity and frequency entitlements as well as a new route schedule as set out in Annex C. The new route schedule would enter into force after confirmation by an exchange of diplomatic notes in accordance with the provisions of paragraph 3 of Article 13 of the Agreement;

WHEREAS, under the Record of Discussions, the current code sharing scheme shall be replaced by the following:

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"a) The designated airlines of each country may enter into commercial arrangements on code sharing operation on the specified route between the Republic of the Philippines and Japan with any airline which have authority to exercise traffic rights over the route concerned. In determining the capacity exercised by the code sharing operation, aircraft coefficient should be counted as one-half of the corresponding aircraft coefficient prescribed in subparagraph 2. g) above

"b) It is understood that the designated airlines of both countries may only commence code sharing operations with the third country airlines simulataneously, unless otherwise agreed by aeronautical authorities of both countries."

WHEREAS, this Record of Discussions is not one of those treaties and international agreements contemplated in Section 21, Article VII of the 1987 Constitution which requires the concurrence of the Senate, but an executive agreement which can be validly entered into by H. E. The President in the exercise of her treaty making powers;

NOW, THEREFORE, be it known that I, GLORIA MACAPAGAL-ARROYO, President of the Republic of the Philippines, after having seen and considered the Record of Discussions between the Aeronautical Authorities of Japan and the Republic of the Philippines, do hereby ratify and confirm the same and each and every Article and Clause thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

GIVEN under my hand at the City of Manila, this 2nd day of June in the year of Our Lord two thousand and three.

BY THE PRESIDENT:

(Sgd.)
BLAS F. OPLE
Secretary of Foreign Affairs

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