NATIONAL ADMINISTRATIVE REGISTER · [CAB RESOLUTION NO. 16 (2005), APRIL 04, 2005] · MARCH 4, 2005

AMENDING THE IMPLEMENTING RULES AND REGULATIONS OF EXECUTIVE ORDER NO. 253 PROVIDING FOR THE EXPANSION OF AIR SERVICES TO THE DIOSDADO MACAPAGAL INTERNATIONAL AIRPORT (DMIA) AND...

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WHEREAS, in its Resolution dated March 04, 2005 the Board approved the Implementing Rules and Regulations (IRR) of Executive Order (E.O) No. 253 [issued on December 03, 2003, providing for the expansion of air services to the Diosdado Macapagal International Airport (DMIA) and Subic Bay International Airport (SBIA)], after the same has been reviewed and finalized by the Office of the Chief Presidential Legal Counsel in accordance with the directive of the President;

WHEREAS, the Office of the Chief Presidential Legal Counsel, as per its communication dated 04 April 2005, proposed certain amendments to the IRR in order to rationalize, clarify and remove perceived ambiguities in some of its provisions, more specifically paragraphs 1.1 (second paragraph); 1.2; 2.1; 2.2; 2.3; 2.4; 2.5; 3.0; 4.0; 4.1 and 5.0 (b); and Rule II (Title), in order to clearly and fully reflect the spirit and intent of E.O. 253;

NOW, THEREFORE, the Board, on the basis of the recommendations of the Office of the Chief Presidential Legal Counsel, resolved to AMEND, as it hereby AMENDS paragraphs 1.1 (second paragraph); 1.2; 2.1; 2.2; 2.3; 2.4; 2.5; 3.0; 4.0; 4.1 and 5.0 (b); and Rule II (Title) of the IRR, which shall now read as follows:

> 1.1 x x x x x
>
> The provisions of the aforementioned Executive Order are intended to promote the expansion of air cargo services to DMIA and SBIA. Hence, these Implementing Rules and Regulations are designed to facilitate access to the aforementioned airports and shall not be interpreted, in case of ambiguity, to restrict such access;
>
> 1.2 For purposes of application and construction of these rules, the following terms shall have the meanings and definitions specified hereunder;
>
> 2.1. Foreign cargo carriers with or without authority to operate to and from DMIA and/or SBIA, or with or without existing Air Service Agreements (ASA) shall file a verified petition with the Board for an authority to engage in international air cargo transportation and/or waiver of restrictions or limitations on capacity, type of aircraft or non-cabotage traffic rights with respect to its operation to and from DMIA and/or SBIA under the provisions of E.O. 253, after furnishing all Philippine carriers engaged in international air cargo transportation with copies thereof;

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2.2 The petition shall specify the routes to be operated with DMIA and/or SBIA as gateway points, the capacity to be offered on such routes on a weekly basis, the types of aircraft to be operated thereon and the start-up dates of such operation;

2.3 In determining the merits of a petition, the Board shall consider that air access to DMIA and SBIA is declared as a development route. Hence, the authority to operate such route may be granted without any restrictions on frequency or capacity, aircraft configuration and non-cabotage traffic rights, except as may otherwise be demanded by the operational, security and safety requirements for the operation of air cargo services to and from the DMIA and SBIA;

2.4 The Board shall review and assess the request of the applicant against the current operational, security and safety requirements of operating air cargo services to and from DMIA and SBIA taking into consideration comments that may have been filed by interested parties within seven (7) working days from receipt of notice;

2.5 If the Board finds that the petition is sufficient in form and substance and allowable on the basis of technical and operational requirements of operating to and from DMIA and/or SBIA, the same shall be favorably granted. Otherwise, the Board shall conduct a hearing on the petition to be completed and resolved within thirty (30) days from the date of the first hearing. During the interim, the Board may issue provisional orders for the protection of the rights of the parties;

3.0 Petitions filed by Foreign Air Carriers for authority to operate international cargo charter (Non-Scheduled) flights to and from DMIA and SBIA shall be governed by chapter III of Economic Regulation No. 2, as amended, entitled "Economic Regulation on charter flights approved by the Board on 15 September 1969";

4.0 The right to operate to and from DMIA and SBIA granted herein shall be effective for a period of five (5) years, renewable upon petition of the grantee. The petition for renewal must be filed thirty (30) days prior to the date of the expiration of the permit;

4.1 The waiver of restrictions to operate air cargo services to and from DMIA and SBIA shall be effective for a period of five (5) years renewable upon petition of the grantee. The petition for renewal must be filed within thirty (30) days prior to the date of the expiration of the waiver. The waiver shall be coterminous with the permit granted under 4.0 and the FACP issued by the Board under R.A. 776; and

5.0 (b) Application/Renewal of waiver of restrictions; Php 75,000.00; and

RULE II AUTHORITY TO OPERATE AND APPLICATION FOR WAIVER

Adopted: 04 April 2005

(SGD.) USEC. EDWARD HARUN V. PAGUNSAN
Alternate Chairman

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