

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

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Delegations representing the Aeronautical Authorities of the Republic of the Philippines and Japan held consultations in Tokyo, Japan on 17 and 18 September 2004 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 Nagoya on the Philippine route in the new Schedule to the Agreement after the Chubu Centrair International! Airport becomes open to international scheduled services.
- 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 fifty-two (52) 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 fifty-two (52) 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.
 - 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) In addition to the capacity entitlements set out in 2. a) and b) above, the designated airline or airlines of either country will be allowed to operate up to seven (7) weekly scheduled round trip frequencies in terms of DC-8/B707/B727 aircraft between any point in the Republic of the Philippines and Osaka.

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) In addition to the above, within the frequency entitlements stipulated in subparagraphs 2. a) and b), the designated airline or airlines of either country will be allowed to operate all cargo services in total up to four (4) 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.

f) 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.

g) 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.

h) 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.

i) In addition to the above capacity entitlements, the designated airline or airlines of Japan may operate up to fourteen (14) weekly scheduled round trip frequencies in terms of DC-8/B707/B727 aircraft to and from Diosdado Macapagal International Airport and/or Subic Bay International Airport between Japan and the Republic of the Philippines.

j) 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

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

1.0

Any type of DC-10/L1011/A300/B767 series 300 /B777A330A340MD-11*aircraft

1.5

Any type of B747/B777*7A330*7A340*/
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 confirmed in advance.

3. Code Sharing

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

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 appropriate authority over the route concerned, subject to the approval of the respective aeronautical authorities.

b) In determining the capacity exercised by the code sharing operation, the corresponding aircraft coefficient prescribed in subparagraph 2. j) above should be counted within the capacity entitlements set out in subparagraph 2. In case that the designated airline concerned is a marketing airline over the route concerned, the aircraft coefficient to be used in such code sharing services should not be counted.

c) It is understood that the designated airlines of both countries may only commence code sharing operations with the third country airlines simultaneously, unless otherwise confirmed 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 that the provision set out in subparagraph 4. b) of the Record of Discussions signed on 30 October 2002 should be no longer effective and also confirmed that the provisions set out in subparagraphs 4. d) and f) are still effective.

Signed in Tokyo, Japan on 18 September 2004.

(Sgd.) EDWARD HARUN V. PAGUNSAN

Chairman

The Republic of the Philippines Delegation

(Sgd.) MORISHIGE TOSHIYA

Chairman

The Japanese Delegation

Annex A

JAPANESE DELEGATION

Chairman

Mr. MORISHIGE Toshiya Director
International Air Transport Division (IATD)
Civil Aviation Bureau (CAB)
Ministry of Land, Infrastructure and
Transport (MLIT)

Members

Mr. SHIMAMURA Atsushi Senior Officer for Air Talks
IATD, CAB, MLIT

Mr. KONDO Akira Air Talks Officer
IATD, CAB, MLIT

Mr. KAWASHIMA Yuichiro Special Assistant
IATD, CAB, MLIT

Mr. TANAKA Tsutomu Chief of Third Administration Section
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Asian and Oceanian Affairs Bureau,
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Mr. SHIRAISHI Masaru Manager
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Japan Airlines International

Mr. HAKAMADA Kenichi Manager
International & Regulatory Affairs
All Nippon Airways

Mr. IWAKIRI Yuji General Manager
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Nippon Cargo Airlines

Ms. YAMAGUCHI Masayo Assistant Manager
International Affairs
Nippon Cargo Airlines

Annex B

PHILIPPINE DELEGATION

Chairman

Atty. Edward Harun V. Pagunsan Undersecretary for Staff Services & Air Sector
Department of Transportation and Communications

Members (Government)

Ms. Felicitas Agoncillo-Reyes Assistant Secretary
Department of Trade and Industry

Mr. Tomas T. Mañalac Executive Director Civil
Aeronautics Board

Mr. Carmelo L. Arcilla Deputy Executive Director
Civil Aeronautics Board

Mr. Porvenir P. Porciuncula Chief Transportation Development Officer
Civil Aeronautics Board

Mr. Danilo R. Crisologo Chief of Staff
Department of Transportation and Communications

Atty. Evelyn R. Cajigal Director-Legal Service
Department of Tourism

Mr. Alan L. Deniega Second Secretary and Consul
Embassy of The Republic of the Philippines

Members (Official Carriers)

Mr. Benjamin S. Solis Chief Operating Officer
Asia Overnight Express (AOT)

Ms. Ma. Della P. Vera VP-Corporate Planning & External Affairs
Cebu Pacific (CEB)

Mr. Felicisimo Felix I. Guerrero Director Commercial
Pacific East Asia Cargo Airlines (PEAC)

Ms. Ma. Socorro R. Gonzaga Sr. Assistant Vice President, External Affairs
Philippine Airline, inc. (PAL)

Observers (Government)

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Embassy of The Republic of the Philippines

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Mr. Roland V. Nunez VP, Marketing Planning and Support
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Mr. Edwin Bautista Director
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Ms. Ma. Inez F. Jose Manager
Business Development & External Affairs
CEB

Mr. Reynaldo L. Rodriguez Vice President for External Affairs
AOT

Mr. Jose E.L. Perez de Tagle Assistant Vice President-Government Affairs
PAL

Atty. Ma. Clara de Castro Legal Consultant
PAL

Annex C

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 three 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 out of three 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 out of three points in the Philippines to be specified later and Manila.

6: Any flight operating to and from another point out of three points in the Philippines to be specified later may not be operated respectively to and from any point beyond of the Philippines.

7: Another point out of three points in the Philippines to be specified later may not be served on the same flight with Manila, Cebu and/or the other two points out of three points in the Philippines to be specified later.

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

6: 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.

7: 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.

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

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

10: Nagoya may not be served on the same flight with Fukuoka, Osaka, Tokyo 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.

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