

REPUBLIC ACT NO. 8103

AN ACT GRANTING A FRANCHISE TO ALL ASIA AIRLINES CO., INC., TO ESTABLISH AND MAINTAIN AIR TRANSPORT SERVICES THROUGHOUT THE PHILIPPINES AND/OR BETWEEN THE PHILIPPINES AND OTHER COUNTRIES

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. It is the policy of the State, as set forth in Executive Order No. 333 dated 16 August 1988, to encourage the operation and development of air transport industry and to further encourage healthy competition in order to promote the sound development of the same industry.

SEC. 2. There is hereby granted to All Asia Airlines Co., Inc., hereinafter referred to as the grantee, a franchise to establish, operate and maintain scheduled and/or non-scheduled and/or charter air transport services for the carriage of passengers, mail, freight and property by air, in and between any and all points and places throughout the Philippines and between the Philippines and other countries as a designated flag carrier.

SEC. 3. Excepting cases of *force majeure* and whenever weather conditions permit, the grantee shall maintain scheduled and/or non-scheduled and/or charter air transport services in and between any and all points and/or places throughout the Philippines, as well as between the Philippines and other countries, at such frequencies as traffic needs may require.

The term "air transport services" shall include the maintenance and operation of hangars, aircraft service stations,

passenger and/or cargo terminals, lodges, warehouses, facilities, and other services which may be necessary, convenient, or useful as an auxiliary to aircraft transportation.

SEC. 4. The grantee shall fix just and reasonable rates for the transportation of passengers, mail, freight, and property subject to the regulation and approval of the Civil Aeronautics Board or such other regulatory agencies as the government may designate for this purpose. Any order of the Civil Aeronautics Board made under this section shall be subject to review by the courts.

All aircraft used by the grantee and the flight crew members operating such aircraft shall be licensed by the government of the Philippines.

The grantee's aircraft, together with their accessories and equipment, shall at all times be in airworthy condition. They shall be equipped with radio communication, safety and other equipment, and shall be operated and maintained in accordance with the regulations and technical requirements of the Air Transportation Office or such other regulatory bodies as the government may prescribe for this purpose.

The grantee's equipment and the operation thereof shall at all times be subject to inspection and regulation by the Air Transportation Office whose decisions on technical matters shall be binding until revoked or annulled by superior authority under whose control this office falls or by the courts for excess or abuse of jurisdiction.

The grantee shall comply with the provisions of Republic Act Numbered Seven hundred and seventy-six, as amended, and the regulations promulgated thereunder.

SEC. 5. Subject to such terms and conditions as the Philippine government may prescribe, the grantee may use the landing and other airport facilities on land or water as may be maintained or owned by the government within the Philippines on the grantee's lines, excepting those which, in the opinion of the government, may not be used by the grantee because of military

or naval considerations. Reciprocally, the government shall have the right to use the landing and other airport facilities on land or water maintained or owned by the grantee in the Philippines.

SEC. 6. The grantee shall have the right at its terminals and landing fields, as it is allowed to use under Section 5 hereof, as well as in its aircraft, to construct, operate and maintain stations or transmitting sets for wireless telegraphy and direction findings, and other radio aids to air navigation using wavelengths or frequencies in accordance with the rules and regulations made by the government: *Provided, however,* That the wireless communication facilities shall be used solely for receiving and transmitting weather forecasts and messages relating to the grantee's aircraft and other matters in connection with the grantee's services.

SEC. 7. The grantee is authorized to enter into transportation contracts with the government, including the carrying of mail, upon such terms and conditions as may be mutually agreed upon. The grantee shall give preferential consideration to contracts with the Philippine government and, reciprocally, the latter shall give preferential consideration to contracts with the grantee in the carrying of passengers, mail, freight and property.

The grantee may likewise enter into transportation maintenance and/or serving contracts and such other contracts relating to air transport with other foreign-owned airlines, particularly those which have international routes.

SEC. 8. In case of war, insurrection, civil disturbance or other national emergency, and when the public interest so requires, the government, upon order of the President, may temporarily take over or direct the operations of the grantee paying just compensation for such use and for damages that may result therefrom.

SEC. 9. With the approval of the President of the Philippines and subject to the limitations and procedures prescribed by law, the grantee shall be authorized to exercise the right of eminent domain as may be reasonably necessary for its

stations and other structures in connection with the grantee's activities and operations.

No private property shall be taken for any purpose by the grantee without proper condemnation proceedings and just compensation paid or tendered therefor, and any authority to take and occupy land contained herein shall not apply to the taking, use or occupation of any land except such as is required for the actual purposes for which this franchise is granted.

SEC. 10. The grantee shall not issue stock or bonds except in exchange for actual cash or for property at least equal in value to the par value of the stock or bonds so issued or for services rendered as provided under existing corporate laws: *Provided, however,* That it may issue stock, bonds, or property dividends upon compliance with the requirements of applicable laws.

SEC. 11. The provisions of existing laws to the contrary notwithstanding, the grantee is hereby authorized, to hire or employ foreign nationals with special qualifications, competence, or experience, or otherwise avail of the services of foreign firms or entities under an appropriate contract, who/which are needed by the grantee for the efficiency and improvement of its operations other business activities.

It shall be unlawful for the grantee to use, employ, or contract for the labor of persons held in involuntary servitude.

SEC. 12. The grantee shall hold the national, provincial, and municipal governments of the Philippines harmless from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or to persons, caused by the operation of the services under which this franchise is hereby granted.

SEC. 13. In consideration of the franchise and the rights hereby granted, the grantee shall pay to the Philippine government during the life of this franchise a franchise tax of five percent (5%) of the gross revenues derived by the grantee from transport operations.

The grantee shall, however, be subject to income tax levied under Title II of the National Internal Revenue Code, as amended and tax on its real property under existing laws or revenues earned from activities other than air transportation.

SEC. 14. In compliance with the constitutional mandate to democratize ownership of public utilities, the herein grantee shall make public offering through the stock exchange of at least thirty percent (30%) of its common stock within a period of ten (10) years from the date of effectivity of this Act: *Provided*, That no single person or entity shall be allowed to own more than five percent (5%) of the stock offerings.

SEC. 15. Within two (2) years after the effectivity of this Act, the grantee shall file with the Secretary of Transportation and Communications its written acceptance of the franchise and of all the terms and conditions hereof, and in default of such acceptance within the time so limited, this franchise shall become null and void.

SEC. 16. This franchise shall not be interpreted to mean as an exclusive grant of the privileges herein provided for. However, in the event that any individual, partnership, or corporation shall receive a similar permit or franchise with terms and/or provisions more favorable than those herein granted or which tend to place the herein grantee at any disadvantage, then such terms and/or provisions shall be deemed part hereof and shall operate equally in favor of the herein grantee.

SEC. 17. This franchise is granted with the understanding that the grantee is a corporation, at least sixty percent (60%) of the capital stock of which is owned and controlled by citizens of the Philippines and that the interest of such citizens in its capital stock or in the capital stock of the company with which it may merge or consolidate shall at no time be allowed to fall below such percentage, under the penalty of cancellation of this franchise.

SEC. 18. This franchise is granted with the understanding that it shall be subject to amendment, alteration or repeal by the Congress of the Philippines when the common good so requires.

SEC. 19. The term of this franchise shall be fifty (50) years from the date of the effectivity of this franchise.

SEC. 20. The provisions of existing laws to the contrary notwithstanding, the Treasurer of the Philippines is hereby authorized to offset any outstanding obligation of the grantee to any agency or instrumentality of the Government with any receivable of the grantee from any agency or instrumentality of the government.

SEC. 21. The grantee shall not, without the prior approval of the Congress of the Philippines, lease, transfer, grant the usufruct of, sell, or assign this franchise nor the rights and privileges acquired thereunder to any person, firm, company, corporation, or any other commercial or legal entity, nor merge or consolidate with any other company or corporation organized for the same or any other purpose. Any corporation to which this franchise may be sold, transferred or assigned or with which the grantee may merge or consolidate, with the approval from the above-mentioned, shall be subject to the corporation laws of the Philippines now existing or hereafter enacted, and any person, firm, company, corporation or other commercial or legal entity to which this franchise is validly sold, transferred or assigned or with which the grantee may merge or consolidate, shall be subject to all the conditions, terms, restrictions, and limitations of this franchise as fully and completely and to the same extent as if this franchise had been originally granted to such person, firm, company, corporation or other commercial or legal entity.

SEC. 22. Upon termination of this franchise by repeal, forfeiture, annulment, or expiration in due course, all public land and the right to occupy and use the same, granted to the grantee, shall revert to the Philippine government.

SEC. 23. If any section or provision of this franchise is held or declared unconstitutional or invalid by a competent court in a final judgment, the other sections or provisions hereof shall continue to be in force as if the section or provision so annulled or voided had never been incorporated in this franchise.

SEC. 24. All laws, decrees, orders, instructions, rules and regulations or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

SEC. 25. This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of national circulation.

Lapsed into law on July 9, 1995 without the President's signature, pursuant to Sec. 27(1), Article VI of the Constitution.