

# **PROTOCOL 2 ON UNLIMITED THIRD, FOURTH AND FIFTH FREEDOM TRAFFIC RIGHTS AMONG ALL POINTS WITH INTERNATIONAL AIRPORTS IN ASEAN**

*Signed in Manila, Philippines, this 20 May 2009*

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam, Member States of the Association of Southeast Asian Nations (ASEAN) (hereinafter referred to collectively as "Contracting Parties" and individually as "Contracting Party"),

RECALLING the ASEAN Multilateral Agreement on Full Liberalisation of Air Freight Services signed on 20 May 2009 in Manila, Philippines (hereinafter referred to as "the Agreement");

RECOGNISING also paragraph 3 of Article I of the Framework Agreement on Enhancing ASEAN Economic Cooperation signed on 28 January 1992 in Singapore, that, in the implementation of economic arrangements, two or more Member States may proceed first if other Member States are not ready to implement these arrangements; and

DESIRING to remove restrictions on air freight services with a view of achieving full liberalisation in ASEAN by 2008;

HAVE AGREED AS FOLLOWS:

## **ARTICLE 1 – DEFINITIONS**

For the purposes of this Protocol, the term "fifth (5th) freedom traffic rights" means intermediate and beyond fifth (5th) freedom traffic rights which are to be operated wholly within ASEAN.

## **ARTICLE 2 – ROUTING AND TRAFFIC RIGHTS**

1. The designated airline(s) of each Contracting Party shall be allowed to operate international air freight services among all points with international airports with full third (3rd), fourth (4th) and fifth (5th) freedom traffic rights by 31 December 2008.
2. Notwithstanding paragraph 1 of this Article, the right to take on board or put down, in the territory of any other Contracting Party cargo or mail carried for remuneration and destined for or coming from points in the territory of any non-Contracting Party or non-ASEAN Member States, shall be subject to the agreement between the aeronautical authorities of the Contracting Parties concerned.

## **ARTICLE 3 – CAPACITY AND FREQUENCY**

There shall be no limitation on capacity, frequency and aircraft type with regard to air freight services operated under this Protocol.

## **ARTICLE 4 – OPERATIONAL FLEXIBILITY**

Each designated airline may, on any or all flights and at its option:

- a. operate flights in either or both directions;
- b. combine different flight numbers within one aircraft operation;
- c. serve intermediate, and beyond points and points in the territories of the Contracting Parties on the routes in any combination and in any order;
- d. omit stops at any point or points; and
- e. transfer traffic from any of its aircraft to any of its other aircraft at any point on the routes, without directional or geographic limitation and without loss of any right to carry traffic otherwise permissible under this Agreement; provided that the service serves from a point in the territory of the Contracting Party designating the airline.

## **ARTICLE 5 – TIMETABLE APPROVAL AND SUPPLEMENTARY FLIGHTS**

1. The designated airline(s) of each Contracting Party may be required to submit its envisaged flight schedules for approval to the aeronautical authorities of the other Contracting Party at least thirty (30) days prior to the operation of the agreed services. Any modification thereof shall be submitted for consideration at least fifteen (15) days prior to the operation.
2. For supplementary flights which the designated airline(s) of one Contracting Party wishes to operate on the agreed services outside the approved timetable, that airline must request prior permission from the aeronautical authorities of the other Contracting Party. Such requests shall usually be submitted at least four (4) working days prior to the operation of such flights.

## **ARTICLE 6 – FINAL PROVISIONS**

1. This Protocol shall be deposited with the Depository who shall promptly furnish a certified copy thereof to each Contracting Party.
2. This Protocol is subject to ratification or acceptance by the Contracting Parties who have ratified the Agreement. The Instruments of Ratification or Acceptance shall be deposited with the Depository who shall promptly inform each Contracting Party of such deposit.
3. This Protocol shall enter into force on the date of the deposit of the third (3rd) Instrument of Ratification or Acceptance with the Secretary-General of ASEAN and shall become effective only among the Contracting Parties that have ratified or accepted it. For each Contracting Party ratifying or accepting the Protocol after the deposit of the third (3rd) Instrument of Ratification or Acceptance, the Protocol shall enter into force on the date of deposit of such Contracting Party of its Instrument of Ratification or Acceptance.
4. Any amendment to the provisions of this Protocol shall be effected by consent of all the Contracting Parties, as provided for under Article 17 (Consultations and Amendment) of the Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed Protocol 2 on Unlimited Third, Fourth and Fifth Freedom Traffic Rights among All Points with International Airports in ASEAN.

DONE at Manila, Philippines, this 20th day of May in the Year Two Thousand and Nine, in a single original copy in the English language.

For Brunei Darussalam: **PEHIN DATO ABU BAKAR APONG**, Minister of Communications

For the Kingdom of Cambodia: **MAO HAVANNALL**, Secretary of State, State Secretariat of Civil Aviation

For the Republic of Indonesia: **JUSMAN SYAFII DJAMAL**, Minister for Transportation

For the Lao People's Democratic Republic: **SOMMAD PHOLSENA**, Minister of Public Works and Transport

For Malaysia: **DATO' SRI ONG TEE KEAT**, Minister of Transport

For the Union of Myanmar: **MAJOR GENERAL THEIN SWE**, Minister for Transport

For the Republic of the Philippines: **LEANDRO R. MENDOZA**, Secretary of Transportation and Communications

For the Republic of Singapore: **RAYMOND LIM**, Minister for Transport

For the Kingdom of Thailand: **SANTI PROMPHAT**, Minister of Transport

For the Socialist Republic of Viet Nam: **HO NGHIA DZUNG**, Minister of Transport