

2009 PROTOCOL 4 ON UNLIMITED FIFTH FREEDOM TRAFFIC RIGHTS BETWEEN THE ASEAN SUB-REGIONS

Signed in Manila, Philippines on 20 May 2009

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The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic (hereinafter referred to as "Lao PDR"), 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" or individually as "Contracting Party"),

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

RECOGNISING that Annex II of the Agreement thereof provides for the conclusion of Implementing Protocols which shall form integral parts of 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 services with a view of achieving full liberalisation in ASEAN by 2015,

HAVE AGREED AS FOLLOWS:

ARTICLE 1 - DEFINITIONS

For the purposes of this Protocol:

1. The term "ASEAN Sub-region" means:
 - a) The Brunei Darussalam, Indonesia, Malaysia, Philippines-East ASEAN Growth Area (BIMP-EAGA);
 - b) The Sub-regional Cooperation in Air Transport among Cambodia, Lao PDR, Myanmar and Viet Nam (CLMV);
 - c) The Indonesia, Malaysia, Singapore-Growth Triangle (IMS-GT);
 - d) The Indonesia, Malaysia, Thailand-Growth Triangle (IMT-GT); or
 - e) Expansion there-from or any other new sub-regions as the case may be.
2. 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

The designated airline(s) of each Contracting Party shall, in accordance with the terms of its designation, be allowed to operate air passenger services from any designated point(s) in its territory to any designated point(s) in the territory of the other Contracting Parties via any designated intermediate point(s) to any designated point(s) in the territory of any other Contracting Party to any designated beyond point(s) in any combination or order provided that the points are in ASEAN Sub-regions (as provided in Article 4) and vice versa with full third (3rd), fourth (4th) and fifth (5th) freedom traffic rights.

ARTICLE 3 - CAPACITY AND FREQUENCY

There shall be no limitation on capacity, frequency and aircraft type with regard to air passenger services operated under this Protocol as provided in Article 2.

ARTICLE 4 - SPECIFICATION OF POINTS

The designated points as mentioned in Article 2 are listed below:

BIMP-EAGA

:

- Brunei Darussalam Bandar Seri Begawan
- Indonesia Balikpapan and Manado
- Malaysia Labuan and Miri
- The Philippines Davao and Zamboanga

CLMV

:

- Cambodia Phnom Penh
- Lao PDR Vientiane, Luang Phabang and Pakse
- Myanmar Yangon and Mandalay
- Viet Nam Ha Noi, Da Nang, Dien Bien Phu, Phu Bai, Cat Bi and Lien Khuong

IMS-GT

:

- Indonesia Not Applicable
- Malaysia Not Applicable
- Singapore Not Applicable

| | |
|-------------|--|
| IMT-GT | : |
| - Indonesia | Medan and Padang |
| - Malaysia | Ipoh and Alor Star |
| - Thailand | Hat Yai, Narathiwat, Pattani, Trang and Nakon Si Thammarat |

ARTICLE 5 - FINAL PROVISIONS

1. This Protocol shall be deposited with the Secretary General of ASEAN 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 or accepted the Agreement. The Instruments of Ratification or Acceptance shall be deposited with the Secretary-General of ASEAN 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 from at least two (2) different ASEAN Sub-regions 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 the deposit of such Contracting Party of its Instrument of Ratification or Acceptance.
4. Any amendment to the provisions of this Protocol, except the inclusion of additional designated points, shall be effected by consent of all the Contracting Parties, as provided for under Article 16 of the Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorised to sign by their respective Governments, have signed Protocol 4 on Unlimited Fifth Freedom Traffic Rights between the ASEAN Sub-Regions.

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: **SOPHON ZARAM**, Minister of Transport

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