

# 2010 PROTOCOL 2 ON UNLIMITED FIFTH FREEDOM TRAFFIC RIGHTS BETWEEN ANY ASEAN CITIES

*Signed in Bandar Seri Begawan, Brunei Darussalam on 12 November 2010*

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 the Full Liberalisation of Passenger Air Services signed on 12 November 2010 in Bandar Seri Begawan, Brunei Darussalam, its Annexes and its Implementing Protocols (hereinafter referred to as "the Agreement");

**RECONIZING** that Annex II of the Agreement thereof provides for the conclusion of Implementing Protocols which shall form integral parts of the Agreement;

**RECOGNIZING** 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 liberalization in ASEAN by 2015,

**HAVE AGREED AS FOLLOWS:**

## ARTICLE 1 DEFINITIONS

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

## ARTICLE 2 ROUTING AND TRAFFIC RIGHTS

Notwithstanding the provisions of Section 2 paragraph 1(d) of Annex I of this Agreement, the designated airline(s) of each Contracting Party shall be allowed to exercise fifth (5<sup>th</sup>) freedom traffic rights for the agreed services between any cities with international airports in the territories of other Contracting Parties by 30 June 2013. Provided that, in the exercise of fifth freedom traffic rights involving a capital city, one of the cities shall be a point other than a capital city airport.

## 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 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 (3<sup>rd</sup>) 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 (3<sup>rd</sup>) 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 shall be effected by consent of all the Contracting Parties, as provided for under Article 16 in the Agreement.

**IN WITNESS WHEREOF**, the undersigned, being duly authorized to sign by their respective Governments, have signed Protocol 2 on Unlimited Fifth Freedom Traffic Rights between Any ASEAN Cities.

**DONE** at **Bandar Seri Begawan, Brunei Darussalam**, this **12<sup>th</sup> Day of November** in the Year **Two Thousand and Ten**, in a single original copy in the English Language.

For the Government of Brunei Darussalam:  
**PEHIN DATO ABDULLAH BAKAR**  
Minister of Communications

For the Government of Kingdom of Cambodia:  
**MAO HAVANNALL**  
Secretary of State

For the Government of the Republic of Indonesia:  
**MOH. IKSAN TATANG**  
Secretary General  
Ministry of Transportation

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

For the Government of Malaysia:  
**DATO' SERI KONG CHO HA**  
Minister of Transport

For the Government of the Union of Myanmar:

**U THEIN SWE**

Minister for Transport

For the Government of the Republic of the Philippines:

**JOSE P. DE JESUS**

Secretary of Transportation and Communications

For the Government of the Republic of Singapore:

**RAYMOND LIM**

Minister for Transport

For the Government of the Kingdom of Thailand:

**SILPACHAI JARUKASEMRATANA**

Deputy Permanent Secretary

Ministry of Transport

For the Government of the Socialist Republic of Viet Nam:

**HO NGHIA DZUNG**

Minister of Transport