

2018 PROTOCOL 4 ON CO-TERMINAL RIGHTS BETWEEN POINTS WITHIN THE TERRITORY OF ANY OTHER ASEAN MEMBER STATE

Signed in Bangkok, Thailand on 9 November 2018

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic (Lao PDR), Malaysia, the Republic of 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");

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,

HAVE AGREED AS FOLLOWS:

ARTICLE 1 DEFINITIONS

For the purposes of this Protocol, the term "co-terminal rights" refers to the right of the designated airline(s) of each Contracting Party to serve two or more points in another Contracting Party on the same routing and shall only be available as part of an international journey.

ARTICLE 2 CO-TERMINAL RIGHTS

1. The designated airline(s) of each Contracting Party shall be allowed to exercise co-terminal rights, provided that there shall be no exercise of cabotage rights. For the avoidance of doubt, the term "cabotage rights" includes the holding out of air services for sale on purely domestic routes by the designated airline(s) of that Contracting Party.

2. In addition to operating or holding out the agreed services on the specified route(s), the designated airlines of each Contracting Party shall be allowed to, when exercising co-terminal rights, serve, in addition to the points mentioned in Section 1 of Annex I of the Agreement, any additional points with international airport, within the territory of other Contracting Parties. For the avoidance of doubt, Section 2 of Annex I of the Agreement shall apply to the exercise of co-terminal rights.

3. For Indonesia, the co-terminal rights shall be exercised between five points: Jakarta, Denpasar, Makassar, Medan and Surabaya.

**ARTICLE 3
CAPACITY AND FREQUENCY**

There shall be no limitation on capacity, frequency and aircraft type with regard to the agreed services served under this Protocol exercising co-terminal rights as provided in Article 2 of this Protocol.

**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. 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. Notwithstanding paragraph 2 of Article 16 of the Agreement, 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 a Contracting Party depositing its Instrument of Ratification or Acceptance after the date of entry into force of this Protocol, this Protocol shall enter into force for that Contracting Party on the date of its deposit of Instrument of Ratification or Acceptance.
4. This Protocol shall be added as Protocol 4 to Annex II of the Agreement which shall be amended pursuant to paragraph 2 of Article 16 of the Agreement to read as follows:

ANNEX II IMPLEMENTING PROTOCOLS

The following Implementing Protocols shall form integral parts of this Agreement:

- a) Protocol 1 Unlimited Third and Fourth Freedom Traffic Rights Between Any ASEAN Cities;
- b) Protocol 2 Unlimited Fifth Freedom Traffic Rights Between Any ASEAN Cities;
- c) Protocol 3 Domestic Code-Share Rights Between Points Within the Territory of Any Other ASEAN Member State; and
- d) Protocol 4 Co-Terminal Rights Between Points Within the Territory of Any Other ASEAN Member State.

IN WITNESS WHEREOF, the undersigned, being duly authorised to sign by their respective Governments, have signed this Protocol.

DONE at Bangkok, Thailand, this Ninth Day of November in the Year Two Thousand and Eighteen, in a single original copy in the English Language.