



**AIR TRANSPORT AGREEMENT  
BETWEEN  
THE GOVERNMENTS OF THE MEMBER STATES OF THE  
ASSOCIATION OF SOUTHEAST ASIAN NATIONS AND  
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF  
CHINA**

The Governments of the Member States of the Association of Southeast Asian Nations (hereinafter referred to collectively as "**ASEAN**" or "**ASEAN Member States**", or individually as "**ASEAN Member State**") which comprise 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,  
the Socialist Republic of Viet Nam;

and

the Government of the People's Republic of China (hereinafter referred to as "China");

referred to collectively as "**the Contracting Parties**" or individually as "**a Contracting Party**";

**RECALLING** the Framework Agreement on Comprehensive Economic Cooperation Between China and ASEAN of 2002;

**RECALLING** the ASEAN-China Aviation Cooperation Framework endorsed at the 6<sup>th</sup> ASEAN and China Transport Ministers' Meeting held on 2 November 2007 in Singapore, which aims to facilitate traffic and movement of passengers and cargo to increase the trade and economy of ASEAN and China, in support of the establishment of the ASEAN-China Free Trade Area in 2010;

**NOTING** the existing bilateral air services agreements between the ASEAN Member States and China;

**AFFIRMING** that the integrity, solidarity and integration of ASEAN be accorded priority in the realisation of an ASEAN-China Air Transport Agreement;

**DESIRING** to establish integrated, efficient and competitive international air transportation between ASEAN and China to enhance trade, the welfare of consumers and economic growth;

**DESIRING** to contribute to the progress of regional and international civil aviation by gradual liberalisation of air transport between ASEAN and China;

**REAFFIRMING** the principles and provisions of the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944;

**DESIRING** to conclude an agreement for the purpose of operating air transport between ASEAN and China;

**HAVE AGREED AS FOLLOWS:**

## **ARTICLE 1 DEFINITIONS**

For the purposes of this Agreement only, unless otherwise stated, the term:

(1) "Air transportation" means the public carriage by aircraft of

passengers, baggage, cargo and mail, separately or in combination, for remuneration or hire;

(2) "Aeronautical authorities" means, in the case of the ASEAN Member States, the Minister responsible for civil aviation of each ASEAN Member State; in the case of China, the Civil Aviation Administration of China; or in both cases any other authority or person empowered to perform the functions at present exercised by the said authorities;

(3) "Agreement" means this Agreement, its Annexes and Implementing Protocols and any amendments thereto;

(4) "Convention" means the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944, and includes: (i) any amendment that has entered into force under Article 94(a) of the Convention and has been ratified by all the Contracting Parties to this Agreement, and (ii) any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as such Annex or amendment is, at any given time, effective for all the Contracting Parties to this Agreement;

(5) "Territory" means the land territory, internal waters, archipelagic waters, territorial sea, the seabed and the sub-soil thereof and the airspace over them;

(6) "Designated airline" means an airline which has been designated and authorised in accordance with Article 3 (Designation and Authorisation) of this Agreement;

(7) "Route Schedule" means the Route Schedule annexed to this Agreement or as amended in accordance with the provisions of Article 22 (Amendment and Modification) of this Agreement;

(8) "Specified route" means the route specified in the Route Schedule;

(9) "Tariff" means any fare, rate or charge for the carriage of passengers, baggage and/or cargo (excluding mail) in air

transportation (including any other mode of transportation in connection therewith) charged by airlines, including their agents, and the conditions governing the availability of such fare, rate or charge;

(10) "User charges" means a charge made to airlines by the competent authorities, or permitted by them to be made, for the provision of airport property or facilities or of air navigation facilities, or aviation security facilities or services, including related services and facilities, for aircraft, their crew, passengers and cargo;

(11) "Air service", "international air service", "airline", and "stop for non-traffic purposes" have the meanings assigned to them in Article 96 of the Convention;

(12) "Depositary" for ASEAN Member States and China means the Secretary-General of ASEAN;

(13) All references to the singular shall be construed to include the plural and all references to the plural shall be construed to include the singular as the context requires.

## **ARTICLE 2 GRANT OF RIGHTS**

1. Each Contracting Party grants to the other Contracting Parties the rights specified in this Agreement for the purpose of operating international air services on the routes specified in the Route Schedule (hereinafter referred to as "the agreed services").

2. Subject to the provisions of this Agreement, the airline(s) designated by each Contracting Party shall enjoy the following rights:

- (a) the right to fly across the territory of the other Contracting Parties without landing, along the air route(s) prescribed by the aeronautical authorities of the other Contracting Parties;
- (b) the right to make stops in the territory of the other Contracting Parties for non-traffic purposes;

- (c) the rights otherwise specified in this Agreement, including those rights stated in Annex I (Scheduled Air Services), Annex II (Non-Scheduled/Charter Air Services), and, where applicable, Annex III (Implementing Protocols) of this Agreement.

3. The airline(s) of each Contracting Party, other than those designated under Article 3 (Designation and Authorisation) of this Agreement, shall also enjoy the rights specified in paragraphs 2(a) and (b) of this Article. These airlines shall be required to meet other conditions prescribed under the laws, regulations and rules normally applied to the operation of international air services by the Contracting Party considering the application.

4. Nothing in this Agreement shall be deemed to confer on the designated airline(s) of one Contracting Party the privilege of taking on board, in the territory of another Contracting Party, passengers, cargo and mail carried for remuneration and destined for another point in the territory of that other Contracting Party.

### **ARTICLE 3 DESIGNATION AND AUTHORISATION**

1. Each Contracting Party shall have the right to designate in writing one or more airlines to operate the agreed services in accordance with this Agreement and to withdraw or alter such designation. Such designation shall be communicated in writing through diplomatic channels to the Depositary, who shall subsequently inform all the Contracting Parties.

2. On receipt of such a designation, and of application from the designated airline, in the form and manner prescribed for operating authorisation and technical permission, each Contracting Party shall grant the appropriate operating authorisation and technical permission with minimum procedural delay, provided that:

- (a)(i) substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline, nationals of that Contracting Party, or both; or

- (ii) subject to acceptance by a Contracting Party receiving such application from an ASEAN Member State, the designated airline which is incorporated and has its principal place of business in ASEAN, is and remains substantially owned and effectively controlled by one or more ASEAN Member States and/or its nationals, and the ASEAN Member State designating the airline has and maintains effective regulatory control; and
- (b) the Contracting Party designating the airline is in compliance with the provisions set forth in Article 7 (Safety) and Article 8 (Aviation Security) of this Agreement; and
- (c) the designated airline is qualified to meet other conditions prescribed under the laws and regulations normally applied to the operation of international air services by the Contracting Party receiving the designation.

3. On receipt of the operating authorisation and technical permission of paragraph 2 of this Article, a designated airline may at any time begin to operate the agreed services for which it is so designated, provided that the airline complies with the applicable provisions of this Agreement.

4. The Contracting Parties granting the operating authorisations and technical permissions in accordance with paragraph 2 of this Article shall notify such action to the Depositary, who shall subsequently inform all Contracting Parties.

#### **ARTICLE 4**

#### **WITHHOLDING, REVOCATION, LIMITATION AND SUSPENSION OF AUTHORISATION**

1. Each Contracting Party shall have the right to withhold the operating authorisation and technical permissions referred to in Article 3 (Designation and Authorisation) of this Agreement with respect to an airline designated by another Contracting Party, and to revoke, limit, suspend or impose conditions on such operating

authorisations and technical permissions, temporarily or permanently in the event:

- (a) the airline has failed to prove that it is qualified under Article 3 (Designation and Authorisation) paragraphs 2 (a) (i) or (ii) of this Agreement as applicable; or
- (b) the other Contracting Party is not maintaining and administering the standards as set forth in Article 7 (Safety) and Article 8 (Aviation Security) of this Agreement; or
- (c) the airline fails to comply with the laws and regulations referred to in Article 5 (Application of Laws and Regulations) of this Agreement.

2. Unless immediate action is essential to prevent non-compliance with paragraphs 1(b) or 1(c) of this Article, the rights established in this Article shall be exercised only after consultations with the Contracting Party designating the airline, in conformity with Article 20 (Consultations) of this Agreement.

3. A Contracting Party that has exercised its right to withhold, revoke, limit, suspend or impose conditions on the operating authorisation or technical permissions of an airline in accordance with paragraph 1 of this Article shall notify the Depositary of its actions and the Depositary shall thereafter promptly inform all the Contracting Parties.

## **ARTICLE 5 APPLICATION OF LAWS AND REGULATIONS**

1. While entering, within, or leaving the territory of one Contracting Party, its laws and regulations relating to the operation and navigation of aircraft shall be complied with by the airlines designated by the other Contracting Parties.

2. While entering, within, or leaving the territory of one Contracting Party, its laws and regulations relating to the admission to or departure from its territory of passengers, crew, baggage or

cargo on aircraft (including regulations relating to entry, clearance, aviation security, immigration, passports, customs and quarantine, or in the case of mail, postal regulations) shall be complied with by, or on behalf of, such passengers, crew or cargo of the airline(s) of the other Contracting Parties.

3. No Contracting Party shall give preference to its own or any other airline over a designated airline of another Contracting Party engaged in similar international air transportation, in the application of its immigration, customs, quarantine and similar regulations.

## **ARTICLE 6 DIRECT TRANSIT**

Passengers, baggage, cargo and mail in transit through the territory of each Contracting Party and not leaving the area of the airport reserved for such purpose shall be subjected to no more than a simplified control except for reasons of aviation security, narcotics control, prevention of illegal entry or in special circumstances. Baggage, cargo and mail in direct transit shall be exempt from customs duties and other similar taxes.

## **ARTICLE 7 SAFETY**

1. Each Contracting Party shall recognise as valid, for the purpose of operating the air services provided for in this Agreement, certificates of airworthiness, certificates of competency, and licences issued, or validated by the Contracting Party that designates that said airline and still in force, provided that the requirements for such certificates or licences are at least equal to the minimum standards which may be established pursuant to the Convention. Each Contracting Party reserves the right, however, to refuse to recognise as valid for the purpose of flight above its territory, certificates of competency and licences granted to or validated for its own nationals by another Contracting Party.

2. Each Contracting Party may request consultations at any time concerning the safety standards maintained by another Contracting



Party in areas relating to aeronautical facilities, flight crew, aircraft and the operation of aircraft. Such consultations shall take place within thirty (30) days of that request.

3. If, following such consultations, the first Contracting Party finds that the said other Contracting Party does not effectively maintain and administer safety standards in the areas referred to in paragraph 1 of this Article that meet the Standards established at that time pursuant to the Convention, that other Contracting Party shall be informed of such findings and of the steps considered necessary to conform with the International Civil Aviation Organisation (ICAO) Standards. That other Contracting Party shall then take appropriate corrective action within an agreed time period.

4. Pursuant to Article 16 of the Convention, it is further agreed that, any aircraft operated by, or on behalf of a designated airline of one Contracting Party, on service to or from the territory of another Contracting Party, may, while within the territory of that other Contracting Party, be the subject of a search by the authorised representatives of that other Contracting Party, provided this does not cause unreasonable delay in the operation of the aircraft. Notwithstanding the obligations mentioned in Article 33 of the Convention, the purpose of this search is to verify the validity of the relevant aircraft documentation, the licensing of its crew, and that the aircraft equipment and the condition of the aircraft conform to the ICAO Standards.

5. When urgent action is essential to ensure the safety of an airline's operation, each Contracting Party reserves the right to immediately suspend or vary the operating authorisation or technical permission of that airline.

6. Any action by one Contracting Party in accordance with paragraph 5 of this Article shall be discontinued once the basis for the taking of that action ceases to exist.

7. With reference to paragraph 3 of this Article, if it is determined that a Contracting Party remains in non-compliance with the ICAO Standards when the agreed time period has lapsed, the Secretary-

General of the ICAO should be advised thereof. The latter should also be advised of the subsequent satisfactory resolution of the situation.

## **ARTICLE 8 AVIATION SECURITY**

1. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm their obligation to one another to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement. Without limiting the generality of their rights and obligations under international law, the Contracting Parties shall, in particular, act in conformity with the provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970 and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, as well as with any other convention and protocol relating to the security of civil aviation which all the Contracting Parties adhere to.

2. The Contracting Parties shall provide upon request all practicable assistance to one another to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, their passengers and crew, airports and air navigation facilities, and to address any other threat to the security of civil aviation.

3. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the ICAO and designated as Annexes to the Convention, to the extent that such security provisions are applicable to the Contracting Parties; they shall require that operators of aircraft of their registry or operators of aircraft who have their principal place of business or permanent residence in their territory and the operators of airports in their territory act in conformity with such aviation security provisions.

4. Each Contracting Party agrees that its designated airline(s) shall be required to observe the aviation security provisions referred to in paragraph 3 of this Article required by another Contracting Party for entry into, departure from, or while within, the territory of that other Contracting Party. Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding, loading, deplaning or unloading. Each Contracting Party shall also give sympathetic consideration to any request from another Contracting Party for reasonable special security measures to meet a particular threat.

5. When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of such aircraft, their passengers and crew, airports or air navigation facilities occurs, the Contracting Parties shall assist one another by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

6. When a Contracting Party has reasonable grounds to believe that another Contracting Party has departed from the aviation security provisions of this Article, the aeronautical authorities of the first Contracting Party may request immediate consultation with the aeronautical authorities of that other Contracting Party. Failure to reach a satisfactory agreement within fifteen (15) days from the date of receipt of such request shall constitute grounds for application of Article 4 (Withholding, Revocation, Limitation and Suspension of Authorisation) of this Agreement. When justified by an emergency, or to prevent further non-compliance with the provisions of this Article, the first Contracting Party may take interim action prior to the expiry of fifteen (15) days.

7. Each Contracting Party shall require the airline(s) of another Contracting Party providing service to that Contracting Party to submit a written operator security programme which has been approved by the aeronautical authorities of the Contracting Party of that airline for acceptance.

## **ARTICLE 9 TARIFFS**

1. The tariffs to be applied by the designated airline(s) of a Contracting Party for air services covered by this Agreement shall be established at reasonable levels, due regard being paid to all relevant factors, including interests of users, cost of operation, characteristics of service, reasonable profit, tariffs of other airlines and other commercial considerations in the market place.

2. Tariffs charged by airlines need not be required to be filed with, or approved, by the Contracting Parties. However, in the event the national law of a Contracting Party requires prior approval of a tariff, the tariff application shall be dealt with accordingly. In such cases, the principle of reciprocity may be applied by the Contracting Parties concerned at their discretion.

3. The Contracting Parties agree to give particular attention to tariffs which may be objectionable because they appear unreasonably discriminatory, unduly high or restrictive because of the abuse of a dominant position or artificially low because of direct or indirect governmental subsidy or support or other anti-competitive practices.

4. The Contracting Parties shall ensure that their designated airline(s) provide the general public with full and comprehensive information on their air fares and rates and the conditions attached in advertisements to the public concerning their fares.

## **ARTICLE 10 SAFEGUARDS**

1. The Contracting Parties agree that the following airline practices may be regarded as possible anti-competitive practices which may merit closer examination:

- (a) charging fares and rates on routes at levels which are, in the aggregate, insufficient to cover the costs of providing the air

services to which they relate;

- (b) the addition of excessive frequency of air services;
- (c) the practices in question are sustained rather than temporary;
- (d) the practices in question have a serious negative economic effect on, or cause significant damage to another airline;
- (e) the practices in question reflect an apparent intent or have the probable effect of crippling, excluding or driving another airline from the market; and
- (f) behaviour indicating an abuse of dominant position on the route.

2. The grant of state aid and/or subsidy shall be transparent among the Contracting Parties, and shall not distort competition among the designated airlines of the Contracting Parties. The Contracting Parties concerned shall furnish other interested Contracting Parties, upon their requests, with complete information on such grants and any revision to or extension of such grants. Such information shall be treated with the utmost sensitivity and confidentiality.

3. If the aeronautical authorities of one Contracting Party consider that an operation intended or conducted by a designated airline of another Contracting Party may constitute anti-competitive behaviour in accordance with the indicators listed in paragraph 1 of this Article, or any discrimination by means of undue state aid and/or subsidy by that other Contracting Party, they may request consultations in accordance with Article 20 (Consultations) of this Agreement with a view to resolving the problem. Any such request shall be accompanied by notice of the reasons for the request, and the consultations shall begin within fifteen (15) days of the receipt of such request.

4. If the Contracting Parties concerned fail to reach a resolution of the problem through consultations, they may invoke the dispute resolution mechanism under Article 21 (Settlement of Disputes) of this Agreement to resolve the dispute.

5. Each Contracting Party shall have the right to apply Article 4 (Withholding, Revocation, Limitation and Suspension of Authorisation) of this Agreement to an airline designated by another Contracting Party temporarily, should there be reasonable ground to believe that unfair or anti-competitive practices related to paragraphs 1 and 2 of this Article committed by a Contracting Party or that Contracting Party's designated airline seriously affect the operation of its designated airline.

## **ARTICLE 11 FAIR COMPETITION**

1. Each Contracting Party shall allow a fair and equal opportunity for the designated airline(s) of all the Contracting Parties to compete in providing the international air services governed by this Agreement.

2. Each Contracting Party agrees to take action to eliminate all forms of discrimination and/or anti-competitive practices by a Contracting Party and/or its designated airline(s) that it deems to adversely affect the competitive position of a designated airline(s) of the other Contracting Parties.

## **ARTICLE 12 COMMERCIAL ACTIVITIES**

1. In accordance with the laws and regulations of the other Contracting Parties, the designated airline(s) of a Contracting Party shall have the right:

- (a) in relation to entry, residence and employment, to bring in and maintain in the territory of the other Contracting Parties managerial and other specialist staff, office equipment and

other related equipment and promotional materials required for the operation of international air services;

- (b) to establish offices in the territory of the other Contracting Parties for the purposes of provision, promotion and sale of air services;
- (c) to engage in the sale of air services in the territory of the other Contracting Parties directly and, at its discretion, through its licenced agents; to sell such air services, and any person shall be free to purchase such air services in local currency of that territory or, subject to the national laws and regulations, in freely convertible currencies of other countries;
- (d) to convert and remit to the territory of its incorporation, on demand, local revenues in excess of sums locally disbursed. Conversion and remittance shall be permitted promptly without restrictions or taxation in respect thereof at the rate of exchange applicable to current transactions and remittance in accordance with the foreign exchange regulations of the Contracting Party concerned; and
- (e) to pay for local expenses, including purchases of fuel, in the territory of the other Contracting Parties in local currencies. At their discretion, the designated airline(s) of each Contracting Party may pay for such expenses in the territory of the other Contracting Parties in freely convertible currencies, according to local currency regulations.

### **ARTICLE 13**

#### **COOPERATIVE MARKETING ARRANGEMENTS**

1. In operating or holding out the agreed services on the specified routes, the designated airline(s) may, subject to national laws and regulations and policies, enter into cooperative marketing arrangements which may include but are not limited to joint venture, blocked space or code-sharing arrangements, whether as the

operating or the non-operating airline (hereinafter referred to as the "marketing airline") with:

- (a) an airline(s) of the same Contracting Party; and
- (b) an airline(s) of the other Contracting Parties;

provided that all participants in such arrangements hold the underlying traffic rights and appropriate authorisation and meet the requirements applied to such arrangements.

2. Before its proposed introduction, the marketing or operating airline may be required to file for approval with the aeronautical authorities of relevant Contracting Parties of any cooperative marketing arrangements entered into, in accordance with paragraph 1 of this Article.

3. When holding out air services for sale, the marketing airline will make it clear to the purchaser of tickets for such services, at the point of sale, which airline(s) will be the operating airline on each sector of the services and with which airline(s) the purchaser is entering into a contractual relationship.

#### **ARTICLE 14 LEASING**

1. Each Contracting Party may prevent the use of leased aircraft for air services under this Agreement which does not comply with Article 7 (Safety) and Article 8 (Aviation Security) of this Agreement.

2. Subject to paragraph 1 of this Article, the designated airline(s) of each Contracting Party may use aircraft (or aircraft and crew) leased from any company, including other airlines, provided that:

- (a) this would not result in a lessor airline exercising traffic rights it does not have;



- (b) that the financial benefit to be obtained by the lessor airline will not be dependent on the profit or loss of the operation of the designated airline concerned; and
- (c) that the responsibility for the continued airworthiness and the adequacy of operating and maintenance standards of any leased aircraft operated by an airline designated by a Contracting Party will be established in conformity with the Convention.

3. An airline designated by a Contracting Party is not otherwise prohibited from providing air services using leased aircraft (or aircraft and crew) provided that any lease arrangement entered into satisfies the conditions normally applied by the other Contracting Party.

## **ARTICLE 15 INTERMODAL TRANSPORT**

Subject to the national laws and regulations of each Contracting Party, any designated airline and indirect providers of cargo transportation of each Contracting Party shall be permitted without restriction to employ in connection with international air freight services any surface transportation for cargo to or from any points within or outside the territories of the Contracting Parties, including transport to and from all airports with customs facilities, and including, where applicable, the right to transport cargo in bond under applicable laws and regulations. Such cargo, whether moving by surface or by air, shall have access to airport customs processing and facilities. Subject to the national laws and regulations of each Contracting Party, the designated airline may elect to perform their own surface transportation or to provide its through arrangements with other surface carriers, including surface transportation operated by other airlines and indirect providers of cargo transportation. Such intermodal cargo services may be offered at a single, through price for the air and surface transportation combined, provided that shippers are not misled as to the facts concerning such transportation.

## **ARTICLE 16 USER CHARGES**

1. Each Contracting Party shall not impose or permit to be imposed on the designated airline(s) of another Contracting Party user charges higher than those imposed on the airlines of any other Contracting Party or non-Contracting Party operating similar international services.

2. Each Contracting Party shall encourage consultations on user charges between its competent charging authorities and airlines using the services and facilities provided by those charging authorities, where practicable through those airlines' representative organisations. Reasonable notice of any proposals for changes in user charges should be given to such users to enable them to express their views before changes are made. Each Contracting Party shall further encourage its competent charging authorities and such users to exchange appropriate information concerning user charges.

## **ARTICLE 17 CUSTOMS DUTIES**

1. Each Contracting Party shall on the basis of reciprocity exempt a designated airline(s) of another Contracting Party to the fullest extent possible under its national law from customs duties, excise taxes, inspection fees and other national duties and charges on aircraft, fuel, lubricating oils, consumable technical supplies, spare parts including engines, regular aircraft equipment, aircraft stores and other items such as printed ticket stock, air waybills, any printed material which bears the insignia of the company printed thereon and usual publicity material distributed free of charge by those designated airlines, intended for use or used solely in connection with the operation or servicing of aircraft of those designated airlines operating the agreed air services.

2. The exemptions granted by this Article shall apply to the items referred to in paragraph 1 of this Article:

- (a) introduced into the territory of a Contracting Party by or on behalf of the designated airline(s) of another Contracting Party;
- (b) retained on board aircraft of the designated airline(s) of a Contracting Party upon arrival in or departure from the territory of another Contracting Party; or
- (c) taken on board aircraft of the designated airline(s) of a Contracting Party in the territory of another Contracting Party and intended for use in operating the agreed air services

whether or not such items are used or consumed wholly within the territory of the Contracting Party granting the exemption, provided the ownership of such items is not transferred in the territory of the said Contracting Party.

3. The regular airborne equipment as well as the materials and supplies normally retained on board the aircraft of a designated airline(s) of a Contracting Party may be unloaded in the territory of another Contracting Party only with the approval of the customs authorities of that Contracting Party. In such case, they may be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.

4. The exemptions provided by this Article shall also be available where the designated airline of a Contracting Party has contracted with another designated airline, which similarly enjoys such exemptions from another Contracting Party or other Contracting Parties, for the loan or transfer in the territory of the other Contracting Party or Contracting Parties, of the items specified in paragraph 1 of this Article.

## **ARTICLE 18 STATISTICS**

The aeronautical authorities of each Contracting Party may provide the aeronautical authorities of another Contracting Party, upon

request, with periodic statistics or other similar information relating to the traffic carried on the agreed services.

## **ARTICLE 19 APPROVAL OF SCHEDULES**

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 another Contracting Party at least sixty (60) days prior to the operation of the agreed services. Any modification thereof shall be submitted for consideration at least thirty (30) 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 that other Contracting Party. Such requests shall usually be submitted at least four (4) working days prior to the operation of such flights.

## **ARTICLE 20 CONSULTATIONS**

1. In the spirit of close cooperation, the aeronautical authorities of the Contracting Parties shall consult with one another from time to time with a view to ensuring the implementation of, and satisfactory compliance with, the provisions of this Agreement. Unless otherwise agreed, such consultations shall begin at the earliest possible date, but not later than sixty (60) days from the date another Contracting Party receives, through diplomatic or other appropriate channels, a written request, including an explanation of the issues to be raised. When the date for consultations has been agreed, the requesting Contracting Party shall also notify all the other Contracting Parties of the consultations and the issues to be raised. Any Contracting Party may attend. Once the consultations have been concluded, all the Contracting Parties as well as the Depositary shall be notified of the results.

2. Any Contracting Party may also request to hold a "Working Group Level" meeting, up to Ministerial level, if and when deemed necessary, to advance the process of consultations.

## **ARTICLE 21 SETTLEMENT OF DISPUTES**

Should any dispute between the Contracting Parties arise, the aeronautical authorities of the Contracting Parties involved shall seek to resolve the dispute through consultation. In the event that no agreement is reached, it shall be settled through diplomatic channels.

## **ARTICLE 22 AMENDMENT AND MODIFICATION**

1. Any Contracting Party may propose an amendment to this Agreement. The text of any such amendment and the reasons shall be transmitted to the Depositary, who shall transmit them to each Contracting Party.
2. The Contracting Parties shall communicate to the Depositary whether or not the proposed amendment is acceptable, and also submit any comments thereon.
3. If all the Contracting Parties agree to the proposed amendment and notify the Depositary accordingly, the amendment shall enter into force on the date of the eleventh notification. Such amendment shall form an integral part of this Agreement.

## **ARTICLE 23 RELATIONSHIP WITH OTHER AGREEMENTS**

1. This Agreement or any actions taken thereto shall not affect the rights and obligations of the Contracting Parties under any existing agreements or international conventions to which they are also party, except as provided in paragraph 3 of this Article.
2. Nothing in this Agreement shall prejudice the rights or the

exercise of these rights by any Contracting Party under the provisions of the United Nations Convention on the Law of the Sea of 1982, in particular with regard to freedom of the high seas, rights of innocent passage, archipelagic sea lanes passage or transit passage of ships and aircraft, and consistent with the Charter of the United Nations.

3. In the event of any inconsistency between a provision of this Agreement and a provision of any existing bilateral or multilateral air services agreement(s) (including any amendments thereto), by which two or more of the Contracting Parties are bound or which is not covered by this Agreement, the provision which is less restrictive or more liberal or which is not covered by this Agreement, shall prevail among the Contracting Parties if they are concurrently bound by the aforesaid bilateral or multilateral air services agreement(s) and this Agreement. If the inconsistency concerns provisions relating to safety or aviation security, the provisions prescribing a higher or more stringent standard of safety or aviation security shall prevail to the extent of the inconsistency.

#### **ARTICLE 24 REGISTRATION**

Upon entry into force, this Agreement and any amendment thereto shall be registered with the ICAO by the Depositary.

#### **ARTICLE 25 FINAL PROVISIONS**

1. This Agreement shall be deposited with the Depositary, who shall promptly furnish a certified true copy thereof to each Contracting Party.

2. Each Contracting Party shall complete its relevant internal legal procedures necessary for the entry into force of this Agreement. After the completion of its internal legal procedures, each Contracting Party shall give written notification to the Depositary, who shall promptly inform each Contracting Party of such deposit.

3. This Agreement shall enter into force on the date of deposit with the Depositary of:

- (a) the written notification from China; and
- (b) written notifications from at least two ASEAN Member States;

whichever date is later, and shall enter into force only among the Contracting Parties that have deposited their written notifications. For each of the Contracting Parties depositing their written notifications after the Agreement has entered into force, the Agreement shall enter into force for that Contracting Party on the date of deposit of its written notification.

4. Upon deposit of the relevant written notifications for this Agreement and its Implementing Protocol(s) to the Depositary, a Contracting Party undertakes to accord all the Contracting Parties which have deposited the relevant written notifications no less favourable treatment with respect to the traffic rights laid out in the Implementing Protocol(s) of this Agreement.

5. Subject to paragraphs 3 and 4 of this Article, the Implementing Protocol(s) as listed in Annex III of this Agreement shall enter into force upon deposit of the written notifications as set out in the "Final Provisions" of each of the respective Implementing Protocol(s).

6. The Depositary shall notify the Contracting Parties of the entry into force of this Agreement.

7. The Depositary shall maintain a centralised register of airline designations and operating authorisations or technical permissions in accordance with Article 3 (Designation and Authorisation) of this Agreement.

8. Any Contracting Party may withdraw from this Agreement by giving written notification of withdrawal to the Depositary, who shall, within thirty (30) days of receipt of the notification of withdrawal, notify the other Contracting Parties.

9. The withdrawal shall be effective twelve (12) months after the date of receipt of the notification by the Depositary, unless the Contracting Party withdraws its written notification by written communication to the Depositary within the twelve (12)-month period.

10. In the event that any obligation of a Contracting Party under this Agreement remains outstanding at the time of withdrawal from this Agreement, all the provisions of this Agreement shall continue to apply until such obligation has been fulfilled by that Contracting Party.

**IN WITNESS WHEREOF**, the undersigned, duly authorised by their respective Governments, have signed this Air Transport Agreement between the Governments of the Member States of the Association of Southeast Asian Nations and the Government of the People's Republic of China, on the dates herein below indicated, in duplicate in the English and Chinese languages, both texts being equally authentic. In the event of divergence of interpretation, the English text shall prevail.

For the Government of Brunei  
Darussalam:



**PEHIN DATO ABDULLAH BAKAR**  
Minister of Communications  
Date: 12 Nov 2010

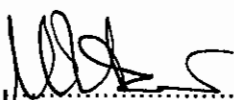
For the Government of the  
People's Republic of China:



**LI JIAXIANG**  
Administrator  
Civil Aviation Administration of  
China  
Date: 2010-11-19



For the the Government of Kingdom  
of Cambodia:



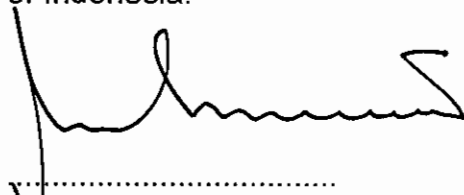
**MAO HAVANNALL**

Secretary of State

State Secretariat of Civil Aviation

Date: 12 November 2010

For the Government of the Republic  
of Indonesia:



**MOH. IKSAN TATANG**

Secretary General

Ministry of Transportation

Date: 12 Nov 2010

For the Government of the Lao  
People's Democratic Republic:




**SOMMAD PHOLSENA**

Minister of Public Works and  
Transport


Date: 12 Nov 2010

For the Government of Malaysia:



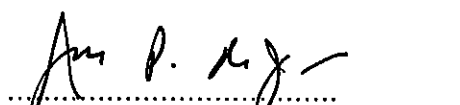
.....  
**DATO' SERI KONG CHO HA**  
Minister of Transport  
Date: 12 Nov 2010

For the Government of the Union of  
Myanmar:



.....  
**U THEIN SWE**  
Minister for Transport  
Date: 12 NOV 2010

For the Government of the Republic  
of the Philippines:



.....  
**JOSE P. DE JESUS**  
Secretary of Transportation and  
Communications  
Date: 12 Nov 2010

For the Government of the Republic  
of Singapore:



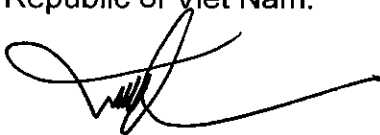
.....  
**RAYMOND LIM**  
Minister for Transport  
Date: 12 Nov 2010

For the Government of the Kingdom  
of Thailand:



.....  
**SOPHON ZARAM**  
Minister of Transport  
Date: 13 Jan 2011 .....

For the Government of the Socialist  
Republic of Viet Nam:



.....  
**HO NGHIA DZUNG**  
Minister of Transport  
Date: 12 Nov 2010 .....

## **ANNEX I**

### **Scheduled Air Services**

#### **Section 1**

##### **Route Schedule**

1. The designated airline(s) of the Contracting Parties shall be allowed to operate the agreed services on the following routes:

For the designated airline(s) of each ASEAN Member State:

| <b>Points of Origin in ASEAN</b>                            | <b>Intermediate Points</b> | <b>Points of Destination in China</b> | <b>Beyond Points</b> |
|---|----------------------------|---------------------------------------|----------------------|
| Any points in an ASEAN Member State designating the airline | Any points                 | Any points                            | Any points           |

For the designated airline(s) of China:

| <b>Points of Origin in China</b> | <b>Intermediate Points</b> | <b>Points of Destination in ASEAN</b> | <b>Beyond Points</b> |
|----------------------------------|----------------------------|---------------------------------------|----------------------|
| Any points                       | Any points                 | Any points                            | Any points           |

2. Unless otherwise agreed between ASEAN and China, the points in China selected by any Contracting Party shall not be in the Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan Province.

## **Section 2**

### **Operational Flexibility**

3. 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(s) in the territory of the Contracting Parties on the routes in any combination and in any order; and
- (d) omit stops at any point(s) provided that the agreed services begin or terminate in the territory of the Contracting Party designating the airline

without directional or geographic limitation and without loss of any right to carry traffic otherwise permissible under this Agreement; provided that the service serves a point in the territory of the Contracting Party designating the airline and all the points served are international airports.

## **ANNEX II**

### **NON-SCHEDULED/CHARTER AIR SERVICES**

1. The airline(s) of each Contracting Party designated pursuant to this Agreement to operate under this Annex shall have the right to operate non-scheduled air services between the Contracting Parties. The airlines must request prior permission from the aeronautical authorities of the other Contracting Party. Such requests shall usually be submitted at least fourteen (14) working days prior to the operation of such air services.

2. In accordance with its own laws and regulations, the non-scheduled/charter air services of the designated airline(s) of each Contracting Party shall not unduly affect the operation of the agreed services on the routes.

### **ANNEX III**

#### **IMPLEMENTING PROTOCOLS**

The Contracting Parties shall conclude Implementing Protocols which shall form integral parts of this Agreement, including:

- Protocol 1 Unlimited Third and Fourth Freedom Traffic Rights Between Any Points in Contracting Parties.



东南亚国家联盟各成员国政府

和

中华人民共和国政府

航空运输协定

由如下国家组成的东南亚国家联盟各成员国（以下合称“东盟”或“东盟各成员国”，或在指单一国家时称“东盟成员国”）政府：

文莱达鲁萨兰国，

柬埔寨王国，

印度尼西亚共和国，

老挝人民民主共和国，

马来西亚，

缅甸联邦，

菲律宾共和国，

新加坡共和国，



泰王国，

越南社会主义共和国；

和

中华人民共和国（以下简称“中国”）政府；

（以上国家政府合称“缔约各方”或单称“缔约一方”）

忆及2002年的《中国与东盟全面经济合作框架协议》；

忆及为支持于2010年建立中国—东盟自由贸易区，于2007年11月2日在新加坡召开的第六次中国和东盟运输部长级会议上通过的旨在便利客货运输和旅客、货物流动，增进中国和东盟的贸易和经济的《中国与东盟航空合作框架》；

注意到中国和东盟各成员国之间的现有双边航空运输协定；

确认在缔结中国—东盟航空运输协定时应优先考虑东盟的完整、团结和一体化；

愿意在中国和东盟之间建立一体化、高效和有竞争力的国际航空运输，以加强贸易、消费者的福利和经济增长；

愿意通过中国和东盟之间航空运输的逐步自由化，推动地区和国际民用航空的发展；

重申1944年12月7日在芝加哥开放签字的《国际民用航空公约》的原则和规定；

愿意缔结本协定，以经营中国和东盟之间的航空运输；  
达成协议如下：

## 第一条 定 义

除非本协定另有规定，本协定中的术语定义如下：

（一）“航空运输”，指以取酬或者出租为目的，以航空器单独或者混合载运旅客、行李、货物和邮件的公共运输；

（二）“航空当局”，东盟各成员国方面指每一东盟成员国负责民用航空的部长；中华人民共和国方面指中国民用航空局；或者在上述两方面均指授权执行当前由所述当局行使的职能的任何其他当局或者个人；

（三）“协定”，指本协定及其附件和实施议定书，以及对它们的任何修改；

（四）“公约”，指1944年12月7日在芝加哥开放签字的《国际民用航空公约》，包括：1、已根据公约第九十四条第一款生效的并已由本协定的缔约各方批准的任何修改，以及2、根据公约第九十条通过的任何附件或者对附件的任何修改，只要上述附件或修改在任何特定时间对本协定的缔约各方均生效；

（五）“领土”，指陆地领土、内水、群岛水域和领海及其海床和底土，以及它们上方的空域；

（六）“指定空运企业”，指根据本协定第三条（指定和许可）规定经指定和许可的空运企业；

（七）“航线表”，指本协定附件规定的航线表或者根据本协定第二十二條（修改）规定修改的航线表；

（八）“规定航线”，指航线表中规定的航线；

（九）“运价”，指由空运企业，包括其代理人为在航空运输（包括与此相连接的任何其他运输方式）中载运旅客、行李和（或）货物（不包括邮件）所收取的任何票价、费率或收费，和获得此种票价、费率或收费所附加的条件；

（十）“用户费”，指由主管当局向空运企业收取的，或经主管当局允许而收取的，旨在为航空器、机组、旅客和货物提供机场物业或设施、或者空中导航设施或航空保安设施或服务，包括相关服务和设施的费用；

（十一）“航班”、“国际航班”、“空运企业”和“非运输业务性经停”，具有公约第九十六条规定的定义；

（十二）“保存人”，就中国和东盟各成员国而言，指东盟秘书长；

(十三) 根据上下文需要, 凡提及单数形式的词时均应视为包括复数, 凡提及复数形式的词时均应视为包括单数。

## 第二条 授权

一、缔约一方给予缔约另一方以本协定规定的权利, 以便在航线表中规定的航线上经营国际航班(以下称为“协议航班”)。

二、在不违反本协定规定的情况下, 缔约一方指定空运企业享有下列权利:

(一) 沿缔约另一方航空当局规定的航路不经停飞越缔约另一方领土的权利;

(二) 在缔约另一方领土作非运输业务性经停的权利;

(三) 本协定中另行规定的权利, 包括本协定附件一(定期航班)、附件二(非定期/包机航班)和在适用的情况下包括附件三(实施议定书)中所述的权利。

三、除根据本协定第三条(指定和许可)指定的空运企业外, 缔约一方的空运企业也应享有本条第二款第一项和第二项中规定的权利。该空运企业应满足该缔约方通常适用于国际航班经营的法律、法规和规章中规定的其他条件。

四、本条的规定不得被视为给予缔约一方指定空运企业以取酬为目的，在缔约另一方领土内装载旅客、货物和邮件前往该缔约方领土内另一地点的权利。

### 第三条 指定和许可

一、缔约一方有权以书面方式指定一家或者多家空运企业，按照本协定经营协议航班，并且有权撤销或者更改上述指定。上述指定应通过外交途径书面通知保存人，由保存人通知所有缔约方。

二、在不违反以下规定的情况下，缔约一方应在收到上述指定通知及指定空运企业按照申请经营许可和技术许可所规定的形式和方式提交的申请之后，给予适当的经营许可和技术许可，不应无故迟延：

（一）1、该空运企业的主要所有权和有效管理权属于指定该空运企业的缔约方、该缔约方的国民或者两种情况兼有；或者

2、该指定空运企业在东盟成立，其主要营业地在东盟并且其主要所有权和有效管理权属于并继续属于一个或者多个东盟成员国和（或）其国民，并且指定该空运

企业的东盟成员国对其拥有并保持有效监管权，但收到该东盟成员国上述申请的缔约一方应接受上述指定；以及

（二）指定该空运企业的缔约一方遵守本协定第七条（安全）和第八条（航空保安）所述的规定；以及

（三）该指定空运企业有能力满足收到指定通知的缔约一方通常适用于国际航班经营的法律和法规所规定的其他条件。

三、在收到本条第二款所述的经营许可和技术许可之后，指定空运企业可于任何时间开始经营指定其经营的协议航班，但是该空运企业必须遵守本协定有关规定。

四、缔约一方根据本条第二款颁发经营许可和技术许可后应通知保存人，保存人应通知所有缔约方。

#### **第四条 许可的拒发、撤销、限制或者暂停**

一、有下列情形之一的，缔约一方有权拒绝给予缔约另一方指定空运企业本协定第三条（指定和许可）中提到的经营许可和技术许可，并有权临时性地或永久性地对上述许可予以撤销、限制、暂停或者附加条件：

(一) 该空运企业未能证明其符合本协定第三条（指定和授权）第二款第一项第一目或第二目所适用的规定条件；或者

(二) 缔约另一方未保持和执行本协定第七条（安全）和第八条（航空保安）中所规定的标准；或者

(三) 该空运企业未遵守本协定第五条（法律和法规的适用）所提及的法律和法规。

二、除非本条规定的权利必须立即执行，以防止该指定空运企业不遵守本条第一款第二项或者第三项，上述权利只能在根据本协定第二十条（磋商）与指定该空运企业的缔约一方磋商后方可行使。

三、缔约一方根据本条第一款行使了拒绝给予一家或者多家空运企业经营许可或者技术许可或者对经营许可或者技术许可予以暂停、撤销、限制或者附加条件的权利，该缔约一方应通知保存人，保存人应立即通知所有缔约方。

## **第五条 法律和法规的适用**

一、在进出缔约另一方领土或者在缔约另一方领土内停留时，缔约一方的指定空运企业应遵守该缔约另一方关于航空器运行和航行的法律和法规。

二、在进出缔约另一方领土或者在缔约另一方领土内停留时，缔约一方指定空运企业的机上旅客、机组或者货物应遵守或者代表其遵守该缔约另一方关于此类旅客、机组、行李或货物进出其领土的法律和法规（包括关于入境、放行、航空保安、移民、护照、海关和检疫法律和法规，如涉及邮件，则包括邮政方面的法律和法规）。

三、缔约一方在适用其移民、海关、检疫和类似法律和法规时，不得给予本国或任何其他空运企业比缔约另一方从事类似国际航空运输的指定空运企业更优惠的待遇。

## 第六条 直接过境

对直接过境缔约一方领土并且不离开为此目的而设的机场区域的旅客、行李、货物和邮件，除出于航空保安、麻醉品管制和防止非法入境等原因或者在特殊情形下采取的措施外，应采取简化的控制措施。直接过境的行李、货物和邮件应免纳关税或者其他类似税收。



## 第七条 安全

一、缔约一方应承认缔约另一方为其指定空运企业经营本协定所规定的协议航班而颁发或者核准且仍然有效的适航证、合格证和执照的有效性，但对上述证件或者执照的要求应至少相当于根据公约制定的最低标准。但是，缔约一方有权拒绝承认缔约另方向其本国国民颁发或者核准的，以在其本国领土上空飞行为目的的合格证与执照的有效性。

二、缔约一方可随时要求就缔约另一方在航行设施、飞行机组、航空器和航空器运行方面所保持的安全标准进行磋商。磋商应在提出要求之日起三十（30）天内进行。

三、如果缔约一方在磋商之后发现该缔约另一方未能有效地保持和执行本条第一款所述方面的安全标准，以满足当时根据公约所制定的标准，缔约一方应将上述结论以及为达到国际民航组织标准所应采取的必要步骤告知该缔约另一方。缔约另一方应在商定的期限内采取适当的改正行动。

四、根据公约第十六条，缔约各方进一步同意，缔约一方指定的空运企业经营或代表其经营的进出缔约另一方领土的航班的航空器在缔约另一方领土内时，缔约另一方

的授权代表可对其进行检查，但应避免对航空器运行造成不合理的延误。尽管有公约第三十三条规定的义务，检查的目的是查验相关的航空器文件、机组执照的有效性，以及航空器的设备和状况是否符合国际民航组织的标准。

五、如必须采取紧急行动以确保空运企业的经营安全，缔约一方保留立即暂停或者修改缔约另一方一家或者多家指定空运企业的经营许可或者技术许可的权利。

六、一旦采取上述行动的依据不复存在，缔约一方根据本条第五款采取的任何行动应予停止。

七、关于本条第三款，如果确认缔约另一方在商定的期限过后仍未遵守国际民航组织的标准，缔约一方应将该情况告知国际民航组织秘书长。在问题解决后，有关结果亦应告知秘书长。

## 第八条 航空保安

一、根据国际法为其规定的权利和义务，缔约各方重申，为保护民用航空安全免遭非法干扰而相互承担的义务，构成本协定不可分割的组成部分。在不影响国际法为其规定的权利和义务的普遍适用性的情况下，缔约各方应特别遵守 1963 年 9 月 14 日在东京签订的《关于在航空器内的

犯罪和其他某些行为的公约》、1970年12月16日在海牙签订的《关于制止非法劫持航空器的公约》、1971年9月23日在蒙特利尔签订的《关于制止危害民用航空安全的非法行为的公约》以及所有缔约方均参加的任何其他与民用航空保安有关的公约和议定书。

二、缔约各方应根据请求相互提供一切切实可行的协助，防止非法劫持民用航空器的行为和其他危及航空器及其旅客和机组、机场和空中航行设施安全的非法行为，以及应对危及民用航空安全的任何其他威胁。

三、缔约各方在其相互关系中，应遵守国际民航组织制定的、作为公约附件的对缔约各方均适用的航空保安规定；缔约各方应要求在其领土内注册的航空器经营人或者主要营业地或永久居住地在其领土内的航空器经营人以及在其领土内的机场经营人遵守上述航空保安规定。

四、缔约一方同意，应要求其指定空运企业在进出缔约另一方领土或者在缔约另一方领土内停留时遵守缔约另一方所要求的本条第三款所述的航空保安规定。缔约一方应保证在其领土内采取足够有效的措施，在登机、装机或下机（卸机）之前和在此期间保护航空器，并对旅客、机组、随身携带物品、行李、货物和机上供应品进行检查。缔约一方对缔约另一方提出的为对付特定威胁而采取合理

的特殊保安措施的要求，应给予同情的考虑。

五、当发生非法劫持民用航空器事件或者以劫持航空器事件相威胁，或者发生其他危及航空器及其旅客和机组、机场或者航行设施安全的非法行为时，缔约各方应相互协助，提供联系的方便并采取其他适当的措施，以便迅速、安全地结束上述事件或者威胁。

六、当缔约一方有合理理由相信，缔约另一方已经背离本条的航空保安规定时，该缔约方航空当局可要求与缔约另一方航空当局立即进行磋商。如在收到上述要求之日起十五（15）天内未能达成令人满意的协议，该缔约方有理由适用本协定第四条（许可的拒发、撤销、限制或者暂停）。如果情况紧急，或者为了防止发生进一步违反本条所述规定的行为，该缔约方可在十五（15）天期限结束之前采取临时行动。

七、缔约一方应要求缔约另一方提供航班服务的空运企业向其提交一份书面的、已由该空运企业所属缔约方的航空当局批准的经营人保安方案，供其认可。

## 第九条 运价

一、缔约一方指定空运企业对本协定所述航班所适用

的运价，应在合理的水平上制定，适当照顾到一切有关因素，包括用户利益、经营成本、航班特点、合理利润、其他空运企业运价，以及市场中的其他商业考虑。

二、空运企业收取的运价无需向缔约各方备案或者由其批准。但是，如果缔约一方的国家法律要求事先批准运价，应对运价申报做相应规定。在此情形下，相关缔约各方可以自行决定适用对等原则。

三、缔约各方同意特别关注可能遭到反对的运价，包括具有过分的歧视性、由于滥用支配地位而定价过高或者过具限制性，或者由于享受直接或间接政府补贴或援助或者其他反竞争做法而人为地定价过低。

四、缔约各方应确保指定空运企业向公众提供关于票价、运价以及广告宣传中票价所附条件的完整、全面的信息。

## **第十条 保障措施**

一、缔约各方同意可将下列空运企业做法视为值得进一步审查的可能的反竞争做法：

（一）航线票价和运价水平总体看来不足以抵补提供与票价和运价相关的航班所需成本；

(二) 增加过多的航班班次;

(三) 所述做法为持续性的而非临时性的;

(四) 所述做法对另一空运企业有严重负面经济影响或者给其造成重大损害;

(五) 所述做法反映出将另一空运企业击垮、或者将其从市场中逐出或挤走的明显意图, 或者具有此种可能效应; 以及

(六) 表明在航线上滥用支配地位的行为。

二、国家援助和(或)补贴的给予应在缔约各方之间保持透明, 且不应扭曲缔约各方指定空运企业之间的竞争。有关缔约方应根据要求, 向其他相关缔约方提供关于给予国家援助和(或)补贴以及修改或扩大国家援助和(或)补贴的完整信息。此种信息应高度保密。

三、如果缔约一方航空当局认为, 缔约另一方指定空运企业意图进行或者业已进行的一次或者多次经营可构成本条第一款所列的反竞争行为, 或者由于该缔约另一方提供不适当的国家援助和(或)补贴构成任何歧视, 可根据本协定第二十条(磋商)要求进行磋商, 以求解决问题。提出磋商要求时应说明要求磋商的理由, 并且磋商应于收到上述要求后十五(15)天内举行。

四、如果相关缔约各方未能通过磋商解决问题, 可诉

诸本协定第二十一条（争端的解决）规定的争端解决机制解决争端。

五、缔约一方如有合理理由相信，由缔约另一方或者其指定空运企业采取的与本条第一款和第二款相关的不公平或反竞争做法严重影响到其指定空运企业的经营，该缔约一方有权对缔约另一方指定空运企业临时适用本协定第四条（许可的拒发、撤销、限制或者暂停）。

## **第十一条 公平竞争**

一、缔约一方应给予缔约各方的指定空运企业公平均等的机会，在提供本协定规定的国际航班时开展竞争。

二、缔约一方同意采取适当行动，消除由缔约一方和（或）其空运企业采取的被视为对缔约另一方指定空运企业的竞争地位造成不利影响的各种形式的歧视和（或）反竞争做法。

## **第十二条 商务活动**

一、根据缔约另一方的法律和法规，缔约一方的指定空运企业有权：

（一）在入境、居留和就业方面，向缔约另一方领土内派驻管理和其他专业人员，以及运入经营国际航班所需的办公设备和其他相关设备和宣传材料；

（二）为提供、宣传和销售航班的目的，在缔约另一方领土内设立代表机构；

（三）在缔约另一方领土内直接从事航班销售，以及自行决定通过持有执照的代理机构进行航班销售。进行航班销售时，任何人均有权以该缔约国当地货币或者在不违反国家法律和法规的情况下，以其他国家可自由兑换货币购买上述航班；

（四）根据要求将当地收入扣除当地支出后的结余部分汇兑至其公司所在国。应根据相关缔约国的外汇管理法律和法规，允许在不受限制或不予征税的情况下以适用于经常项目交易和汇款的汇率即时进行汇兑；

（五）在其他缔约方领土内以当地货币支付当地开支，包括购买燃料。缔约一方的指定空运企业可自行决定按照当地货币管理规定，以可自由兑换货币支付在其他缔约方领土内的上述开支。



### 第十三条 合作市场营销安排

一、在规定航线上经营或者提供协议航班时，指定空运企业可在不违反国家法律、法规和政策的情况下，作为经营方空运企业或非经营方空运企业（以下简称为“市场方空运企业”）与如下各方达成可包括但不限于合作经营、包座或代码共享安排在内的合作市场营销安排：

（一）同一缔约方的一家或多家空运企业；以及

（二）缔约另一方的一家或多家空运企业。

但是此类安排的所有参与方均应拥有相关业务权和适当许可，并满足适用于此类安排的要求。

二、在根据本条第一款达成的任何合作市场营销安排拟采用之前，有关缔约方的航空当局可要求市场方空运企业或者经营方空运企业向其提出批准申请。

三、在提供所销售的航班时，市场方空运企业应在销售点向此类航班机票的购买者说明航班的每一航段由哪家空运企业经营和购买者在与哪一家或哪几家空运企业达成契约关系。

## 第十四条 租赁

一、缔约一方禁止使用违反本协定第七条（安全）和第八条（航空保安）规定的租赁航空器经营本协定规定的航班。

二、在不违反本条第一款的情况下，缔约一方的指定空运企业可在满足下列条件时使用从任何公司，包括从其他空运企业租赁的航空器（或者航空器及机组）：

（一）租赁不会导致出租人空运企业行使其并不拥有的业务权；

（二）出租人空运企业所获取的财务收益不取决于相关指定空运企业经营的盈亏；以及

（三）已按照公约确定了对缔约一方指定空运企业经营的任何租用航空器的持续适航性及其是否具有适当运行和维修标准的监管责任。

三、缔约一方指定空运企业未因其他情形被禁止使用租赁的航空器（或者航空器及机组）提供航班时，其任何租赁安排均应满足缔约另一方通常适用的条件。

## 第十五条 多式联运

在不违反缔约各方的国家法律和法规的情况下，缔约一方的任何指定空运企业和货物运输的间接提供者有权不受限制地在衔接国际货运航班时利用前往或者来自缔约各方领土以内或以外任何地点的任何地面货物运输，包括往返于配有海关设施的所有机场的运输，并在适用的情况下包括有权根据适用的法律和法规运输保税货物。此类货物不论是地面运输还是航空运输，均可使用机场海关处理设施。在不违反缔约各方的国家法律和法规的情况下，指定空运企业可以选择自行提供地面运输或者通过与其他地面承运人之间的联程安排提供地面运输，其中包括由其他空运企业或货物运输的间接提供者经营的地面运输。在提供多式联运服务时，可采用航空和地面联运的单一联运价，但不得使托运人对此种运输的事实情况产生误解。

## 第十六条 用户费

一、缔约一方对缔约另一方指定空运企业征收或准许征收的用户费不得高于对任何经营类似国际航班的其他缔约方或非缔约方的空运企业征收的费用。

二、缔约一方应鼓励其收费主管当局与使用由这些收费当局提供的服务和设施的空运企业在可行的情况下通过这些空运企业的代表组织就用户费进行协商。应向此类用户提供关于用户费变更的任何提案的合理通告，以便在做出变更前使用户能够表达意见。缔约一方应进一步鼓励其收费主管当局和此类用户交换用户费方面的适当信息。

## 第十七条 关税

一、缔约一方应在对等的基础上以其国家法律所允许的最大限度免除缔约另一方指定空运企业的关税、国内消费税、检验费以及针对如下各项收取的其他国家税费：航空器、燃料、润滑油、技术耗材、包括发动机在内的零备件、正常航空器设备、机上供应品和其他物品，如客票、货运单、印有公司标志的任何印刷材料和由该指定空运企业免费发放的普通宣传品，以上物品旨在用于或专门用于该缔约另一方指定空运企业经营协议航班的航空器的经营和维护。

二、本条给予的豁免应适用于本条第一款中所提及的：

（一）由缔约另一方的指定空运企业或者代表该空运企业运入缔约一方领土内的物品；

(二) 抵离缔约另一方领土时留置在缔约一方指定空运企业航空器上的物品；或者

(三) 缔约一方指定空运企业航空器在缔约另一方领土内装上的旨在用于经营协议航班的物品。

无论此类物品是否完全在给予豁免的该缔约方领土内使用或消耗，但是此类物品的所有权不得在该缔约方领土内转让。

三、缔约一方指定空运企业航空器上的正常机载设备以及通常留置在航空器上的材料和供应品只有经缔约另一方海关当局同意后，方可在该缔约另一方领土内卸下。在此情形下，上述物品应受该缔约另一方海关当局的监管直至重新运出，或者根据海关法规另作处理。

四、缔约一方指定空运企业如与另一家在缔约另一方或者另外各方领土内享有同样豁免待遇的空运企业订有合同，在缔约另一方或者另外各方领土内向其租借或者转让本条第一款所述物品，亦应适用本条的豁免规定。

## 第十八条 统计资料

缔约一方航空当局可根据要求，向缔约另一方航空当局提供关于协议航班上所载业务的定期统计资料或者其他类似资料。

## 第十九条 班期时刻表的批准

一、缔约一方的指定空运企业可被要求不迟于协议航班经营之前六十（60）天向缔约另一方的航空当局提交其预计的班期时刻表供其批准。对时刻表的任何修改应不迟于生效前三十（30）天提交审核。

二、对于缔约一方指定空运企业欲于批准的班期时刻表之外经营协议航班的加班飞行，该空运企业必须事先得到缔约另一方航空当局的许可。此种申请通常应至少在进行上述飞行前四（4）个工作日提交。

## 第二十条 磋商

一、缔约各方航空当局应本着密切合作的精神经常互相磋商，以保证本协定各项规定的实施和满意遵守。除非

另有协议，磋商应尽早开始，并应在缔约另一方通过外交或其他适当途径收到书面磋商要求，包括对拟磋商议题的解释之日起六十（60）天内进行。在商定磋商日期后，提出磋商要求的缔约一方应向其他缔约各方通报将要进行的磋商和有待提出的议题。任何缔约方均可参加磋商。磋商完成后，应立即向所有缔约方以及保存人通报结果。

二、如果认为有必要，缔约一方也可要求召开最高为部长一级的“工作组级别”的会议，以推进磋商进程。

## 第二十一条 争端的解决

如缔约各方之间发生任何争端，有关缔约各方的航空当局应寻求通过磋商解决争端。如不能达成协议，应通过外交途径予以解决。

## 第二十二条 修改

一、任何缔约一方提议对本协定进行修改。任何修改的文本和修改的理由应发送保存人，并由保存人分送缔约各方。

二、缔约各方应告知保存人拟议的修改是否可以接受，

并就此提交意见。

三、如果所有缔约方均同意拟议的修改，并相应地向保存人发出通知，则该项修改应在第十一份通知发出之日起生效。此项修改构成本协定的组成部分。

## 第二十三条 与其他协定的关系

一、本协定或就本协定采取的任何行动不得影响缔约各方亦作为缔约方的任何现有协定或国际公约所赋予的权利和义务，本条第三款中规定的情况除外。

二、本协定中的任何规定不得对缔约任一方根据 1982 年《联合国海洋法公约》的规定，特别是关于船舶和航空器的公海自由、无害通过权、群岛海道通行权或者过境通行权有关的规定以及根据《联合国宪章》所享有的权利或这些权利的行使造成损害。

三、如果本协定中的某项规定和任何现有双边或多边航空运输协定（包括对其所作的任何修改）中的某项对两个或两个以上缔约方均有约束力的规定或者本协定中未涵盖的规定之间存在不一致，并且如果缔约各方同时受上述双边或多边航空运输协定和本协定的约束，则应在缔约各方之间适用限制性较小或者自由度较高的或者本协定未涵



盖的那项规定。如果不一致与有关安全或航空保安的规定相关，则应适用载有更高或者更严格的安全或航空保安标准的规定。

## 第二十四条 登记

一经生效，保存人应向国际民航组织登记本协定以及对本协定的任何修改。

## 第二十五条 最后条款

一、本协定应交由保存人保存。保存人应立即向缔约各方提供一份核证无误的协定副本。

二、缔约各方应完成使本协定生效所需的国内相关法律程序。在完成国内法律程序后，缔约各方应向保存人发出书面通知，由保存人立即告知其他缔约方。

三、本协定应在以下通知交由保存人保存之日起生效：

（一）来自中国的书面通知；以及

（二）来自至少两个东盟成员国的书面通知；

生效日期应以上述通知的最后一个发出日期为准，并应仅在已交存书面通知的缔约方之间生效。对于在本协定

生效后交存书面通知的缔约方，本协定应在该缔约方交存书面通知之日起对该缔约方生效。

四、在将本协定及其实施议定书的相关书面通知交由保存人保存后，缔约一方承诺在业务权方面向交存了相关书面通知的所有缔约方提供的优惠待遇不低于本协定的实施议定书中所规定的待遇。

五、在不违反本条第三款和第四款的情况下，本协定附件三中所列的实施议定书应在按照每一实施议定书最后条款规定的方式生效。

六、保存人应将本协定的生效通知缔约各方。

七、保存人应根据本协定第三条（指定和许可）建立一个有关空运企业的指定和经营许可或者技术许可的集中登记册。

八、缔约任一方均可通过向保存人发出书面通知的形式，退出本协定，而保存人应在收到退出通知后三十（30）天之内通知其他缔约方。

九、退出应在保存人收到该通知之日起十二（12）个月生效后生效，除非该缔约方在此十二（12）个月期限内向保存人以书面形式撤销其退出的书面通知。

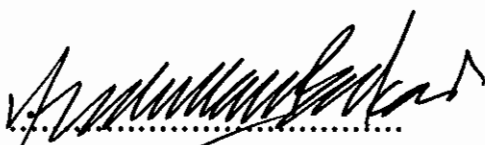
十、如果退出本协定时，缔约一方尚未完成根据本协定所承担的义务，则在该缔约方履行完该项义务前，本协定的规定应继续适用。

下列代表，经其各自政府正式授权，在本协定上签字，以昭信守。

本协定于以下日期签订，一式两份，每份均用英文和中文写成，两种文本同等作准。如对文本的解释产生分歧，以英文文本为准。

文莱达鲁萨兰国政府

代表



日期..... 12 Nov 2010 .....

中华人民共和国政府

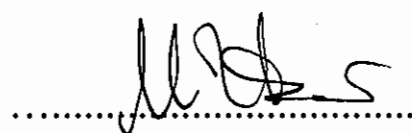
代表



日期..... 2010-11-19 .....

柬埔寨王国政府

代表



日期..... 12 Nov 2010 .....

印度尼西亚共和国政府


代表



日期 12 Nov 2010

老挝人民民主共和国政府

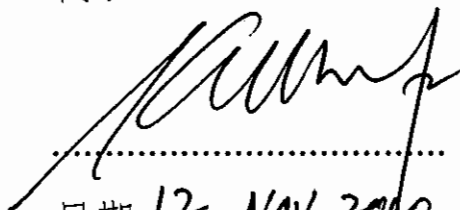
代表



日期 12 Nov 2010

马来西亚政府

代表



日期 12 Nov 2010

缅甸联邦政府

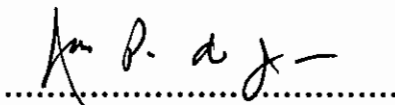
代表



日期..... 12 Nov 2010 .....

菲律宾共和国政府

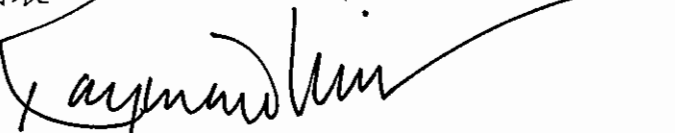
代表



日期..... 12 Nov 2010 .....

新加坡共和国政府

代表



日期..... 12 Nov 2010 .....

泰王国政府

代表



日期..... 13 Jan 2011 .....

越南社会主义共和国政府

代表



日期..... 12 Nov 2010 .....

## 附件一

### 定期航班

#### 第一部分

#### 航线表

一、缔约各方的指定空运企业有权在下列航线上经营协议航班：

中国的指定空运企业：

| 中国境内始发点 | 中间点 | 东盟境内目的点 | 以远点 |
|---------|-----|---------|-----|
| 任何点     | 任何点 | 任何点     | 任何点 |

每一东盟成员国的指定空运企业：

| 东盟境内始发点             | 中间点 | 中国境内目的点 | 以远点 |
|---------------------|-----|---------|-----|
| 指定该空运企业的东盟成员国境内的任何点 | 任何点 | 任何点     | 任何点 |

二、除非中国和东盟之间另有协议，缔约任一方在中国境内所选的地点不得包括香港特别行政区、澳门特别行政区和台湾省内地点。

## 第二部分

### 三、经营的灵活性

任何指定空运企业可自行选择在任何或者所有航班上：

- (一) 经营单程或往返航班；
- (二) 在一次航空器运行中，组合使用不同的航班号；
- (三) 以任何组合和任何顺序经营航线上的缔约各方领土内的中间点和以远点；以及

(四) 可不经停任何一个或者多个地点，但协议航班应在指定该空运企业的缔约方领土内始发或者终止。

上述经营可不受方向或者地理位置的限制，并可保留本协定所允许的载运业务的权利，但该航班应执飞指定该空运企业的缔约一方领土内的一点，并且提供航班服务的所有地点均应为国际机场。



## 附件二

### 非定期/包机航班

一、缔约一方根据本协定指定的空运企业根据本附件进行经营时，应有权在缔约各方之间经营非定期航班。空运企业必须向缔约另一方的航空当局提出申请并获得事先许可。上述申请通常至少应在航班经营之前十四（14）个工作日提交。

二、根据其本国法律和法规，缔约一方的指定空运企业经营的非定期/包机航班不得不适当地影响航线上协议航班的经营。

### 附件三

#### 实施议定书

缔约各方应缔结构成本协定组成部分的实施议定书，  
包括：

- 第一议定书 缔约各方任何地点之间无限制的第三  
和第四种自由业务权