# PROTOCOL 2
# ON FIFTH FREEDOM TRAFFIC RIGHTS BETWEEN CONTRACTING PARTIES

The Governments of the Member States of the Association of Southeast Asian Nations (ASEAN) comprising Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, 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 (hereinafter referred to collectively as "**ASEAN Member States**", or individually as "**ASEAN Member State**")

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 an ASEAN Member State or China as "**a Contracting Party**";

**RECALLING** the 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 entered into force on 9 August 2011 (hereinafter referred to as "the Agreement");

**RECOGNISING** that Annex III of the Agreement thereof provides for the conclusion of Implementing Protocols of the Agreement;

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**DESIRING** to remove restrictions on air services with a view to achieving full liberalisation between and beyond ASEAN and China;

**HAVE AGREED AS FOLLOWS:**

**Article 1 – Routing, Frequencies and Traffic Rights**

1. Each ASEAN Member State shall be entitled to :

   (a) full fifth freedom traffic rights on any number of frequencies of passenger and/or cargo services with any aircraft type, from one of the 10 named points in ASEAN, which is a point in the ASEAN Member State designating the airline(s), via any of the 10 named points in ASEAN to any of the 28 named points in China and beyond to any of the 10 named points in ASEAN and vice versa; and

   (b) fifth freedom traffic rights for up to 14 weekly passenger and/or cargo services with any aircraft type from one of the 10 named points in ASEAN, which is a point in the ASEAN Member State designating the airline(s), via any points outside China and ASEAN to any of the 10 named points in China and beyond to any points outside China and ASEAN and vice versa.

2. China shall be entitled to:

   (a) full fifth freedom traffic rights on any number of frequencies of passenger and/or cargo services with any aircraft type from any of the 28 named points in China, via any of the 10 named points in ASEAN to any of the 10 named points in ASEAN and beyond to any of the 10 named points in ASEAN and vice versa; and



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(b) in relation to each ASEAN Member State fifth freedom traffic rights for up to 14 weekly passenger and/or cargo services with any aircraft type from any of the 10 named points in China, via any points outside China and ASEAN to any 10 named points in ASEAN, which is a point in that ASEAN Member State, and beyond to any points outside China and ASEAN and vice versa.

3. For the purposes of this Article:

(a) "10 named points in ASEAN" means Bandar Seri Begawan, Preah Sihanouk, Mataram, Luang Prabang, Kota Kinabalu, any one point in Myanmar except Yangon, any one point in the Philippines except Manila, Singapore, Chiang Mai, any one point in Viet Nam except Ha Noi and Ho Chi Minh City;

(b) "28 named points in China" means Changchun, Changsha, Chengdu, Chongqing, Dalian, Fuzhou, Guilin, Guiyang, Haikou, Harbin, Hohhot, Kashgar, Kunming, Lanzhou, Lhasa, Sanya, Shenyang, Nanning, Ningbo, Urumqi, Wuhan, Xi'an, Xiamen, Xining, Xishuangbanna, Yanji, Yinchuan, Zhengzhou;

(c) "10 named points in China" means Changsha, Chengdu, Chongqing, Guilin, Kunming, Nanning, Urumqi, Xi'an, Xiamen or Fuzhou, Zhengzhou.

4. (a) Each Contracting Party shall at least one month prior to the exercise of the traffic rights by the designated airline(s) of the Contracting Party to the point(s) which are the subject of the written notification, give written notice to the Secretary-General of ASEAN (hereinafter referred to as "the Depositary") of its nomination of:



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(i) the one point in each of Myanmar, Philippines and Vietnam as referred to in paragraph 3(a) of this Article; and/or

(ii) either Xiamen or Fuzhou as referred to in paragraph 3(c) of this Article.

The Depositary shall promptly inform each Contracting Party of such written notification.

(b) Each Contracting Party may revise its nomination of any of the one points in Myanmar, the Philippines or Viet Nam, or of Xiamen or Fuzhou. Any such revision shall be made in accordance with the procedure under paragraph 4(a) of this Article.

## Article 2 – Final Provisions

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

2. Each Contracting Party shall ratify/approve Protocol 1 of the Agreement before ratifying/approving this Protocol.

3. Each Contracting Party shall complete its relevant internal legal procedures necessary for the entry into force of this Protocol. 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.

4. This Protocol 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 Protocol has entered into force, the Protocol shall enter into force for that Contracting Party on the date of deposit of its written notification.

5. Any amendment to the provisions of this Protocol shall be effected by consent of all Contracting Parties, as provided for under Article 22 (Amendment and Modification) of the Agreement.

**IN WITNESS WHEREOF**, the undersigned, being duly authorised to sign by their respective Governments, have signed Protocol 2 on Fifth (5th) Freedom Traffic Rights between Contracting Parties, 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:

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Date: 20 Dec 2013

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

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Date: 2013. 12. 25



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For the the Government of Kingdom of Cambodia:

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Date: 20 Dec 2013

For the Government of the Republic of Indonesia:

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Date: 24 Jan 2014

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

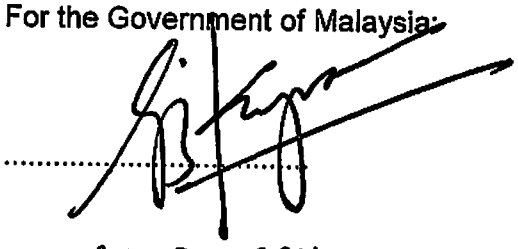
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Date: 20 Dec 2013



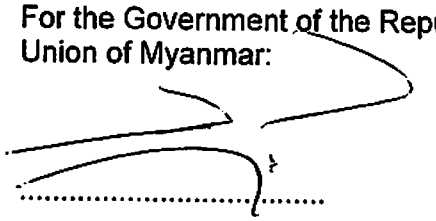
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For the Government of Malaysia:



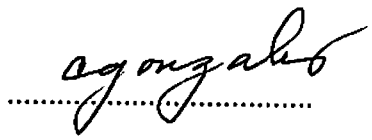
Date: 20 Dec 2013

For the Government of the Republic of Union of Myanmar:



Date: 20 Dec 2013

For the Government of the Republic of the Philippines:



Date: 20 Dec 2013





For the Government of the Republic of Singapore:

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Date:...20 Dec 2013.....

For the Government of the Kingdom of Thailand:

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Date:...19 Nov 2014.....

For the Government of the Socialist Republic ~~of Viet Nam~~:

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Date:...20 Dec 2013.....



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