

## 关于缔约各方第五种自由业务权的第二议定书

中华人民共和国(以下称中国)政府和东南亚国家联盟(东盟)各成员国政府,包括文莱达鲁萨兰国、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、泰王国和越南社会主义共和国(以下合称东盟各成员国,或在指单一国家时称东盟成员国);

以上国家政府合称缔约各方或单指一东盟成员国或中国时称缔约一方;

忆及于二〇一一年八月九日生效的《中华人民共和国政府和东南亚国家联盟各成员国政府航空运输协定》(以下称协定);

承认该协定的附件三规定了缔结协定的实施议定书;

愿消除对航班服务的限制,从而实现东盟和中国之间及以远地区的航班服务完全自由化;

达成协议如下:

## 第一条 航线、班次和业务权

### 一、中国享有：

(一) 经营从 28 个中国境内规定地点中的任何点，经过 10 个东盟境内规定地点中的任何点，至 10 个东盟境内规定地点中的任何点，并以远至 10 个东盟境内规定地点中的任何点的客运和（或）货运往返航班的充分的第五种自由业务权，班次不限、机型不限；以及

(二) 对于每一东盟成员国而言，经营从 10 个中国境内规定地点中的一点，经过中国和东盟境外的任何点，至 10 个东盟境内规定地点中的任何点，即该东盟成员国境内一点，并以远至中国和东盟境外任何点的客运和（或）货运往返航班的第五种自由业务权，每周不超过 14 班、机型不限。

### 二、每一东盟成员国享有：

(一) 经营从 10 个东盟境内规定地点中的一点，即指定该空运企业的东盟成员国境内一点，经过 10 个东盟境内规定地点中的任何点，至 28 个中国境内规定地点中的任何点，并以远至 10 个东盟境内规定地点中的任何点的客运和（或）货运往返航班的充分的第五种自由业务权，班次不限、机型不限；以及

(二) 经营从 10 个东盟境内规定地点中的一点，即指定该空运企业的东盟成员国境内一点，经过中国和东盟境外的任何

点，至 10 个中国境内规定地点中的任何点，并以远至中国和东盟境外任何点的客运和（或）货运往返航班的第五种自由业务权，每周不超过 14 班、机型不限。

三、就本条而言：

（一）“10 个东盟境内规定地点”指斯里巴加湾、西哈努克市、马塔兰、琅勃拉邦、哥打基纳巴卢、除仰光外缅甸任意一点、除马尼拉外菲律宾任意一点、新加坡、清迈、除河内和胡志明市外越南任意一点；

（二）“28 个中国境内规定地点”指长春、长沙、成都、重庆、大连、福州、桂林、贵阳、海口、哈尔滨、呼和浩特、喀什、昆明、兰州、拉萨、三亚、沈阳、南宁、宁波、乌鲁木齐、武汉、西安、厦门、西宁、西双版纳、延吉、银川、郑州；

（三）“10 个中国境内规定地点”指长沙、成都、重庆、桂林、昆明、南宁、乌鲁木齐、西安、厦门或福州、郑州。

四、（一）当缔约一方的指定空运企业行使的航权涉及需书面通知的地点时，该缔约方应至少提前一个月以书面形式通知东盟秘书长（以下称保存人）其有关如下点的选择：

1. 本条第三款第一项中提及的缅甸、菲律宾和越南境内的一点；以及（或者）

2. 本条第三款第三项中提及的厦门或福州。

保存人应立即告知缔约各方此书面通知；

(二) 缔约一方可以修改其在缅甸、菲律宾或越南，或者厦门或福州中的任何一个已选点。此种修订应根据本条第四款第一项中规定的程序实施。

## 第二条 最后规定

一、本议定书应交由协定保存人保存。保存人应立即向每一缔约方提供一份经核证无误的议定书副本。

二、每一缔约方应在批准(核准)本协定第一议定书之后，批准(核准)本议定书。

三、每一缔约方应完成本议定书生效所需的国内相关法律程序。在完成国内法律程序后，每一缔约方应向保存人发出书面通知，由保存人立即告知每一缔约方。

四、本议定书应在将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。对于在本议定书生效后交存书面通知的缔约方，本议定书应在该缔约方交存其书面通知之日起对该缔约方生效。

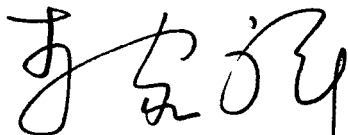
五、根据协定的第二十二條(修改)，对本议定书的规定所

做的任何修改，应经所有缔约方同意之后方可生效。

下列代表，经其各自政府正式授权，在本议定书上签字，以昭信守。本议定书于以下日期签订，一式两份，每份均用中文和英文写成，两种文本同等作准。如对文本的解释产生分歧，以英文本为准。

中华人民共和国政府

代表



LI JUNXIANG  
日期.....2013.12.25

文莱达鲁萨兰国政府

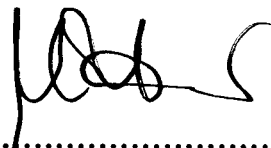
代表



ABDUL MUHSIN BAKAR  
日期.....

柬埔寨王国政府

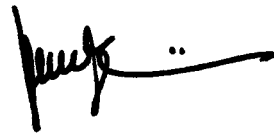
代表



H.E. KIM  
日期.....

印度尼西亚共和国政府

代表 (INDONESIA)



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S. L. NATICINDAAN

日期.....

老挝人民民主共和国政府

代表 (LAO)

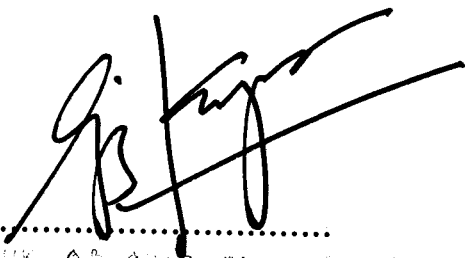


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SOMMAD PHOLSEMA

日期.....

马来西亚政府

代表 (MYS)



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DATUK ABU AZIZ BIN MOHAMMAD

日期.....

缅甸联邦政府

代表 MYA

日期..... MYAN MAR AUNG

菲律宾共和国政府

代表 PHILIPPINES

日期.....

新加坡共和国政府

代表 SINGAPORE

日期..... LUH SUCK YEW

泰国政府:

代表 THA

*ACH Pajin Juthy*  
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日期.....

越南社会主义共和国政府

代表 VIET NAM

*Ullay*

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DINH LA HANG

日期.....



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

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

and

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**");

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 Government of the People's Republic of China and the Governments of the Member States of the Association of Southeast Asian Nations 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;

**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. 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

(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.

2. 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.

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 Depository") of its nomination of:
- (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 Depository 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 Depository, 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 Depository, who shall promptly inform each Contracting Party of such deposit.
4. This Protocol shall enter into force on the date of deposit with the Depository of:
  - (a) the written notification from China; and

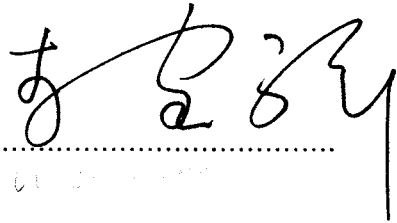
(b) written notifications from at least two ASEAN Member States,

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.

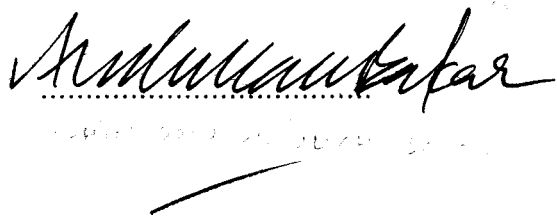
**IN WITNESS WHEREOF**, the undersigned, being duly authorised to sign by their respective Governments, have signed Protocol 2 on Fifth (5<sup>th</sup>) Freedom Traffic Rights between Contracting Parties, on the dates herein below indicated, in duplicate in the Chinese and English languages, both texts being equally authentic. In the event of divergence of interpretation, the English text shall prevail.

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



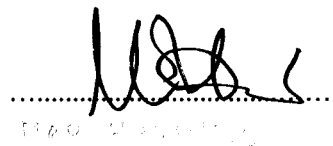
Date: 2013. 12. 25

For the Government of Brunei  
Darussalam:



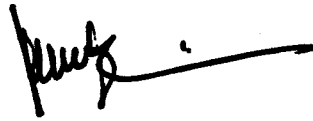
Date: .....

For the the Government of Kingdom of  
Cambodia:



Date: .....

For the Government of the Republic of  
Indonesia:



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E.E. MANGINDADI

Date:.....

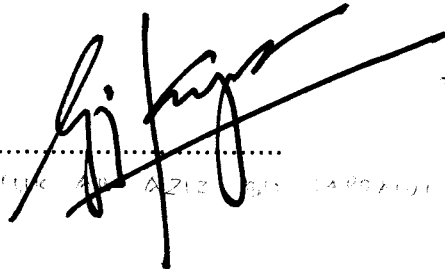
For the Government of the Lao  
People's Democratic Republic:



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SOMMAD PHOLSENA

Date:.....

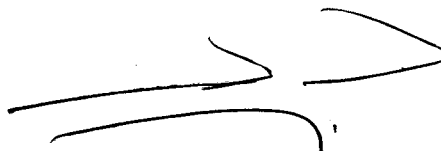
For the Government of Malaysia:



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AZHAR AZHAR

Date:.....

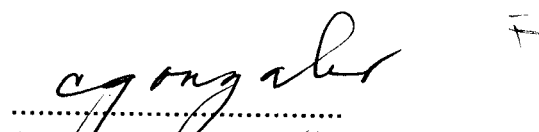
For the Government of the Republic of  
the Union of Myanmar:



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MYA HTUN AUNG

Date:.....

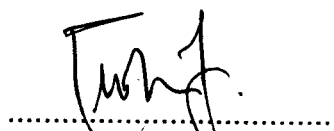
For the Government of the Republic of  
the Philippines:



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ATTY. CARLOS P. SISON

Date:.....

For the Government of the Republic of  
Singapore:



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LUITOCK CHEW

Date:.....

For the Government of the Kingdom of  
Thailand:

*ACH Pajin Jitay*  
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Date:.....

For the Government of the Socialist  
Republic of Viet Nam:

*Uthay*  

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DIEM CA TANG

Date:.....