

No. 12781

MULTILATERAL

Multilateral Agreement on commercial rights of non-scheduled air services among the Association of South-East Asian Nations (with annex). Done at Manila on 13 March 1971

Authentic text: English.

Registered by the Philippines on 10 October 1973.

MULTILATÉRAL

Accord multilatéral relatif aux droits commerciaux des services aériens non réguliers entre membres de l'Association des nations de l'Asie du Sud-Est (avec annexe). Fait à Manille le 13 mars 1971

Texte authentique: anglais.

Enregistré par les Philippines le 10 octobre 1973.

MULTILATERAL AGREEMENT¹ ON COMMERCIAL RIGHTS OF NON-SCHEDULED AIR SERVICES AMONG THE ASSOCIATION OF SOUTH-EAST ASIAN NATIONS

The Governments of the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand,

Being members of the Association of South-East Asian Nations (hereinafter referred to as "ASEAN") and of the International Civil Aviation Organization (hereinafter referred to as "ICAO"),

Desiring to accelerate and intensify the implementation of the aims and purposes of ASEAN as embodied in the ASEAN Declaration,

And considering that it is in the interest of States Parties to the Agreement that aircraft engaged in non-scheduled commercial flights which do not harm scheduled services may be admitted freely to their territories for purposes of taking on or discharging passengers and cargo and to define in such Agreement the rights and privilege of their respective commercial aircraft to take on passenger and cargo for pay or hire on other than scheduled international services,

Have agreed as follows:

Article 1. This Agreement applies to any civil aircraft

- (a) registered in an ASEAN State and
- (b) operated by a national of one of the Member States or a firm or corporation substantially owned and having effective control by nationals of one of the Member States duly authorized by the competent aeronautical authority of that State; and
- (c) engaged in non-scheduled international flights for pay for hire in the territories within the ASEAN region.

Article 2. The Member States of ASEAN agree to admit the aircraft referred to in article 1 of the Agreement freely to their respective territories for the purpose of taking on or discharging third and fourth freedom traffic in respect of the airports contained in the annex to this Agreement without the imposition of the regulations, conditions or limitations provided for in paragraph 2, article 5 of the Chicago Convention² except for traffic control where such aircraft are engaged in

- (a) flights for the purpose of meeting emergency or humanitarian needs;

¹ Came into force on 2 July 1973, i.e. three months after the date of deposit of the third instrument of ratification with the Government of the Philippines, in accordance with article 6. The instruments were deposited as follows:

<i>State</i>	<i>Date of deposit</i>
Singapore	16 November 1971
Philippines	25 November 1971
Indonesia	2 April 1973

Subsequently, an instrument of ratification was deposited by the following country with the Government of the Philippines on the date indicated:

Malaysia	13 June 1973
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(Confirming the reservations made upon signature with regard to article 2 (c) and (d) of the Agreement. With effect from 14 September 1973.)

² United Nations, *Treaty Series*, vol. 15, p. 295. For the texts of the Protocols amending this Convention, see vol. 320, pp. 209 and 217; vol. 418, p. 161; vol. 514, p. 209, and vol. 740, p. 21.

- (b) taxi-class passenger flights of occasional character on request, provided that on each flight the aircraft does not carry more than eight (8) passengers and provided that destination is chosen by the hirer or hirers and no part of the capacity of the aircraft is resold to the public;
- (c) flights on which the entire space is hired by a single individual, firm, corporation or institution for the carriage of his or its personnel or merchandise provided that on each flight no part of such space is resold and the total number of passengers does not exceed forty (40) passengers and total freight does not exceed two (2) tons and provided the total frequency between any two Member States does not exceed two (2) flights per week;
- (d) flights on which the entire space is hired for the transport of freight exclusively, provided that on each flight the total freight does not exceed four (4) tons;

Article 3. The Member States further agree that for traffic control purposes in the case of non-scheduled flights referred in article 2 of this Agreement, the following information shall be submitted direct, without passing through diplomatic channels, to the Aviation Authority of the ASEAN State concerned:

- (1) name of operating company and pilot in command;
- (2) type of aircraft and registration marks;
- (3) date and estimated time of arrival at and departure from the territory of the Member State;
- (4) the itinerary of the aircraft;
- (5) the purpose of the flight, the name of the charterer, the number of passengers and the nature and amount of freight to be taken on or put down;
- (6) whether the flight to be approved is in accordance with sub-items (a), (b), (c) or (d) as appropriate of article 2 and whether the request has the approval of the Operator's national Civil Aviation Authority.

The receipt of such information shall be acknowledged.

Article 4. If any dispute arises between Member States relating to the interpretation or application of the present Agreement, they shall, in the first place, endeavour to settle it by negotiation between themselves.

If they fail to reach a settlement, they may agree to refer the dispute for decision firstly, to the Permanent Committee on Civil Air Transportation, secondly, to the ASEAN Standing Committee and lastly, to the ASEAN Foreign Ministers whose decisions shall be final.

The Member States of ASEAN undertake to comply with the final decisions given under paragraph 2 of this article.

If any Member State of ASEAN fails to comply with the decision given under paragraph 2 of this article, the other Member States may limit, withhold or revoke any rights granted to it by virtue of the present Agreement.

Article 5. This Agreement shall be open to signature by Member States of the Association of South-East Asian Nations.

It should be subjected to ratification by the signatory States.

The instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the host country.

Article 6. As soon as more than two of the signatory States have deposited their instruments of ratification of this Agreement, it shall enter into force among them, three months after the date of the deposit of the third instrument of ratification. It shall enter into force for each State which deposits its instrument of ratification three months after the deposit of such instrument of ratification.

As soon as this Agreement enters into force, it shall be registered with the International Civil Aviation Organization.

Article 7. The Member State where the instruments of ratification are deposited shall notify the Permanent Committee on Civil Air Transportation and the other Member States of the date on which the Agreement will enter into force in accordance with paragraph 1 of article 6 hereof.

Article 8. Any Member State of ASEAN may denounce this Agreement by written notification of denunciation to the Permanent Committee on Civil Air Transportation of ASEAN who shall notify the other Member States of the denunciation.

Denunciation shall take effect one year after receipt by the Permanent Committee on Civil Air Transportation of the notification of the denunciation.

Article 9. Not less than two of the Member States of ASEAN shall be entitled, by request addressed to the Permanent Committee on Civil Air Transportation given not earlier than twelve (12) months after the entry into force of this Agreement, to call for a meeting of the Member States of ASEAN in order to consider any amendments which they may propose to make to the Agreement. Such meeting shall be convened by the Permanent Committee on Civil Air Transportation, in consultation with the Standing Committee, not less than three months after notice is served to the Member States of ASEAN.

Any proposed amendment to the Agreement must be approved unanimously.

As soon as more than two of the signatory States have deposited their instruments of ratification of this amendment, it shall enter into force among them, three months after the date of the deposit of the third instrument of ratification. It shall enter into force, for each State which deposits its instrument of ratification three months after the deposit of such instruments of ratification.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE at Manila, Philippines in a single copy in the English language this thirteenth day of March, 1971.

(a) For the Government of the Republic of Indonesia:
ADAM MALIK

(b) For the Government of Malaysia:
ISMAL AL-HAJ BIN DATO HAJI ABDUL RAHMAN¹

(c) For the Government of the Republic of the Philippines:
CARLOS P. RÓMULO

¹ With the following reservation:

"1. With regard to article 2, para. (c), the total frequency between Malaysia and any other Member Country should not exceed two per month;

"2. With regard to article 2, para. (d), flights on which the entire space is hired for transport of freight exclusively between Malaysia and any other Member State should not exceed two tons."

- (d) For the Government of the Republic of Singapore:
S. RAJARATNAM
- (e) For the Government of the Kingdom of Thailand:
THANAT KHOMAN

ANNEX TO THE AGREEMENT

For the purpose of taking on or discharging third or fourth freedom traffic in respect of article 2 of this Agreement, the following airports have been designated by the Member States as points of entry:

Indonesia

Djakarta, Medan and Den Pasar

Malaysia

Kuala Lumpur, Penang and Kota Kinabalu

Philippines

Manila, Mactan, Cagayan de Oro, Davao City, Laoag and Zamboanga City

Thailand

Bangkok

Singapore

Singapore International and Seletar.
