

March 13, 1971

ASEAN AGREEMENT ON COMMERCIAL RIGHTS OF NON-SCHEDULED AIR SERVICES

Note: The Agreement entered into force for the Philippines July 2, 1973.

Reference: This Agreement is also published in 10 YEARS ASEAN 242.

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 "I.C.A.O."),

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 privileges 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

1. 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 Convention, except for traffic control where such aircraft are engaged in: —

- (a) flights for the purpose of meeting emergency or humanitarian needs;
- (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 (40) passengers and total freight does not exceed two (2) tons and provided the total frequency between any two Members 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) tonnes;

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 the departure from the territory of the Member State;
- (4) the itinerary of the aircraft;
- (5) the purpose of the flight, the name of the character, 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