

ASEAN MUTUAL RECOGNITION ARRANGEMENT ON FLIGHT CREW LICENSING

The Governments of 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, Member States of the Association of Southeast Asian Nations (ASEAN) (hereinafter referred to collectively as "ASEAN Member States" and individually as "ASEAN Member State");

RECALLING the Master Plan on ASEAN Connectivity 2025 adopted by the ASEAN Leaders at the 29th ASEAN Summit on 6 September 2016 in Vientiane, Lao PDR;

RECALLING the Implementation Framework of the ASEAN Single Aviation Market (ASAM), adopted by the 17th ASEAN Transport Ministers (ATM) Meeting on 15-16 December 2011 in Phnom Penh, Cambodia;

RECALLING the ASEAN Transport Strategic Plan 2016-2025, known as the Kuala Lumpur Transport Strategic Plan, adopted by ATM in November 2015 in Kuala Lumpur, Malaysia which details the roadmap to work towards advancing safe skies in ASEAN and to establish a mechanism to facilitate mutual recognition of approvals, certificates and licences based on an incremental/phased and confidence building approach;

ACKNOWLEDGING the important potential benefits that may arise from competitive air services and viable air transport industries;

INSPIRED by the substantial progress made in realising the ASEAN Open Skies Policy with the conclusion of the ASEAN Multilateral Agreement on the Full Liberalisation of Air Freight Services, the ASEAN Multilateral Agreement on Air Services and the ASEAN Multilateral Agreement on the Full Liberalisation of Passenger Air Services;

RECOGNISING that a well-integrated, efficient and competitive regional air transport market is important to develop trade, benefit consumers, and promote economic growth;

RECOGNISING that safe, secure, efficient and competitive international air services are important to develop trade, benefit consumers and promote economic growth;

DESIRING to support the realisation of the vision of the ASEAN Economic Community (AEC) 2025, which calls for a deeply integrated region that will contribute towards a highly cohesive ASEAN economy and strengthen the ASEAN Single Aviation Market for a more competitive and resilient ASEAN;

DESIRING to facilitate and enhance air services and their related activities to complement the other transport facilitation and liberalisation efforts in ASEAN, while at the same time ensure the highest degree of safety and security in international air transport;

DESIRING to ensure the highest degree of safety in international air transport and to reaffirm public confidence in the safety of civil aviation;

DETERMINED to maximise the potential benefits of regulatory cooperation and convergence including, to the extent possible, through the approximation of their respective laws and regulations applicable to civil aviation;

REITERATING their commitments under the World Trade Organization Agreement on Technical Barriers to Trade and noting that the Agreement encourages Member States to enter into negotiations for the conclusion of agreement for the mutual recognition of results of each other's conformity assessment;

NOTING the different levels of development of civil aviation among ASEAN Member States; and

NOTING the general principles, general conditions and guidelines stipulated in the ASEAN Framework Agreement on Mutual Recognition Arrangements signed on 16 December 1998 in Ha Noi, Viet Nam, as well as the commitment and obligations of the AEC Blueprint, adopted by the ASEAN Leaders at the 27th ASEAN Summit on 22 November 2015 in Kuala Lumpur, Malaysia, and the ASEAN Trade in Goods Agreement (ATIGA) signed on 26 February 2009 in Cha-am, Thailand,

HAVE AGREED AS FOLLOWS:

ARTICLE 1 DEFINITIONS

For the purpose of the ASEAN Mutual Recognition Arrangement on Flight Crew Licensing (hereinafter referred to as "this MRA"):

- 1.1 **"Air service", "international air service" and "airline"** have the meanings respectively assigned to them in Article 96 of the Convention as defined in Article 1.7;
- 1.2 **"Approved Training"** means flight crew training conducted under special curricula and supervision approved by an ASEAN Member State;

- 1.3 **“Aviation Training Organisation”** means a flight crew training organisation approved by, and operating under, the supervision of an ASEAN Member State in accordance with the requirements of Annex 1 to the Convention as defined in Article 1.7 to perform Approved Training;
- 1.4 **“Approval, certificate or licence”** means any form of authorisation, of a flight crew member required by or under legislation for the piloting or operating of an aircraft;
- 1.5 **“Commercial Air Transport Operation”** means an aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire;
- 1.6 **“Country of Origin”** refers to the ASEAN Member State where the licence holder is registered as a member of and/or licenced to fly by the Licensing Authority;
- 1.7 **“Convention”** means the Convention on International Civil Aviation signed at Chicago on 7 December 1944, including (i) any amendment that has entered into force pursuant to its Article 94(a) and has been ratified by all ASEAN Member States; and (ii) any Annex or any amendment thereto adopted under Article 90, insofar as such Annexes or amendments are, at any given time, effective for all the ASEAN Member States;
- 1.8 **“Domestic Regulations”** refers to laws, by-laws, regulations, rules, orders of respective ASEAN Member States as well as directives, guidelines and standards, relating to civil aviation;
- 1.9 **“Flight Crew Member”** means a licenced crew member charged with duties essential to the operation of an aircraft during a flight duty period;

- 1.10 **“Licensing Authority”** means the Authority designated by an ASEAN Member State as responsible for the licensing of personnel;
- 1.11 **“National Aviation Administration”** or **“NAA”** means any person or body authorised to perform the regulatory functions related to civil aviation exercisable by the Minister responsible for Civil Aviation;
- 1.12 **“Rendering (a licence) valid”** means the action taken by an ASEAN Member State, as an alternative to issuing its own licence, in accepting a licence issued by any other ASEAN Member State as the equivalent of its own licence;
- 1.13 **“State of Licence Issue”** means the State that issues a licence according to Annex 1 of the Convention.
- 1.14 **“State of Registry”** means the State on whose Register the aircraft is entered in accordance with Annex 6 of the Convention.

ARTICLE 2 SCOPE AND APPLICABILITY

- 2.1 The scope of this MRA is to cover the mutual recognition of approvals, certificates and licences related to flight crew licensing issued by an ASEAN Member State’s NAA or Licensing Authority. By this, approvals, certificates and licences issued or rendered valid pursuant to, and in conformity with, as a minimum, the relevant international standards and recommended practices and procedures for air navigation services established under the Convention by an NAA of the State or Licensing Authority will be recognised for conversion by the NAA or Licensing Authority of other ASEAN Member States, provided that such approvals, certificates and licences are in compliance with a set of

accepted standards and processes recognised by the ASEAN Member States.

- 2.2 For the purpose of the incremental/phased and confidence building approach, this MRA will cover matters from qualification of training equipment, oversight capabilities, training organisations, training programmes to finally achieving conversion of licences of commercial air transport pilots operating international air carriers. Only training and licensing of Commercial Pilots, Air Transport Pilots and Multi-Crew Pilots are covered under this MRA.
- 2.3 This MRA does not cover approvals, certificates and licences for the operation of unmanned aircraft systems or remotely piloted aircraft systems.
- 2.4 The detailed procedures and scope for the implementation of mutual recognition shall be set forth in the Implementing Protocols to this MRA. Details of organisations and disciplines coverage shall be provided for in the Schedules annexed to this MRA.

ARTICLE 3 OBJECTIVES AND PRINCIPLES

- 3.1 This MRA lays down the broad principles and framework for the negotiation of mutual recognition of approvals, certificates, licences in the area of flight crew licensing between or among ASEAN Member States.
- 3.2 The objectives of this MRA are:
 - 3.2.1 to enhance aviation safety through the development of a level playing field for civil aviation industry in ASEAN;

- 3.2.2 to facilitate the exchange of services and personnel between NAAs and among the civil aviation industry of ASEAN Member States;
 - 3.2.3 to enhance efficiency of ASEAN Member States by avoiding unnecessary duplication of work in the issuance of approvals, certificates and licences;
 - 3.2.4 to exchange information in order to promote and take into consideration the development of best practices on flight crew training and licensing;
 - 3.2.5 to establish a mechanism for the mutual recognition of approvals, certificates and licences which are necessary to ensure fair competition in the civil aviation industry of ASEAN Member States through ensuring an equivalent level of standards in the grant of licence to flight crew members among ASEAN Member States; and
 - 3.2.6 to implement and maintain the mechanism referred to in Article 3.2.5 in the ASEAN Member States based on an incremental/phased confidence building approach.
- 3.3 In achieving the above objectives, ASEAN Member States shall be guided by the following principles:
- 3.3.1 promoting efficiency and quality in standards of civil aviation in ASEAN Member States;
 - 3.3.2 enhancing cooperation in civil aviation among ASEAN Member States;
 - 3.3.3 each ASEAN Member State must be comfortable with the legal and oversight systems of the other ASEAN Member States and differences between these;

- 3.3.4 respecting and conforming with the Domestic Regulations of the ASEAN Member States without lowering the standards and requirements of civil aviation in each ASEAN Member State; and
- 3.3.5 all negotiations between or among ASEAN Member States for the mutual recognition of approvals, certificates and licences shall be based on objectivity, fairness and reciprocity.

3.4 The basis of this MRA relies on the following:

- 3.4.1 alignment of ASEAN Member States to an acceptable set of accepted standards and procedures, recognising that the ASEAN Member States' systems must minimally meet International Civil Aviation Organization (ICAO) standards;
- 3.4.2 notwithstanding Article 3.4.1, respective ASEAN Member States' may have differences in relevant regulations and processes such as those filed against Annex 1 to the Convention, which should be identified and minimised, and to be accepted by ASEAN Member States. Where differences exist, these must be mitigated through meeting Special Conditions to be stipulated in the Implementing Protocols;
- 3.4.3 monitoring of the proper implementation, using agreed procedures, of the set of accepted standards and processes, including meeting of the Special Conditions to ensure that holders of approvals, certificates and licences comply with the relevant regulatory requirements of the NAA that issued the approvals, certificates and licences; and

- 3.4.4 provision of corrective measures or appropriate enforcement action in case of non-compliance with the set of accepted standards and processes referred to in the Implementing Protocols.
- 3.5 The Implementing Protocols to this MRA shall include at a minimum:
- 3.5.1 definitions;
 - 3.5.2 a description of the area of flight crew licensing to be addressed;
 - 3.5.3 provisions for reciprocal acceptance of NAA actions such as testing, inspections, qualifications, approvals, monitoring and certifications;
 - 3.5.4 details on the accountability and responsibilities of the State of Registry and State of Licence Issue in such recognition of approvals, certificates and licences relating to flight crew licensing;
 - 3.5.5 provisions for mutual cooperation and technical assistance;
 - 3.5.6 provisions for periodic evaluations, and surveillance and enforcement;
 - 3.5.7 provisions for amendments to or termination of the Implementing Protocols;
 - 3.5.8 a set of accepted standards and procedures, and Special Conditions to address differences in standards, rules, procedures, practices and systems.
- 3.6 In order for an ASEAN Member State to submit its instrument of ratification or acceptance to this MRA or

any Implementing Protocol, it shall first meet the following criteria of safety and oversight standards:

- 3.6.1 attain a minimum ICAO Universal Oversight Audit Programme (USOAP) Continuous Monitoring Approach (CMA) Effective Implementation (EI) of 60% or the current global average, whichever is higher, and respective global average scores in specific areas of Personnel Licensing and Organisation and Legislation, as well as in the eight Critical Elements; and
 - 3.6.2 have no Significant Safety Concerns (SSCs) attributed to deficiencies in the areas of Personnel Licensing or Organisation or Legislation.
- 3.7 If an ASEAN Member State fails to meet the requisite USOAP EI or is awarded an SSC, the ASEAN Member State must demonstrate a plan to the other ASEAN Member States to resolve the deficiency within an agreed timeline, failing which, other ASEAN Member States may choose to suspend mutual recognition for any new licences until the deficiency is resolved.
- 3.8 Each Implementing Protocol shall have an Annex containing a Whitelist, and details of States and flight simulation training devices (FSTDs) and aviation training organisation (ATOs) who have met the requisite qualifying conditions stipulated by the Implementing Protocol. Only licence-holders from the whitelisted States and FSTDs/ATOs may qualify for licence ratings conversion under the relevant Implementing Protocol on licences and ratings.

ARTICLE 4

COMMITMENTS FROM ASEAN MEMBER STATES

4.1 ASEAN Member States undertake to exchange information in order to strengthen mutual confidence and to ensure the smooth operation of this MRA. Such exchange shall be supported by a database of technical information pertaining to this MRA, which will cover issues such as regulatory technical requirements and changes thereof, as well as performance results of verification/surveillance/reassessment visits to the ASEAN Member States.

4.2 Each ASEAN Member State shall undertake to:

4.2.1 equally recognise the approvals, certificates, and licences issued by each respective ASEAN Member State's NAA or Licensing Authority pursuant to the scope and provisions of this MRA and ensure that their respective NAAs are empowered to meet these obligations;

4.2.2 promote government and public awareness of equal recognition of approvals, certificates and licences issued by each respective ASEAN Member State's NAA and Licensing Authority, maintain confidentiality commitments, accept legal and liability responsibilities, and develop advisory publications to outline requirements for industry on how to participate in this MRA;

4.2.3 use common complaints processes;

4.2.4 use an agreed format and data repository for conformity/differences assessment results and using a single database;

4.2.5 establish and participate in a management mechanism such as committee instituted pursuant to this MRA to oversee the implementation of this MRA and its Implementing Protocols and to validate compliance of ASEAN

Member States and their regulated entities with the set of accepted standards and procedures;

- 4.2.6 promptly advise the ASEAN Member State's NAA of any major investigation or enforcement actions against any Aviation Training Organisation that it had been approved to participate in this MRA;
- 4.2.7 ensure that licence holders under the register of the ASEAN Member State comply with the requirements of the State of Licence Issue at a satisfactory level; and
- 4.2.8 identify and update its representatives responsible for the administration and implementation of this MRA and its Implementing Protocols within its territory.

4.3 The mechanism pursuant to Article 4.2.5 shall:

- 4.3.1 manage the initiation and implementation of this MRA and its Implementing Protocols, and deal with on-going adjustments and any other matters related to the smooth operation of this MRA, including future changes and adjustments;
- 4.3.2 develop sets of consistent procedures required for this MRA in order to streamline the implementation;
- 4.3.3 decide on the coverage before implementation; and
- 4.3.4 assist, where appropriate, in dispute resolution in accordance with the terms of this MRA.

4.4 The functions of this mechanism pursuant to Article 4.2.5 shall include:

- 4.4.1 performing a comparison of ASEAN Member States' regulations and procedures, and to develop, monitor, maintain and promote a set of mutually acceptable accepted standards and procedures that are aligned to ICAO's Standards and Recommended Practices (SARPs) for facilitating mutual recognition by ASEAN Member States;
- 4.4.2 facilitating mutual acceptance of approvals, certificates and licences and to develop and promote strategies to help ASEAN Member States, their Licensing Authorities and industry reduce duplicative regulatory barriers and manage their processes in an effective and non-discriminatory manner;
- 4.4.3 through the mechanisms available in each ASEAN Member State, encouraging the relevant governments and Licensing Authorities to adopt and implement streamlined procedures for the conversion of flight crew licences;
- 4.4.4 continuing mutual monitoring and information exchange by whatever means that is considered most appropriate, including but not limited to:
 - 4.4.4.1 the development, implementation and conduct of a mechanism of regular surveillance and onsite reassessment visits, enhanced where appropriate by other surveillance activities. This should include a report on their status, indicating where they meet or fail to meet criteria (or other information which may impact the decision) for membership, and their availability of or access to the necessary technical resources to sustain their commitment

and allow them to meet their obligations under this MRA; and

- 4.4.4.2 regular communication and sharing of information concerning laws, regulations, and policies of the ASEAN Member States which may affect flight crew licensing; assessment procedures, criteria, systems, manuals, publications and list of recognised licence holders.
- 4.4.5 handling regulatory issues concerning acceptance of approvals, certificates or licences, including:
 - 4.4.5.1 how recognition of approvals, certificates, and licences under the terms of the MRA will be conducted;
 - 4.4.5.2 requirements for assessment of the competence for the validation of an ASEAN Member State's NAA's technical specifications or regulations;
 - 4.4.5.3 how information will be disseminated on an ASEAN Member State's technical regulations and specifications and their proper interpretations;
 - 4.4.5.4 developing training and information programmes required to support the operations arising from this MRA; and
 - 4.4.5.5 setting criteria for determining the competence of the NAAs of the ASEAN Member States, as well as what programmes will operate to monitor the ASEAN Member States' NAAs.

ARTICLE 5
RELATIONSHIP TO OTHER AGREEMENTS

- 5.1 This MRA and its Implementing Protocols shall supersede any agreements or arrangements among ASEAN Member States on the same areas covered under this MRA, but shall not affect agreements or agreements in other areas which exist or are being pursued by ASEAN Member States.
- 5.2 If all ASEAN Member States are party to a multilateral agreement, or endorse a decision adopted by the ICAO or another international organisation, that addresses matters covered by this MRA, they shall consult on whether it is necessary to amend this MRA.

ARTICLE 6
DISPUTE SETTLEMENT

- 6.1 ASEAN Member States shall make every attempt through communication, dialogue, consultation and cooperation to arrive at a mutually satisfactory resolution of any matter that may affect the implementation of this MRA.
- 6.2 Any dispute between ASEAN Member States concerning the interpretation or application of this MRA and its Implementing Protocols shall, as far as possible, be settled amicably between the ASEAN Member States concerned. If a settlement cannot be reached, the dispute shall be settled in accordance with the ASEAN Protocol on Enhanced Dispute Settlement Mechanism, signed on 29 November 2004 in Vientiane, Lao PDR and amendments thereto.

ARTICLE 7
PROTECTION OF DATA AND REQUESTS FOR INFORMATION

- 7.1 ASEAN Member States recognise that information related to this MRA submitted by a regulated entity or an ASEAN Member State may contain safety data and information, intellectual property, personal data, medical records, trade secrets, confidential business information, proprietary data, or other data held in confidence by that regulated entity or another person (restricted information). Unless required or allowed by law, no ASEAN Member State or its regulated entities shall copy, release, or show information identified as restricted to anyone other than an employee of that ASEAN Member State without prior written consent of the person or entity possessing confidentiality interests in the restricted information.
- 7.2 Requests from the public for information referred to in the above paragraph, including access to documents, shall be addressed in accordance with the applicable laws and regulations that apply to the ASEAN Member State receiving such requests. An NAA receiving a request for such information supplied by the other NAA or its regulated entities shall consult with that NAA prior to releasing such information. The NAAs shall provide assistance to each other in responding to these requests as necessary.
- 7.3 ASEAN Member States shall maintain, to the extent permitted under their respective laws and regulations, the confidentiality of information exchanged under this MRA.
- 7.4 ASEAN Member States shall take all reasonable precautions necessary to protect information exchanged under this MRA from unauthorised disclosure.

ARTICLE 8 REVIEW

- 8.1 ASEAN Member States shall undertake a general review of the operation of this MRA five years after its entry into force, and every five years thereafter.
- 8.2 The general review will assess the effectiveness of the arrangements in fostering and enhancing trade and workforce mobility between ASEAN Member States, and should consider whether any amendments to the MRA are required to improve its operation or coverage.
- 8.3 The general review will include an assessment of any amendments or additions to the laws specified in the Schedules to this MRA and their consistency with the principles underpinning this MRA. It is the intention of the ASEAN Member States to minimise, as far as possible, exemptions and exclusions from this MRA and its Implementing Protocols. The general review will also examine the scope for deletions from the Schedules, consistent with the intention to minimise exemptions and exclusions from this MRA.

ARTICLE 9 SUSPENSION OF RECOGNITION OR APPROVALS

- 9.1 A temporary suspension of the recognition accorded by the approvals, certificates or licences granted in respect of flight crew licencing by a State of Licence Issue or an ASEAN Member State may be issued to the NAA of that ASEAN Member State by another ASEAN Member State for the duration of the formal review process. The State of Licence Issue or ASEAN Member State affected by the decision would be required to take immediate corrective action to the other ASEAN Member States' satisfaction. Where an NAA does not comply with the requirements of this corrective action procedure, equal recognition of approvals, certificates and licences may be withdrawn. Such action will, however, take place only after full consultation among the ASEAN Member States, as applicable.

- 9.2 Approval of an Aviation Training Organisation or an individual holder of flight crew approval, certificate or licence to participate in this MRA may be revoked on request from an ASEAN Member State, if that ASEAN Member State determines, on reasonable grounds, that the Aviation Training Organisation or an individual holder of flight crew approvals, certificates or licences does not meet the relevant safety standards.
- 9.3 If a State of Licence Issue or ASEAN Member State suspends, revokes or terminates a flight crew approval, certificate or licence which it issued, it shall notify all the other ASEAN Member States within three (3) days of its action.

ARTICLE 10 AMENDMENTS

- 10.1 This MRA may be amended by mutual agreement in writing by all ASEAN Member States.
- 10.2 Any amendment shall not prejudice the rights and obligations arising from or based upon this MRA prior or up to the date of such amendment.

ARTICLE 11 TRANSPARENCY

An ASEAN Member State wishing to amend its legislation implementing this MRA that may potentially affect this MRA, shall give notice in writing to the other ASEAN Member States not less than twelve (12) months before the proposed date of amendments, and shall advise on the reasons for such amendments.

ARTICLE 12 ENTRY INTO FORCE

- 12.1 This MRA shall be signed by all ASEAN Member States and deposited with the Secretary-General of ASEAN, who shall promptly furnish a certified true copy thereof to each ASEAN Member State.
- 12.2 This MRA shall be subject to ratification or acceptance by the ASEAN Member States in accordance with their respective internal procedures.
- 12.3 Each ASEAN Member State shall, upon the completion of its internal procedures, deposit the Instruments of Ratification or Acceptance with the Secretary-General of ASEAN, who shall promptly notify all ASEAN Member States of such deposit.
- 12.4 This MRA shall enter into force on the date of the deposit of the tenth (10th) Instrument of Ratification, or Acceptance with the Secretary-General of ASEAN.

IN WITNESS THEREOF, the undersigned being duly authorised by their respective Governments, have signed this ASEAN Mutual Recognition Arrangement on Flight Crew Licensing.

DONE at Singapore, this Thirteenth Day of October in the Year Two Thousand and Seventeen, in a single copy in the English language.

For Brunei Darussalam:

DATO MUSTAPPA SIRAT
Minister of Communications

For the Kingdom of Cambodia:

MAO HAVANNALL
Secretary of State
State Secretariat of Civil Aviation

For the Republic of Indonesia:

BUDI KARYA SUMADI
Minister of Transportation

For the Lao People's Democratic Republic:

BOUNCHANH SINHAVONG
Minister of Public Works and Transport

For Malaysia:

DATUK SERI HJ. SARIPUDDIN HJ. KASIM
Secretary General
Ministry of Transport

For the Republic of the Union of Myanmar:

THANT SIN MAUNG
Union Minister for Transport and Communications

For the Republic of the Philippines:

ARTHUR P. TUGADE
Secretary of Transportation

For the Republic of Singapore:

KHAW BOON WAN

Coordinating Minister for Infrastructure and Minister for Transport

For the Kingdom of Thailand

ARKHOM TERMPITTAYAPASITH

Minister of Transport

For the Socialist Republic of Viet Nam:

LE DINH THO

Vice Minister of Transport