

ASEAN FRAMEWORK AGREEMENT ON THE FACILITATION OF GOODS IN TRANSIT

The Members of the Association of South East Asian Nations (hereinafter referred to as "Contracting Parties");

Inspired to maintain, further develop and strengthen friendly relations and cooperation between their countries;

Reiterating their commitment to foster smooth, rapid and efficient movement of goods between and among Contracting Parties;

Recalling the decisions of the First ASEAN Informal Summit held on 30 November 1996 in Jakarta and the Second ASEAN Informal Summit held on 15 December 1997 in Kuala Lumpur, to cooperate in the area of facilitation of goods in transit and to expeditiously study the necessary measures to facilitate the transportation of goods both in transit and inter-State, covering land, maritime and air links, respectively;

Noting Article V of the General Agreement on Tariffs and Trade (GATT 1994) on "Freedom of Transit" and other relevant international conventions on goods in transit;

Agreeing that the ASEAN Framework Agreement on the Facilitation of Goods in Transit (hereinafter referred to as "this Agreement") provides the most effective arrangement for facilitating inter-State traffic and transit transport among ASEAN countries;

Undertaking to encourage and facilitate inter-State traffic and transit transport among the Contracting Parties;

Have agreed as follows :

ARTICLE 1 OBJECTIVES

The objectives of this Agreement are :

- a) to facilitate transportation of goods in transit, to support the implementation of the ASEAN Free Trade Area, and to further integrate the region's economies;
- b) to simplify and harmonize transport, trade and customs regulations and requirements for the purpose of facilitation of goods in transit; and
- c) to establish an effective, efficient, integrated and harmonized transit transport system in ASEAN.

ARTICLE 2 PRINCIPLES

The Contracting Parties shall be guided by the following principles under this Agreement:

- a) Most Favoured Nation Treatment: Contracting Parties shall accord to transit transport to or from the territory of any other Contracting Parties treatment no less favourable than the treatment accorded to transit transport to or from any other country;
- b) National Treatment : Contracting Parties shall accord to products which have been in transit through the territory of any other Contracting Party treatment no less favourable than that which would have been accorded to such products had they been transported from their place of origin to their destination without going through the territory of such other Contracting Party;
- c) Consistency : Contracting Parties shall ensure the consistent application of the relevant laws and regulations, procedures, and administration guidelines and other rulings within each Contracting Party;
- d) Simplicity : Contracting Parties shall endeavour to ensure the simplification of all transit transport procedures and requirements in ASEAN;
- e) Transparency : Contracting Parties shall make all laws, regulations, procedures and administrative notifications pertaining to the relevant authorities publicly available in a prompt, transparent and readily accessible manner;
- f) Efficiency : Contracting Parties shall ensure the efficient and effective administration of transit transport to facilitate movement of goods in transit;
- g) Appeals : Contracting Parties shall ensure that an effective mechanism for the review of the decisions by the relevant authorities of Contracting Parties is made available and accessible to users and providers of transit transport within ASEAN; and
- h) Mutual Assistance : Contracting Parties shall endeavour their utmost cooperation and mutual assistance between the concerned agencies involved in the facilitation of goods in transit in ASEAN.

PART I GENERAL PROVISIONS

ARTICLE 3 DEFINITIONS

For the purposes of this Agreement:

- (a) "Transit transport" means transit of goods and means of transport across the territory of one or more Contracting Parties, when the passage across such territory or territories, with or without transshipment, warehousing, breaking bulk or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of one or more Contracting Parties across whose territory the traffic passes;
- (b) "Internal transport" means the carriage of goods loaded in the territory of a Contracting Party for unloading at a place within the territory of the same Contracting Party;
- (c) "Means of transport" means road vehicles, railway rolling stock, sea and inland waterways craft and aircraft;

(d) "Dangerous goods" means those substances and articles which may affect the interest of environment, health, safety and national security;

(e) "Perishable goods" means fresh, chilled or frozen fish, crustacean, molluscs, fruits, vegetables, chilled or frozen meat or poultry, dairy and dairy products, eggs and egg products, and swine and pork products ; and

(f) "Secretary-General" means Secretary-General of the Association of South East Asian Nations.

ARTICLE 4 SCOPE OF APPLICATION

1. The provisions of this Agreement shall apply to transit transport.
2. Inter-State transport shall be agreed upon by all the Contracting Parties. For this purpose, the Contracting Parties shall enter into negotiations and expeditiously conclude a separate ASEAN Framework Agreement on the Facilitation of Inter-State Transport.

ARTICLE 5 GRANT OF RIGHTS

1. Subject to the provisions of this Agreement, each Contracting Party shall grant to other Contracting Parties :

- a) the right of transit transport; and
- b) the right to load and discharge third countries' goods destined for or coming from Contracting Parties.

2. The Contracting Parties, through whose territory the transit transport takes place, will endeavour to provide facilities for transit transport in accordance with the provisions of this Agreement.

3. Transit Transport shall not be subject to any unnecessary delays or restrictions and shall be exempt from customs duties, taxes and other charges except charges for specific services rendered in connection with such transport.

4. Goods carried in sealed road vehicles, combination of vehicles or container shall not be subjected to examination at Customs offices en route. However, to prevent abuses such as smuggling and fraud, Customs authorities of either Contracting Party, may in exceptional cases, and particularly when irregularity is suspected, carry out an examination of the goods at such offices or other areas designated by Customs authorities.

PART II DESIGNATION OF TRANSIT TRANSPORT ROUTES

ARTICLE 6 DESIGNATION OF TRANSIT TRANSPORT ROUTES AND FACILITIES

1. The Contracting Parties shall adopt a list of designated transit transport routes to be specified in Protocol 1 of this Agreement.

2. For the benefit of safety, the Contracting Parties shall endeavour to provide in their territories vehicle rest areas on these specified routes at appropriate intervals.

ARTICLE 7 FRONTIER FACILITIES

1. The Contracting Parties agree to designate frontier posts at border points to be specified in Protocol 2 to facilitate transit transport.

2. The Contracting Parties shall provide adequate facilities and related installations at frontier posts over the transit transport routes.

3. The Contracting Parties shall endeavour to:

(a) Provide, whenever possible, and within their national jurisdiction, frontier posts which are physically adjacent to those of other Contracting Parties concerned with control areas with checking requirements in order to facilitate the clearance and examination of the means of transport and goods in transit, so that repeated unloading and reloading of these goods may be avoided. Nothing shall prevent two or more Contracting Parties from conducting joint examination at the same place by officials of these Contracting Parties;

(b) Ensure that adequate manpower resources are made available for the speedy completion and clearance of frontier formalities, such as immigration, customs, health and foreign exchange controls;

(c) Allow goods in transit to be temporarily stored in approved places;

(d) Coordinate working hours of adjacent posts; and

(e) Provide, wherever possible, adequate parking space for containers and for vehicles awaiting goods clearance.

4. The Contracting Parties agree to be guided, wherever possible, by the provisions of the International Convention on Harmonization of Frontier Control of Goods, signed at Geneva on 21 October 1982, in their efforts to harmonise frontier facilities for goods in transit.

PART III GENERAL CONDITIONS FOR ROAD TRANSPORT

ARTICLE 8 TRAFFIC REGULATIONS

The Contracting Parties shall endeavour to take appropriate measures to ensure the harmonization of road traffic regulations in force in their territories conform in substance to the provisions of the Convention on Road Traffic, signed at Vienna on 8 November 1968, and the Convention on Road Sign and Signals, signed at Vienna on 8 November 1968.

ARTICLE 9 TRANSIT TRANSPORT SERVICES

Each Contracting Party shall allow the use of means of transport registered in other Contracting Parties to provide transit transport services on its territory in accordance

with Article 5 of this Agreement.

The type and quantity of road vehicles to be used for transit transport shall be agreed upon between all Contracting Parties, to be specified in Protocol 3, before the transport services are inaugurated. Thereafter, the type and quantity of road vehicles shall be discussed from time to time between the Contracting Parties.

ARTICLE 10

ROAD TRANSPORT PERMITS

The Contracting Parties undertake to harmonize road transport permit requirements in order to facilitate transit transport.

ARTICLE 11

TECHNICAL REQUIREMENTS OF VEHICLES

Means of transport used in road transit transport shall conform to the technical requirements regarding vehicle dimensions, maximum weights and loads, emission standards and related matters to be specified in Protocol 4.

ARTICLE 12

MUTUAL RECOGNITION OF INSPECTION CERTIFICATES

1. The Contracting Parties undertake to institute periodic inspection of road vehicles registered in each respective territory and used for transit transport operations.
2. The Contracting Parties shall recognize periodic inspection certificates of road vehicles used for transit transport issued by the other Contracting Parties, in accordance with the Agreement on the Recognition of Commercial Vehicle Inspection Certificates for Goods Vehicles and Public Service Vehicles Issued by ASEAN Member Countries signed at Singapore on 10 September 1998.

ARTICLE 13

MUTUAL RECOGNITION OF DRIVING LICENSES

The Contracting Parties shall recognize domestic driving licenses issued by all other Contracting Parties in accordance with the Agreement on the Recognition of Domestic Driving Licenses Issued by ASEAN Countries signed at Kuala Lumpur on 9 July 1985.

ARTICLE 14

MOTOR VEHICLE THIRD-PARTY INSURANCE SCHEME

1. The road vehicle entering the territory of the other Contracting Party shall strictly comply with the laws and regulations related to third-party insurance covering for the insurance of their means of transport to cover third-party liability incurred in the course of transit transport.
2. The Contracting Parties undertake to harmonize or establish a common ASEAN scheme of compulsory motor vehicle third-party liability insurance to be specified in Protocol 5.
3. The ASEAN scheme of compulsory motor vehicle third-party liability insurance shall provide, at least, all the guarantees required by the laws and regulations governing compulsory motor vehicle third-party insurance in the Contracting Parties.