ASEAN PETROLEUM SECURITY AGREEMENT

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, Lao People's Democratic Republic (Lao PDR), Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam being members of the Association of Southeast Asian Nations, hereinafter refer to collectively as "ASEAN" or "ASEAN Member States", or individually, as "ASEAN Member State";

RECALLING the Agreement on ASEAN Energy Cooperation signed in Manila, Philippines, on 24th June 1986, which emphasized co-operation among the ASEAN Member States in developing energy resources to strengthen the economic resilience of the individual ASEAN Member States as well as solidarity and integrity of ASEAN;

NOTING the ASEAN Petroleum Security Agreement (APSA) 1986 signed in Manila, Philippines, on 24th June 1986, which established the ASEAN Emergency Petroleum Sharing Scheme for crude oil and/or petroleum products in times or circumstances of both shortages and oversupply;

RECALLING further the Protocol Amending the Agreement on ASEAN Energy Cooperation signed in Bangkok, Thailand on 15th December 1995, which provided for focused energy co-operation in ASEAN to pursue cooperative activities in various areas of energy;

REALISING that energy security and self-sufficiency can be achieved through national and multinational efforts geared towards indigenous energy resource exploration, development, exploitation, distribution and transportation,

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and undertaken in a manner that both conserve the resources and preserve the environment and human habitat;

NOTING further that the importance of ASEAN energy co-operation was further underscored in the Bangkok Summit Declaration of 1995, which states that ASEAN shall ensure greater security and sustainability of energy through diversification, development and conservation of resources, the efficient use of energy, and the wider application of environmentally-sound technologies; and as reinforced in the ASEAN Second Informal Summit on 15th December 1997 in Kuala Lumpur, Malaysia, calling for cooperative activities aimed at establishing interconnecting arrangements for power and natural gas, among others, within ASEAN Power Grid (APG) and Trans-ASEAN Gas Pipeline (TAGP) Project;

AWARE that the development of the APG and the TAGP Project are two important Energy Programmes in the Hanoi Plan of Action endorsed by the ASEAN Heads of Government on 16th December 1988, the ASEAN Plan of Action for Energy Cooperation (APAEC) 1999-2004 adopted by the 17th ASEAN Ministers on Energy Meeting (AMEM) in Bangkok, Thailand on 3rd July 1999, and the APAEC 2004-2009 further adopted by the 22nd AMEM in Manila, Philippines on 9th June 2004, which had entrusted the responsibility of implementing the ASEAN Power Grid to the ASEAN Heads of Power Utilities and Authorities (HAPUA) and TAGP to the ASEAN Council on Petroleum (ASCOPE) through the auspices of the ASEAN Energy Ministers;

MINDFUL that ASEAN is increasingly becoming more dependent on petroleum resources outside the region, there is a need to recognise, coordinate and rationalise these efforts, plans and programmes to enhance security of petroleum supply for ASEAN Member States;

AWARE of the future threats and risks to the ASEAN security of petroleum supply coupled with the fact that some ASEAN Member States, which are now net oil exporters will

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in the near future become net oil importers with high dependence on petroleum resources outside the region, particularly the Middle East;

ALSO AWARE that the ability to respond to an energy emergency situation in the ASEAN Member States can be greatly enhanced by ensuring the physical availability of oil and oil products through the establishment of stockpiles on voluntary and commercial basis;

FURTHER AWARE of the changes in global energy market landscape, including but not limited to deregulation and liberalisation, and the increasing global concerns on environmental issues;

NOTING that ASEAN energy security is the key to economic resilience and that the ASEAN Vision 2020 and the ASEAN Energy Co-operation were conceived in view of such consideration;

REALISING that a review of the APSA among ASEAN Member States is necessary to further strengthen the economic resilience of the individual ASEAN Member State as well as the solidarity and integrity of ASEAN;

HAVE AGREED on the following:

ARTICLE 1
Objective

The objective of this Agreement is to enhance petroleum security, either individually or collectively, and minimise exposure to an emergency situation, through the implementation of short, medium and long term measures as hereinafter provided.

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ARTICLE 2
Definitions

For the purposes of this Agreement, the following definitions shall apply unless the context otherwise requires:

2.1 "ASEAN Member State in Distress" refers to an ASEAN Member State that had given appropriate notice to the ASCOPE Secretariat of the occurrence of a critical shortage due to an emergency situation that undermines energy security;

2.2 "Coordinated Emergency Response Measures" means the Coordinated Emergency Response Measures annexed as a Schedule to this Agreement and hereinafter referred to as "CERM";

2.3 "Critical Shortage" refers to the situation when an ASEAN Member State in Distress is experiencing a shortfall of at least ten percent (10%) of the Normal Domestic Requirement for a continuous period of at least 30 days;

2.4 "Crude Oil" means oil extracted from bituminous shales and other rock formations before any such oil has been refined or otherwise treated and includes all Natural Gas Liquids and Condensates from Natural Gas;

2.5 "Emergency Situation" refers to a situation when an ASEAN Member State is faced with Critical Shortage in petroleum supply due to natural calamity (such as earthquake and tsunami), explosion of facilities or war only;

2.6 "Natural Gas" means a mixture of hydrocarbons and varying quantities of non-hydrocarbons that exist either in the gaseous phase or in association with Crude Oil in natural underground reservoirs and is classified as either Associated Gas or Non-Associated Gas;

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2.7 "Normal Domestic Requirement" refers to the daily average domestic petroleum consumption over the twelve (12) months period immediately preceding the occurrence of the emergency situation;

2.8 "Oil Stockpile" refers to strategic crude oil and petroleum products stored in ground level storage tanks or underground storage tanks to be used for both operational and strategic reasons, and

2.9 "Petroleum" refers to crude oils, products and natural gas in its natural condition.

ARTICLE 3
Strategic Options to Enhance Petroleum Security

3.1 The ASEAN Member States shall endeavour to implement short, medium and long-term measures to minimise the exposure to emergency situation.

3.2 SHORT-TERM MEASURES

3.2.1 The ASEAN Member States shall endeavour to establish the following short-term measures:

(a) ASEAN Member State in Distress Emergency Response to Petroleum Supply Disruption

(i) During the critical shortage period, the ASEAN Member State in Distress will implement short-term measures to reduce the demand of its Normal Domestic Requirement before requesting assistance under the CERM.

(ii) Such emergency response may include, amongst others, Demand Restraint (recognizing the diversity and sovereignty of each ASEAN Member State), Fuel

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Switching, Surge Protection and Information Sharing/e-trading;

(b) Coordinated Emergency Response Measures (CERM)

(i) All ASEAN Member States shall endeavour to supply petroleum to the ASEAN Member State in Distress at the aggregate amount equal to ten percent (10%) of the Normal Domestic Requirement of the ASEAN Member State in Distress based on the terms and conditions to be negotiated among the appropriate parties in the spirit of assistance and no undue advantage shall be taken by the ASEAN Member States concerned;

(ii) The assistance rendered under CERM shall be on a voluntary and commercial basis, and

(iii) The details of the mechanism for the operationalisation of the CERM are set out in the Annex to this Agreement.

3.3 MEDIUM-AND LONG-TERM MEASURES

3.3.1 The ASEAN Member States shall endeavour to adopt the following as medium and long-term measures taking into account the ASEAN Member States' own supply situation, commitments and reliance on petroleum:

(a) ASEAN Energy Co-operation, which includes APG, TAGP, Regional Energy Policy and Planning (REPP), Coal, Renewable Energy, Energy Efficiency and Conservation;

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(b) Exploring for new petroleum resources, whereby interested or relevant parties of the ASEAN Member States may endeavour to participate on a commercial and voluntary basis in joint ventures to explore and develop petroleum resources particularly in deepwater and new frontier areas, both globally and regionally;

(c) Energy Diversification and Improvement of Energy Efficiency include leveraging on the APG and TAGP, Fuel Switching to other alternative energy, joint Research Development & Demonstration (RD & D) in Renewable Energy, Energy Efficiency and New Energy Technologies;

(d) Diversification of energy supply sources, whereby ASEAN Member States are to reduce the dependence on import from a single petroleum source;

(e) Oil and Gas markets liberalisation, whereby ASEAN Member States recognize that the deregulation and liberalisation of petroleum industry would enhance the petroleum security by allowing more players into the playing field; and

(f) Oil Stockpiling, whether individually or jointly by ASEAN Member States, shall be on a voluntary and commercial basis. The joint stockpiling may be commenced by ASEAN Member States who are ready and willing to make the commitments and cooperation.

ARTICLE 4
International Cooperation

ASEAN Member States shall endeavour to participate in international dialogues to enhance ASEAN's energy and/or

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petroleum security with ASEAN Dialogue Partners and relevant international organisations.

During periods of petroleum shortages and emergencies affecting the whole ASEAN region, the ASCOPE Secretary In Charge shall support any mechanism formalised pursuant to the 22nd AMEM in Manila, Philippines on 9 June 2004, on regional consultation and coordination.

ARTICLE 5
Institutional Framework for the CERM

5.1 The ASEAN Member States shall establish:

5.1.1 a Governing Board as the main policy making body for the CERM, which shall comprise one or more Ministers or their designated representatives from each ASEAN Member State.

5.1.2 a Management Committee which shall carry out the functions in accordance with the CERM assigned to it by the Governing Board; examine and make proposals to the Governing Board on matters related to the CERM and shall be composed of one or more senior representatives of the Government of each ASEAN Member State.

5.1.3 a Coordinating Agency to liaise with ASCOPE Secretariat and the Executing Agencies of ASEAN Member States for immediate assistance to activate the CERM to assist the ASEAN Member State in Distress.

5.2 The ASCOPE Secretariat shall be the designated institution to coordinate the implementation of the CERM, as provided for in Article 3.2.1 (b).

5.3 The meetings of the Governing Board and Management Committee shall be called by the ASCOPE Secretariat.

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5.4 The Governing Board shall appoint the Industry Advisory Group as and when necessary which shall compose of Senior Members of the Oil Companies of each ASEAN Member State.

ARTICLE 6
Settlement of Disputes

6.1 Any differences between the ASEAN Member States concerning the interpretation or application of this Agreement or any arrangements arising therefrom shall, as far as possible, be settled amicably between those ASEAN Member States.

6.2 In case the consultation referred to in Article 6.1 fails to settle the dispute within a period of 30 days or a period agreed between those ASEAN Member States, the matter shall be settled in accordance with the ASEAN Protocol on Enhanced Dispute Settlement Mechanism signed in Vientiane Lao PDR on 29th November 2004.

ARTICLE 7
Final Provisions

7.1 This Agreement shall be deposited with the Secretary-General of ASEAN who shall promptly furnish a certified true copy to each ASEAN Member State.

7.2 This Agreement is subject to ratification or acceptance by all the ASEAN Member States. The Instrument of Ratification or Acceptance shall be deposited with the Secretary-General of ASEAN who shall promptly inform each ASEAN Member State of such deposit.

7.3 This Agreement shall enter into force on the thirtieth (30th) day after the deposit of the tenth (10th) Instrument of Ratification or Acceptance.

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7.4 No reservations may be made to this Agreement either at the time of signature or ratification or acceptance.

7.5 The Annex on CERM shall constitute an integral part of this Agreement.

7.6 Any amendment to the provisions of this Agreement and its Schedule on the Mechanism for the Operationalisation of the CERM shall be effected by consent of all the ASEAN Member States and shall become effective on a mutually agreed date.

7.7 This Agreement shall supersede the ASEAN Petroleum Security Agreement signed on 24th June 1986 in Manila, Philippines.

7.8 This Agreement shall remain in force for a period of ten (10) years, unless terminated earlier by agreement of all the ASEAN Member States. The expiry or termination of this Agreement shall be without prejudice to the rights and obligations of the ASEAN Member States arising from this Agreement prior to the effective date of expiry or termination of this Agreement.

7.9 An ASEAN Member State may at any time give notice of its intention to withdraw from this Agreement, by giving written notice to the Secretary-General of ASEAN, who shall immediately notify all other ASEAN Member States. Such withdrawal shall take effect six (6) months from the date of the said notice.

7.10 This Agreement may be extended beyond its period of validity, as stipulated in paragraph 7.8 of this Article, with the agreement of all ASEAN Member States.

7.11 Any ASEAN Member State may propose any amendment to the provisions of this Agreement. Such amendment shall be effected by written consent of all the ASEAN Member States. Any amendment to this Agreement

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shall be without prejudice to the rights and obligations of the ASEAN Member States, prior to the effective date of such amendment.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this ASEAN Petroleum Security Agreement.

DONE at Cha-am, Thailand, this First Day of March in the Year Two Thousand and Nine, in a single original copy in the English Language.

For Brunei Darussalam:

MOHAMED BOLKIAH
Minister of Foreign Affairs and Trade

For the Kingdom of Cambodia:

HOR NAMHONG
Deputy Prime Minister and Minister of
Foreign Affairs and International Cooperation

For the Republic of Indonesia:

DR. N. HASSAN WIRAJUDA
Minister for Foreign Affairs

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For the Lao People's Democratic Republic:

DR. THONGLOUN SISOULITH
Deputy Prime Minister and Minister of Foreign Affairs

For Malaysia:

DR. RAIS YATIM
Minister of Foreign Affairs

For the Union of Myanmar:

NYAN WIN
Minister for Foreign Affairs

For the Republic of the Philippines:

ALBERTO G. ROMULO
Secretary of Foreign Affairs

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For the Republic of Singapore:

GEORGE YONG-BOON YEO
Minister for Foreign Affairs

For the Kingdom of Thailand:

WANNARAT CHANNUKUL
Minister of Energy

For the Socialist Republic of Viet Nam:

VU HUY HOANG
Minister of Industry and Trade

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ANNEX
MECHANISM FOR THE OPERATIONALISATION OF THE COORDINATED EMERGENCY RESPONSE MEASURES

PREFACE

The Coordinated Emergency Response Measures (CERM) is hereby established under the ASEAN Petroleum Security Agreement as the framework for regional consultation and coordination.

This document provides the details for the operationalisation of the CERM to effectively assist the ASEAN Member State in Distress at the aggregate amount equal to ten percent (10%) of its Normal Domestic Requirement.

In recognition to the differences in the oil supply and political structures, and the involvement of the oil industries in the ASEAN Member States, assistance rendered under the CERM shall be made on a voluntary and commercial basis.

The Mechanism for the Operationalisation of the CERM comprises three (3) sections, as follows:

Section 1	introduces the CERM and the organisation of the CERM Management;
Section 2	explains the Trigger Mechanism of the CERM; and
Section 3	explains the procedures and operations for the activation and deactivation of the CERM.

SECTION 1
OVERVIEW OF THE CERM

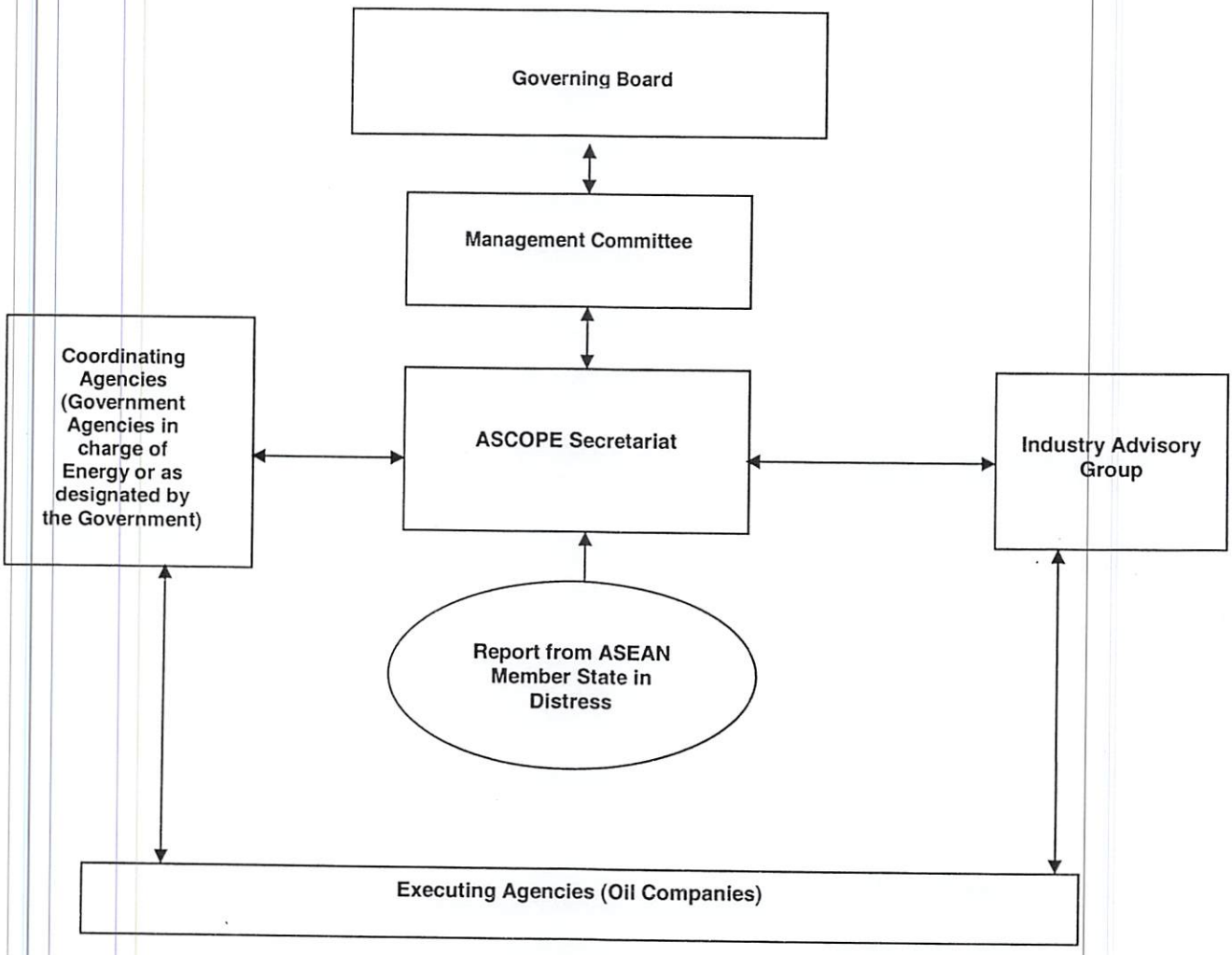
1.1 Introduction

The procedures defined under the CERM Mechanism have been designed to facilitate the activation/deactivation of emergency measures to assist the ASEAN Member State in Distress and foster close cooperation among the ASEAN Member States and the oil industry.

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1.2 CERM Management Organization

The operational bodies involved and their functional relationships are shown in the following diagram:



The functions and responsibilities of the operational bodies shown in the diagram and described below:

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Governing Board	The main policy making body and is composed of one or more Ministers or their duly designated Representatives from each ASEAN Member State. In the event of a report from an ASEAN Member State in Distress of a Critical Shortage due to an emergency situation, the Governing Board shall meet promptly to consider what action should be taken.
Management Committee	Shall be composed of one or more senior representatives of the Government of each ASEAN Member State. Shall carry out the functions assigned to it by the Governing Board; examine and make proposals to the Governing Board on matters related to the CERM.
ASCOPE Secretariat	Shall be responsible for data collection and analysis, liaison with other operational bodies and coordination/monitoring of the CERM. Takes the necessary steps to activate the CERM as specified under Section 3.
Coordinating Agencies	The Coordinating Agency shall be the Government Agency in charge of Energy or as designated by the Government. The structure of the Coordinating Agency of each ASEAN Member State will differ from country to country, reflecting different oil supply and political structures and may have differing involvement of oil industry personnel. The Coordinating Agency of each ASEAN Member State liaises with the ASCOPE Secretariat and the Executing Agencies under the Emergency Situation.
Industry Advisory Group (IAG)	The Industry Advisory Group shall be composed of Senior Members of the Oil Companies of each ASEAN Member State and shall be available for consultation on issues of emergency response. The Industry Advisory Group shall advise on the practical execution of emergency measures.
Executing Agencies	The Executing Agencies are the Oil Companies participating in the implementation of the CERM.

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The Governing Board and the Management Committee shall reach agreement on all matters by consensus. Consensus shall mean agreement reached when all members agree to take a common stand on an issue.

SECTION 2
TRIGGER MECHANISM

The Trigger Mechanism comprises the following:

2.1 Trigger Calculation

The ASEAN Member State in Distress, after experiencing a shortfall of at least ten percent (10%) of the Normal Domestic Requirement for a continuous period of at least 30 days and has implemented short-term measures to reduce the demand of its Normal Domestic Requirement on a best endeavour basis, can notify the ASCOPE Secretariat of its Emergency Situation and request assistance under the CERM.

2.2 The Finding

Whenever the trigger calculation dictates the Emergency Situation faced by an ASEAN Member State, the ASCOPE Secretariat shall make a finding and submit its report to the Governing Board through the Management Committee for consideration and approval to activate the CERM.

2.3 The Execution

Upon approval by the Governing Board, the ASCOPE Secretariat shall inform the Coordinating Agency of each ASEAN Member State of the Governing Board's decision and request voluntary assistance under the CERM.

2.4 Terms and Conditions of Assistance

All ASEAN Member States shall, subject to their domestic needs, contractual obligations, capabilities and resources, endeavour to supply petroleum to the ASEAN Member State in Distress at the aggregate amount equal to ten percent (10%) of the Normal Domestic Requirement of the ASEAN Member State in Distress.

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The assistance rendered shall be on a voluntary and commercial basis, with the terms and conditions to be negotiated among the appropriate parties in the spirit of assistance and no undue advantage shall be taken by the ASEAN Member States concerned.

Any ASEAN Member State giving assistance under the CERM may, at any time before the expiry of the duration of assistance or emergency situation, terminate assistance rendered if such assistance causes hardship to that ASEAN Member State giving voluntary assistance.

2.5 Monitoring

Following activation of the CERM, the ASCOPE Secretariat will continuously monitor the situation to indicate whether the magnitude of the emergency situation has changed. This will enable the ASCOPE Secretariat to ascertain whether a deactivation finding should be made.

SECTION 3
PROCEDURES AND OPERATIONS

The ASEAN Member State in Distress notifies the ASCOPE Secretariat of its Emergency Situation and requests assistance under the CERM. Procedures for the activation/deactivation shall be as follows:

A. Activation

Step 1 The ASCOPE Secretariat makes a finding based on its own assessment derived from a variety of information sources including the ASEAN oil data, direct information from oil companies and diplomatic channels and consult with both the government and industrial sectors in the petroleum industry, to verify the situation and submit a report to the Governing Board through the Management Committee for consideration and approval within 48 hours from the receipt of the request.

Step 2 The ASCOPE Secretariat shall call for the meeting of the Management Committee within 48 hours to review the data compiled and the information provided. On the basis of available information, the Management Committee shall report to the

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Governing Board within a further 48 hours whether the Emergency Situation exists and recommend approval to activate the CERM.

Step 3 The Governing Board shall meet within 48 hours upon receipt of the Management Committee's report and proposal. The Governing Board shall review the findings of the ASCOPE Secretariat and/or the report of the Management Committee and shall, within a further 48 hours, consider and decide whether to confirm the Emergency Situation exists and activate the CERM.

Step 4 The ASCOPE Secretariat will immediately inform the Coordinating Agency of each Member State of the Governing Board's decision and request assistance, on a voluntary and commercial basis, for the ASEAN Member State in Distress.

Step 5 The Coordinating Agencies shall inform the ASCOPE Secretariat of their readiness to provide voluntary assistance, on a commercial basis, to the ASEAN Member State in Distress under the CERM.

The assistance shall be rendered by the Executing Agencies as soon as possible on a commercial basis, with the terms and conditions to be negotiated among the appropriate parties in the spirit of assistance and no undue advantage shall be taken by the ASEAN Member States concerned.

Step 6 The ASCOPE Secretariat coordinates and monitors the implementation of the CERM.

B. Deactivation

Step 1 The ASCOPE Secretariat shall monitor the situation in the ASEAN Member State in Distress, and, upon finding that the Critical Shortage situation no longer exists, shall provide the Management Committee with a report within 48 hours of the finding.

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Step 2 Within 48 hours of the ASCOPE Secretariat's report of the finding, the Management Committee shall meet to review the data compiled and the information provided and shall report the situation to the Governing Board within a further 48 hours.

Step 3 Within 48 hours of receiving the Management Committee's report, the Governing Board shall meet to review the finding of the ASCOPE Secretariat in the light of the report from the Management Committee. The Governing Board shall consider and decide whether to confirm that the Emergency Situation no longer exists and deactivate the CERM.

The Industry Advisory Group may be called upon on a need basis for both activation and deactivation procedures.

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