NB645

AGREEMENT ON THE ESTABLISHMENT OF THE ASEAN CENTRE FOR ENERGY

The Governments of Brunei Darussalam, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Vietnam:

BEING members of the Association of South East Asian Nations (hereinafter referred to as "ASEAN");

MINDFUL of the commitment to the strategic energy issues and priorities stipulated in the Bangkok Summit Declaration of 1995 which provides, "ASEAN shall ensure greater security and sustainability of energy supply through diversification, development and conservation of resources, the efficient use of energy, and the wider application of environmentally sound technologies";

REAFFIRMING the ASEAN Energy Cooperation as stipulated in the Agreement on ASEAN Energy Cooperation signed in Manila, Philippines on 24 June 1986, in the Protocol Amending this Agreement signed in Bangkok, Thailand on 15 December 1995, and in Subang Jaya, Malaysia on 23 July 1997;

RECOGNISING the progress and accomplishments of the ASEAN-EC Energy Management Training and Research Centre (hereinafter referred to as "AEEMTRC"), in strengthening energy cooperation between the ASEAN Member Countries and between ASEAN and the European Union since 1988;

RECALLING the decision of the Fourteenth ASEAN Ministers on Energy Meeting (hereinafter referred to as "AMEM") held in Kuala Lumpur, Malaysia on 1 July 1996 to transform AEEMTRC into an ASEAN Centre for Energy;

ENCOURAGED by the continuing high economic growth of the ASEAN Member Countries and the challenges that lie ahead in the face of the interdependence of the global, regional and national energy supply security, trade and investment, and environmental concerns to which ASEAN is an important stakeholder;

DO HEREBY AGREE AS FOLLOWS:

Article 1
Establishment

1. There shall be established an ASEAN Centre for Energy (hereinafter referred to as the "Centre") beginning on 1 January 1999.

2. The Centre shall have its seat in Jakarta, Indonesia (hereinafter referred to as the "Host Country") with office venue and facilities provided by the Government of the Republic of Indonesia through the Ministry of Mines and Energy.

3. The Centre shall possess juridical personality. It shall enjoy the full capacity necessary for the exercise of its functions and the achievement of its purposes including the capacity to:

   a. conclude agreements with states, local or international organisations;
   b. contract;
   c. acquire and dispose of property; and
   d. be a party to legal proceedings.

Article 2
Purpose

The purpose of the Centre shall be to serve as a catalyst for the economic growth and development of the ASEAN region by initiating, coordinating and facilitating national as well as joint and collective activities on energy.

Article 3
Governing Council

1. There shall be a Governing Council (hereinafter referred to as the "Council") having overall responsibility for the policy direction and supervision of the Centre.

2. The Council shall comprise Leaders of the Senior Officials on Energy of the ASEAN Member Countries. A representative of the ASEAN Secretariat shall be an ex-officio member of the Council.

3. The Council shall be chaired by the Chairman of the ASEAN Senior Officials' Meeting on Energy (hereinafter referred to as "SOME").

4. The Council shall have the following responsibilities:

   a. to approve the organisational structure and provide policy guidance and directions for the Centre;

   b. to approve the rules, procedures and regulations of the Centre;

c. to approve the business plan, including the annual budget of the Centre and monitor its implementation;

d. to have overall responsibility for the Fund referred to in Article 7;

e. to appoint an Executive Director for the Centre on a rotational basis in accordance with ASEAN practice; and

f. to perform any other function as and when considered necessary to achieve the purpose under Article 2 of this Agreement.

5. The Council shall meet at least once a year in conjunction with the SOME. Special meetings may be called for by the Chairman at the request of any member of the Council. Decisions of the Council may be made in a manner to be determined by the Council. For the purpose of this paragraph, the Council may make rules and procedures regarding the holding and proceeding of meetings.

6. The Council, through the Chairman, shall report to the AMEM on the overall progress and development of the activities of the Centre.

Article 4
Executive Director

1. The Executive Director shall have a term of office of three (3) years which may be extended on an annual basis not exceeding two (2) years.

2. The Executive Director shall be responsible and accountable for the management of the Centre and all other functions that may be directed by the Council.

3. The Executive Director shall be assisted by professional and supporting staff to carry out the assigned responsibilities and functions.

4. The Council shall designate an officer to serve as the Acting Executive Director whenever the Executive Director is absent or unable to discharge his duties, or if the office of the Executive Director should become vacant. The Acting Executive Director shall have the capacity to exercise all the powers of the Executive Director pursuant to this Agreement. In the event of vacancy, the Acting Executive Director shall serve in that capacity until the assumption of office by an Executive Director appointed, as expeditiously as possible, in accordance with paragraph 4e of Article 3.

Article 5
Working Language

The working language of the Centre shall be English.

Article 6
Host Country Obligations

As a commitment to the Centre, the Host Country shall provide office space and operational facilities including among others, support for utilities. The Host Country shall also grant to the Centre and its staff privileges as may be necessary for the performance of their duties and functions similar to those accorded to the ASEAN Secretariat and its staff.

Article 7
Funding

1. The operations of the Centre shall partially be funded by all ASEAN Member Countries through the establishment of an ASEAN Energy Endowment Fund (hereinafter referred to as the "Fund").

   a. Each Member Country shall contribute to the Fund a total amount of Five Hundred Twenty Eight Thousand US Dollars (US$ 528,000) to be paid in three annual installments of One Hundred Seventy Six Thousand US Dollars (US$ 176,000) with the rights and possession of the total amount fully vested in each Member Country.

   b. Member countries shall pay the installments on or before 1 February 1998, 1 January 1999 and 1 January 2000

   c. All contributions shall be made in US Dollars payable to the Fund.

   d. A bank account for the Fund shall be opened by the ASEAN Secretariat acting as custodian and administrator of the Fund to accommodate payment of ASEAN Member Countries on or before the stipulated dates.

   e. Notwithstanding paragraph 1d above, the Council shall have overall responsibility for the Fund including the promulgation and approval of rules and procedures for the investment of the Fund and for the use of the proceeds from the Fund. All the proceeds from the Fund shall be used to finance the operations of the Centre.

   f. Any new member(s) of ASEAN who has acceded to this Agreement shall contribute to the Fund a total amount of Five Hundred Twenty Eight Thousand US Dollars (US$ 528,000). The Council shall determine the number of installments and the dates of payment.

2. The Centre shall seek and generate funds from within and other possible funding sources to finance its programmes and activities.

Article 8
Accession of New Member(s)

Any New Member(s) of ASEAN shall accede to this Agreement which shall enter into force from the date on which the Instrument of Accession is deposited with the Secretary-General of ASEAN.

Article 9
Termination

1. This Agreement may be terminated by agreement of all the ASEAN Member Countries and shall be conducted in a manner as not to prejudice their respective interests in this matter. Upon termination of this Agreement, the Centre shall stand dissolved.

2. Upon the dissolution of the Centre, the total contribution to and share of proceeds of the Fund less the costs attendant to the closure and/or any unpaid obligation of the Centre shall be returned to each contributing Member Country.

Article 10
Transitory Provision

Notwithstanding paragraph 1 of Article 4 above, the term of office of the first Executive Director of the Centre shall be for a period of five (5) years. This is to enable the Executive Director to facilitate and expedite the establishment of the Centre.

Article 11
Settlement of Dispute

Any dispute concerning the interpretation or implementation of this Agreement shall be settled amicably through consultations or negotiations among the Member Countries of ASEAN, in accordance with the ASEAN Protocol on Dispute Settlement Mechanism signed in Manila, Philippines on 20 November 1996.

Article 12
Final Provision

1. This Agreement shall be ratified by the ASEAN Member Countries and shall enter into force on the date of the deposit of the ninth instrument of ratification with the Secretary-General of ASEAN.

2. This Agreement may be amended by the consent of all the ASEAN Member Countries. Such amendments shall become effective upon the signing of the Protocol amending this Agreement.

3. This Agreement shall be deposited with the Secretary General of ASEAN who shall promptly furnish a certified copy thereof to each ASEAN Member Country.

In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed this Agreement

DONE in Manila this 22nd day of May 1998, in the English language.

For the Government of
Brunei Darussalam

H.R.H. PRINCE MOHAMED BOLKIAH
Minister of Foreign Affairs

For the Government of the
Republic of Indonesia

H.E. ALI ALATAS
Minister for Foreign Affairs

For the Government of the Lao
People's Democratic Republic

H.E. SOMSAVAT LENGSAVAD
Minister of Foreign Affairs

For the Government of
Malaysia

H. E. DATO' SERI ABDULLAH
HJ. AHMAD BADAWI
Minister of Foreign Affairs

For the Government of
the Union of Myanmar

H. E. U OHN GYAW
Minister for Foreign Affairs

For the Government of the
Republic of the Philippines

H. E. DOMINGO L. SIAZON, JR.
Secretary of Foreign Affairs

For the Government of the
Republic of Singapore

H. E. PROF. S. JAYAKUMAR
Minister for Foreign Affairs

For the Government of the
Kingdom of Thailand

H. E. SURIN PITSUWAN
Minister of Foreign Affairs

For the Government of the
Socialist Republic of Vietnam

H. E. NGUYEN MANH CAM
Deputy Prime Minister and
Minister of Foreign Affairs