PROTOCOL 5

ASEAN SCHEME OF COMPULSORY MOTOR VEHICLE INSURANCE

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, Lao People's Democratic Republic, Malaysia, 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 (hereinafter referred to as "**Contracting Parties**");

RECALLING the ASEAN Framework Agreement on the Facilitation of Goods in Transit signed on 16 December 1998 in Ha Noi, Viet Nam, (hereinafter referred to as "**the Agreement**");

RECOGNISING that Articles 14 and 25 thereof provide for the conclusion of implementing Protocols which shall form integral parts of the Agreement;

RECALLING further the Hanoi Plan of Action which was adopted by the Heads of State and Government of ASEAN at the Sixth ASEAN Summit in Ha Noi, Viet Nam on 16 December 1998 stipulates to operationalise the Agreement by the year 2000;

CONSCIOUS of the need to compensate victims of road traffic accidents caused by Transit Transport Operators and Road Transit Transport Vehicles for damage they may have sustained as a result of such accidents;

NOW, WHEREFORE, THE CONTRACTING PARTIES HAVE AGREED AS FOLLOWS:

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Article 1
Definitions

For the purpose of this Protocol, the following expressions shall have the meaning herein assigned to them:

a. **National Bureau** means the duly designated agency or instrumentality in each of the Contracting Parties to perform functions necessary for the operation of the ASEAN Scheme of Compulsory Motor Vehicle Insurance as established under this Protocol;

b. **Insurer** means the insurance company which is a member of any one of the National Bureaux;

c. **Council of Bureaux** means the body composed of representatives of all National Bureaux as established under Article 11 of this Protocol;

d. **Blue Card** means the identification card, evidencing the existence of a compulsory motor vehicle insurance policy, issued by the National Bureaux of the Contracting Parties, in accordance with the provisions of this Protocol;

e. **Road Transit Transport Vehicle** means the type of road vehicles for the use of carrying goods across the territory of one or more Contracting Parties, when the passage across such territory or territories, with or without transhipment, 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 the territory the vehicle passes and as described either on a Certificate of Insurance or on the Blue Card;

f. **Insurance Policy** means the contractual document issued by an Insurer to an insured to cover death or bodily injuries and/ or property damages arising out of the use of a road transit transport vehicle;

g. **Policy Holder** means a legal or natural person who takes out a compulsory motor vehicle insurance policy or one who holds a valid Blue Card;

h. **Road Traffic Accident** means a happening or occurrence related to a road transit transport vehicle causing death or bodily injuries and/or property damage;

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i. **Transit Transport Operators** means owners, drivers and/or agents of road transit transport vehicles who (1) have the appropriate national permit or licence to operate transport services and who have a proven compliance record to the rules and procedures under the said permit or licence, and (2) are duly registered as transit transport operators by the respective National Transit Transport Coordinating Committee (NTTCC);

Article 2
Application

Pursuant to Article 3 and paragraphs 2 and 3 of Article 14 of the Agreement, the Contracting Parties hereby agree to apply the provisions of this Protocol to the establishment of an ASEAN Scheme of Compulsory Motor Vehicle Insurance to enable Transit Transport Operators and Road Transit Transport Vehicles from each of the Contracting Parties to be adequately insured against death or bodily injuries and/ or property damages arising from road traffic accidents in the territories of the other Contracting Parties.

Article 3
Compulsory Motor Vehicle Insurance Coverage

The ASEAN Scheme of Compulsory Motor Vehicle Insurance as established by this Protocol shall provide, at least, the minimum requirements prescribed by the laws and regulations governing compulsory motor vehicle insurance in force in the country or countries of transit and of final destination.

Article 4
Obligations of the Contracting Parties

In addition to the responsibilities assumed under other provisions of this Protocol, the Contracting Parties shall endeavour to take all necessary measures for the implementation of this Protocol and, in particular:

a. Undertake to require the insurance company or companies established in their territories providing compulsory motor vehicle insurance to adopt the Blue Card scheme as described in this Protocol;

b. Undertake to enact necessary domestic laws and regulations that may be required for the implementation of this Protocol;

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c. Undertake to ensure that its National Bureau has sufficient funds to fulfil its obligations under Article 10 of this Protocol.

Article 5
Obligation to have a Blue Card

Road Transit Transport Vehicles shall have a valid Blue Card which shall be presented upon request.

Article 6
Issuance of the Blue Card

The Blue Card shall be issued by the National Bureau of each of the Contracting Parties, in accordance with Article 10 of this Protocol.

Article 7
Coverage and Validity of Blue Card

1. During the period of its validity, the Blue Card shall be proof of existence of an insurance policy for the compulsory motor vehicle insurance described in Article 3 of this Protocol.

2. The Blue Card shall be valid for a specific period of time not to exceed one calendar year, irrespective of the number of transit transport journeys to be made.

3. The Blue Card shall be valid for one specific Road Transit Transport Vehicle and shall in no case be transferable.

Article 8
Content and Form of the Blue Card

1. The Blue Card shall, ***inter alia***, include the following particulars:
   a. Name and address of the issuing National Bureau;
   b. Country(ies) in which the Insurance Policy is effective;
   c. Name(s) and address(es) of the Insurer(s);
   d. Identification of the road transit transport vehicle;
   e. Name and address of the Policy Holder;
   f. Date of issue and date of expiry of the card;
   g. Name(s) and address(es) of the National Bureau in each Contracting Party;
   h. Number(s) of the insurance policy(ies);

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i. Serial number of the card; and
j. Signature and stamp of the issuing National Bureau.

2. The form, in terms of size and shape, of the Blue Card shall be decided upon by the Council of Bureaux. It shall be printed in the English language.

Article 9
Establishment of National Bureau

1. The Contracting Parties shall establish National Bureaux whose function is prescribed in Article 10 of this Protocol.

2. The National Bureau shall be composed of licensed insurer(s) providing compulsory motor vehicle insurance.

Article 10
Functions of the National Bureau

The National Bureau shall undertake to fulfil the following functions:

a) Issue the Blue Card to its own country's Transit Transport Operators after having verified that the Transit Transport Operator has in place a motor insurance policy which meets the country's compulsory motor insurance requirements;

b) Sell the country's motor policies which provides the minimum compulsory insurance to other country's Transit Transport Operators entering the country;

c) Stamp on the Blue Card after verifying that the other country's Transit Transport Operator has purchased the requisite motor insurance policy which meets with its country's compulsory motor requirements.

d) Verify, whenever informed of a road accident caused in its territory by the holder of the Blue Card, the circumstances of the accident and on the basis, of its findings, take any action it deems necessary. It shall, in any event, advise the insurer concerned of any claims that it is handling on the latter's behalf;

e) Obtain prior authorisation from the insurer concerned before settling any claims;

f) Seek reimbursement from the insurer concerned on the amount of claims settled.

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Article 11
Establishment of a Council of Bureaux

A Council of Bureaux shall be established to coordinate and supervise the legal, technical, administrative and financial operations of the National Bureaux of all the Contracting Parties.

Article 12
Composition and Meetings of the Council of Bureaux

1. The Council of Bureaux shall consist of one representative from each National Bureau and a representative of the Transit Transport Coordinating Board established pursuant to Article 29.2 of the Agreement.

2. The Council of Bureaux shall elect its Chairman and its Vice-Chairman from among its members for a fixed term and according to the rotation principle.

3. The Council of Bureaux shall meet once a year. Additional meetings may be held at the request of any one of the National Bureaux.

Article 13
Functions of the Council of Bureaux

The Council of Bureaux shall have the following functions :

a. Determine and adopt the form and content of the Blue Card;

b. Establish its annual budget and fix the annual contributions to be paid by each National Bureau;

c. Coordinate the operations of all the National Bureaux. To this end, the Council shall prepare an Inter-Bureaux Agreement which shall be signed by all the National Bureaux and which the Council alone may amend;

d. Make recommendations to the relevant authorities, with a view to improving the ASEAN Scheme of Compulsory Motor Vehicle Insurance and strengthening road traffic accident prevention, where necessary, through amendments to the laws and regulations in force in the Contracting Parties;

e. Settle disputes between any two or more National Bureaux relating to the application or interpretation of the provisions of this Protocol; and

f. Present a report annually to the ASEAN Insurance Regulators Meeting.

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Article 14
Institutional Arrangements

1. The ASEAN Insurance Regulators Meeting shall be responsible for reviewing, coordinating and supervising all aspects relating to the effective implementation of this Protocol.

2. The ASEAN Secretariat shall submit regular reports of the progress of implementation of this Protocol to the Transit Transport Coordinating Board established pursuant to Article 29.2 of the Agreement.

3. The ASEAN Secretariat shall provide the necessary technical support and assistance to the ASEAN Insurance Regulators Meeting and other related ASEAN bodies in their functions and responsibilities under this Protocol.

Article 15
Final Provisions

1. This Protocol shall be deposited with the Secretary-General of ASEAN who shall promptly furnish a certified copy thereof to each Contracting Party.

2. This Protocol shall form an integral part of the Agreement.

3. This Protocol is subject to ratification or acceptance by the Contracting Parties. The Instrument of Ratification or Acceptance shall be deposited with the Secretary-General of ASEAN who shall promptly inform each Contracting Party of such deposit.

4. This Protocol shall enter into force upon the deposit of Instruments of Ratification or Acceptance by all Contracting Parties with the Secretary-General of ASEAN. Contracting Parties which are unable to comply with the Protocol shall be granted a grace period of two years from the date of signing of the Protocol to work towards compliance.

5. Any amendment to the provisions of this Protocol and its Annexes shall be effected by consent of all the Contracting Parties.

IN WITNESS WHEREOF, the undersigned, being duly authorised to sign by their respective Governments, have signed Protocol 5 – ASEAN Scheme of Compulsory Motor Vehicle Insurance.

DONE at Kuala Lumpur, Malaysia on the 8th day of April 2001, in a single copy in the English language.

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For the Government of Brunei Darussalam

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PRIJADI PRAPTOSUHARDJO
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TUN DAIM ZAINUDDIN
Minister of Finance

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For the Government of the Union of Myanmar

U KHIN MAUNG THEIN
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