ANNEX 4: FACILITATION OF FRONTIER CROSSING FORMALITIES

To the Agreement between and among the Governments of the Kingdom of Cambodia, the People's Republic of China, the Lao People's Democratic Republic, the Union of Myanmar, the Kingdom of Thailand, and the Socialist Republic of Viet Nam for the Facilitation of Cross-Border Transport of Goods and People (hereinafter referred to as "the Annex")

The Governments of the Kingdom of Cambodia, the People's Republic of China, the Lao People's Democratic Republic, the Union of Myanmar, the Kingdom of Thailand, and the Socialist Republic of Viet Nam (hereinafter referred to as "the Contracting Parties"),

Referring to the Agreement between and among the Governments of the Lao People's Democratic Republic, the Kingdom of Thailand, and the Socialist Republic of Viet Nam for the Facilitation of Cross-Border Transport of Goods and People, originally signed on 26 November 1999 at Vientiane, amended at Yangon on 29 November 2001, acceded to by the Kingdom of Cambodia at Yangon on 29 November 2001, acceded to by the People's Republic of China on 3 November 2002 at Phnom Penh, and acceded to by the Union of Myanmar on 19 September 2003 at Dali City (hereinafter referred to as "the Agreement"),

Referring to Articles 3(b) and (n) of the Agreement to the effect that Annexes and Protocols contain technical details or time- and/or site-specific variable elements and that they form an integral part of the Agreement and are equally binding,

Referring to Article 36 of the Agreement, as amended, per which the Agreement may be signed and ratified or accepted and enter into force separately from the Annexes and Protocols,

Referring to the Ninth GMS Ministerial Conference held in Manila in January 2000, the Seventh Meeting of the Subregional Transport Forum held in Ho Chi Minh City in August 2002, and the 11th GMS Ministerial Conference held in Phnom Penh in September 2002, where the Governments agreed to a work program to finalize the Agreement and its Annexes and Protocols by 2005, and

Referring to Article 4 of the Agreement, calling for this Annex to provide technical details,

HAVE AGREED AS FOLLOWS:

Article 1: Aim

The Contracting Parties shall endeavor to arrange to the utmost extent possible for border crossing formalities to be facilitated through simple, efficient, and speedy treatment.

Article 2: Scope

This annex applies to all cross-border movement of persons, vehicles, and goods by road also as part of a multimodal transport operation.

Article 3: Consultation, Cooperation, Coordination, and Harmonization

(a) The Contracting Parties will consult in the Joint Committee about any distortions reported in the smooth course of the border crossing formalities and will swiftly alter any procedures and practices to remedy any malfunctions.

(b) The Contracting Parties will coordinate their border control posts with respect to:

- The operating hours;
- The type of available inspection services in the respective border crossing point -(customs, quarantine, quality control/ inspection, health, immigration, etc.); and
- Which types of goods are subject to which types of border crossing clearance.

Also in the border crossing stations referred to in Protocol 1, inspection services will be available 24 hours a day, seven days a week, either through permanent staffing or by opening on request when a notice has been sent in advance, so as to assure clearance outside normal business working hours or otherwise, to be coordinated by the country pairs.

(c) The Contracting Parties will coordinate their inspection and/or clearance procedures and practices in use (e.g., single-window inspection).

(d) The Contracting Parties shall take into account the compatibility of electronic or other means of communication and data processing equipment and software format, with systems in use in the other Contracting Party when introducing, replacing, or upgrading them.

Article 4: Single-Window Inspection

(a) The Contracting Parties shall take the necessary measures to develop the simultaneous inspection and control of people, goods, and vehicles by their respective authorities.

(b) Modalities

The single-window inspection procedure can be achieved through simultaneous performance of their duties by the respective competent authorities.

Alternatively those other authorities may for that purpose delegate their competence to one another authority present at the border (e.g., the Customs Authorities) to perform it on their behalf.

Article 5: Single-Stop Customs Inspection

The Contracting Parties undertake to cooperate in order to achieve the "single-stop" practice with respect to Customs inspection.

(a) Definition

Single-Stop Customs Inspection consists of subjecting the transport operation to customs inspection only once for the purpose of crossing the border between the adjacent countries.

(b) Suggested Modalities

Single-stop customs inspection can be achieved, e.g. in, the following ways (a non-exhaustive list):

1. Joint Inspection

The two adjacent national customs authorities carry out their inspection and control jointly and simultaneously. The customs officers of the adjacent Countries assist one another to the extent possible in the performance of their duties.

2. Split Arrangement

The customs authorities from one Contracting Party specialize in a particular function, while the customs authorities from the other Contracting Party specialize in another function, e.g., according to traffic direction (outbound/inbound) or type of carriage (passenger/cargo).

3. Performance in the Foreign Territory

The customs officers from one Contracting Party are allowed to perform their duties on the territory of the other Contracting Party

4. Delegation of Authority/Mutual Recognition of Inspection

A Contracting Party delegates its inspection and control competence to the customs officers of the other adjacent Contracting Party to perform it on its behalf. Contracting Parties may mutually recognize the inspections performed by each other's customs authorities.

5. Combinations

Also combinations of the above mentioned modalities are practicable.

(c) Implementation by MOU

The particular modality of the single-stop customs inspection procedure will be agreed upon by the bordering country pairs via a bilateral Memorandum of Understanding per border crossing identified in Protocol 1.

Article 6: Harmonization, Simplification, and Language of Documents

(a) Harmonization

The Contracting Parties shall endeavor to further the use of documents relevant for border crossing formalities, aligned to the international standards and practices (e.g., for goods: the United Nations Layout Key (see the Attachment to this Annex).

(b) Simplification

The Contracting Parties shall limit and/or reduce and eliminate the number and extent of the procedures and documents required for border crossing formalities as much as possible.

(c) Language

In addition to the national language, all documents will be drawn up in English. In the event of any difference in meaning, reference will be made to the English-language version.

Article 7: Exchange of Information

The Contracting Parties will exchange through the office of the Joint Committee comprehensive information in English about their border crossing legislation, regulation, formalities, procedures, and practices, and their subsequent changes. This information will preferably be disseminated via publication on the Internet.

Article 8: Advance Exchange of Cargo Clearance Information

As soon as available, the authorities in the country of departure will dispatch the relevant border crossing clearance documents to their corresponding Host Country Authorities by all appropriate means of communication (courier, mail, facsimile, telex, electronic form, etc.)

Article 9: Priority Order of Border Crossing Clearance

The priority for the border-crossing formalities shall be in the following order without prejudice to quarantine regulations:

1. sick passengers, passengers;
2. Perishable Goods, (including fresh food);
3. live animals; and
4. other merchandise.

Article 10: Reduction of Routine and Exhaustive Physical Inspection Practice

(a) The Contracting Parties will endeavor to reduce the practice of routine physical exhaustive inspection, when not absolutely necessary for the interests of the Host Country.

(b) Transit cargo without risk for contamination or other safety risk for the transit country shall be dispensed from sanitary or other inspection, without prejudice to necessary disinfection treatment and supervision of means of transport.

(c) Customs inspection may be performed by random testing, supplemented by inspections when an irregularity is suspected.

Article 11: Availability of Required Facilities and Personnel

The Contracting Parties will see to it that the required facilities and personnel for the smooth performance of border crossing formalities (as set out in Annex 12) are available in the crossing points mentioned in Protocol 1.

Article 12: Amendment

Any Contracting Party may propose amendments to the Annex via the Joint Committee. Such amendments shall be subject to the unanimous consent of the Contracting Parties.

Article 13: Ratification or Acceptance

The Annex is subject to ratification or acceptance of the Governments of the Contracting Parties. The same applies to an amendment to the Annex, if any.

Article 14: Entry into Force

The Annex will enter into force on the day that at least two Contracting Parties have ratified or accepted it, and will become effective only among the Contracting Parties that have ratified or accepted it. The same applies to an amendment to the Annex, if any.

Article 15: Conforming National Law

Where necessary, the Contracting Parties undertake to conform their relevant national legislation with the contents of the Annex.

Article 16: Reservations

No reservation to the Annex shall be permitted.

Article 17: Suspension of the Annex

Each Contracting Party may temporarily suspend wholly or partly the application of the Annex with immediate effect in the case of emergencies affecting its national safety. The Contracting Party will inform the other Contracting Parties as soon as possible of such suspension, which will end as soon as the situation returns to normal.

Article 18: Relationship with the Agreement

As a measure to implement the principles laid down in the Agreement, the Annex cannot depart from or be contrary to these principles. In case of incompatibility between the Annex and the Agreement, the latter shall prevail. In case of incompatibility between the Annex and another annex or protocol, such incompatibility shall be interpreted in light of the Agreement.

Article 19: Relationship of the Attachment to the Annex

The attachment shall form an integral part of the Annex and shall be equally binding.

Article 20: Dispute Settlement

Any dispute between or among two or more Contracting Parties on the interpretation or application of the Annex shall be settled directly or by amicable negotiation in the Joint Committee.

Article 21: Denunciation

Once entered into force, the Annex cannot be denounced separately from the Agreement.

Attachment to Annex 4: United Nations Layout Key for Trade Documents

In witness whereof, the undersigned, being duly authorized, have signed this Annex.

Done at Phnom Penh on 30 April 2004 in six originals in the English language.

Signed:

For the Royal Government of Cambodia

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His Excellency Tram Iv Tek
Secretary of State, Ministry of Public Works and Transport

For the Government of the People's Republic of China

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His Excellency Hu Xijie
Vice Minister of Communications

For the Government of the Lao People's Democratic Republic

.....

His Excellency Sommad Pholsena
Vice Minister of Communication, Transport, Post and Construction

For the Government of the Union of Myanmar

.....

His Excellency Thura Thaung Lwin
Deputy Minister of Rail Transportation

For the Government of the Kingdom of Thailand

.....

His Excellency Nikorn Chamnong
Deputy Minister of Transport

For the Government of the Socialist Republic of Viet Nam

.....

His Excellency Pham The Minh
Vice Minister of Transport