AGREEMENT
BETWEEN
THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIET NAM
AND
THE ROYAL GOVERNMENT OF CAMBODIA
ON
WATERWAY TRANSPORTATION

The Government of the Socialist Republic of Viet Nam and the Royal Government of Cambodia, hereinafter referred to as the Contracting Paties,

Prompted by the desire to promote the friendship between the two nations, to accelerate initiatives for the encouragement of international trade and international collaboration on the basis of equality and the common benefit;

Desiring to facilitate waterborne transportation of cargo and passengers between the two countries as well as transit transportation of cargo and passengers to and from third States within the territory of the Contracting Parties;

Considering the need to update the Agreement between the Government of the Socialist Republic of Viet Nam and the Royal Government of Cambodia on Waterway Transportation, done at Hanoi on 13th of December 1998, which shall be wholly replaced by the present Agreement;

Have agreed as follows:

Chapter 1
GENERAL PROVISIONS

Article 1
Purpose of Agreement

The purpose of the present Agreement is:

(1) to establish a legal framework for the effective implementation of freedom of navigation in the Mekong river system, thereby implementing Article 9 of the Agreement

on the Cooperation for the Sustainable Development of the Mekong River Basin, done at Chiang Rai on 5 April 1995;

(2) to create favourable conditions for transit and cross-border navigation within the regulated waterways.

Article 2

Definitions

For the purpose of the present Agreement:

(1) 'Regulated waterways' means:

(a) the waterways and stretches of waterways belonging to the Mekong river system within the respective territories of the Contracting Parties which are listed in Annex A and indicated on the map in Annex B, which annexes shall be considered integral parts of the present Agreement;

(b) any other waterway jointly designated by the Contracting Parties.

(2) 'Transit routes' means those parts of the regulated waterways which are open to maritime vessels engaged in transit transportation and which are listed in Annex A and indicated on the map in Annex B, and include:

(a) the Mekong/Tien river route via the Cua Tieu up to Phnom Penh Port;

(b) the Bassac/Hau river route via the Cua Dinh An and further via the Vam Nao Pass and the Mekong/Tien River up to Phnom Penh Port;

(3) 'Freedom of navigation' means the right to freely use the regulated waterways for the purposes of navigation and related activities and services, subject to compliance with laws, rules and regulations laid down by the Contracting Parties in conformity with the present Agreement;

(4) 'Competent Authority' means:

(a) in the case of the Government of the Socialist Republic of Viet Nam, the Ministry of Transport or any other authority designated by the said Ministry;

(b) in the case of the Royal Government of Cambodia, the Ministry of Public Works and Transport or any other authority designated by the said Ministry;

(5) 'Maritime vessel' means any vessel or floating structure, flying the flag of a Contracting Party or a third state and registered as a sea-going vessel under the laws of its flag state as well as all any other vessel engaged in transit transportation;

(6) 'Inland waterway vessel' means any vessel or floating structure, including a ship, boat or barge, other than a maritime vessel, and registered as an inland waterway vessel under the laws of a Contracting Party;

(7) 'Floating structure' means a floating entity not primarily used as a means of transportation on water but for other commercial purposes such as serving as a storage or parking facility, mining, construction or repair platform or dock, crane, oil rig, dredge or dragline, with the exception of a floating entity serving as a house, residence, place of business or office;

(8) 'Family boat' means any small inland waterway vessel of not more than one deadweight tonne, carrying not more than five persons and which is not used for trading purposes;

(9) 'Transit transportation' means any waterborne transportation of goods or passengers between ports or terminals in the Kingdom of Cambodia on the one hand and ports or terminals of third countries on the other hand via the transit routes;

(10) 'Cross-border transportation' means any waterborne transportation of goods or passengers between ports or terminals of the Kingdom of Cambodia and ports or terminals of the Socialist Republic of Viet Nam via the regulated waterways, with the exception of waterborne transportation of goods or passengers that are carried on board of a vessel engaged in transit transportation;

(11) 'Cabotage' means transportation of goods or passengers between two ports or terminals within the territory of one Contracting Party;

(12) 'Port group' means all ports and terminals located in or in the immediate or wide vicinity of a given town, city, province or regulated waterway, regardless of their ownership and management structure;

(13) 'Crew member' means any person, including the master, the skipper, an officer or another servant, performing work on board of a maritime vessel or an inland waterway vessel which relates to that vessel's operation, who has relevant identification papers issued by a Contracting Party or a third flag state and whose name features on the crew list of the vessel;

(14) 'Passenger' means any person carried on board of a vessel who is not a crew member and whose name features on the passenger list;

(15) 'Dangerous goods' means goods classified in the IMDG Code or in any other relevant IMO publication as dangerous for carriage by sea, and any other substance or goods the properties of which might be dangerous if that substance or those goods were carried by sea, and includes empty receptacles, residues in empty tanks or cargo holds which have been used previously for the carriage of dangerous goods unless such receptacles, empty tanks or cargo holds have been cleaned and dried, purged, gas freed or ventilated as appropriate or in the case of radioactive materials have been both cleaned and adequately closed; but the expression shall not include goods forming part of the equipment or stores of the ship in which they are carried.

Article 3

Scope of Agreement

(1) Freedom of navigation for the purposes of transit and cross-border transportation shall apply on the regulated waterways as specified in Article 2 (1).

(2) Subject to the limitations set out in the present Agreement, freedom of navigation is granted:

(a) to vessels of the Contracting Parties as well as to vessels of third states;

(b) for maritime as well as for inland waterway transportation;

(c) for transit as well as for cross-border transportation;

(d) for the carriage of goods as well as passengers.

(3) Freedom of navigation shall include the right to use the waterways leading to and from the ports, terminals and port groups specified in Annex C, which shall be an integral part of the present Agreement.

(4) All beneficiaries of freedom of navigation are entitled to directly invoke and rely upon the provisions of the present Agreement.

(5) The present Agreement shall not apply to:

(a) vessels of international agencies, diplomatic missions, governments and rescue vessels owned or operated by any of the Contracting Parties, which shall be governed by other relevant instruments;

(b) family boats of citizens living in the border area, which shall be governed by other relevant instruments including border regulations.

Chapter 2

FREEDOM OF NAVIGATION

Subchapter A

Routes, border gates, ports and terminals

Article 4

Route for transit transportation

Maritime vessels engaged in transit transportation shall be permitted to use the transit routes.

Article 5

Route for cross-border transportation

Inland waterway vessels engaged in cross-border transportation shall be permitted to use any of the regulated waterways.

Article 6

Border gates

(1) Vessels exercising freedom of navigation for the purpose of transit or cross-border transportation shall use the border gate at Vinh Xuong – Thuong Phuoc (Viet Nam) – Kaom Samnor (Cambodia).

(2) Upon the request of either Contracting Party, the Contracting Parties shall enter into negotiations with a view to opening additional border gates in order to facilitate transportation.

(3) The preceding paragraphs shall not affect the validity of the existing agreements on the use of other border gates entered into by the provincial authorities of the Contracting Parties.

Article 7

Ports, terminals and port groups

(1) Freedom of navigation comprises the right to use the ports, terminals and port groups as specified in Annex C, which shall be an integral part of this Agreement.

(2) Competent Authority of either Contracting Party may declare the opening additional ports, terminals and port groups. Such a declaration shall be notified to the other Contracting Party through the Mekong Navigation Facilitation Committee.

Article 8

Waterway map

(1) The regulated waterways, the transit routes and the border gates specified in the preceding Articles are indicated in the waterway map in Annex B, which shall be considered an integral part of the present Agreement.

(2) Whenever the circumstances so require, but not in the case of modifications of nautical conditions of a mere temporary nature such as collisions, the Contracting Parties shall amend, revise or replace the waterway map referred to in paragraph (1).

Subchapter B

Exercise of freedom of navigation

Article 9

Non-discrimination and most-favoured nation clause

(1) The Contracting Parties shall have equal rights and opportunities in the exercise of freedom of navigation.

(2) Either Contracting Party shall refrain from any discriminatory measures against vessels of the other Contracting Party.

(3) The Contracting Parties shall mutually grant to each other's vessels the most favoured-nation treatment with regard to formalities in respect of vessel entry and departure, customs clearance and other formalities, utilisation of berths for loading and discharging of cargo, utilisation of docks, terminals and warehouses and other port facilities, as well as material supplies.

Article 10

Cabotage

Cabotage shall be reserved to vessels of the Contracting Party in whose territory the relevant regulated waterways are located, unless the Competent Authority of that Contracting Party grants an explicit derogation.

Article 11

Consecutive calls at ports or terminals

The exclusion of cabotage provided for in Article 10 shall not prevent vessels of either Contracting Party from:

(1) loading goods or embarking passengers consecutively at several ports or terminals within the territory of a Contracting Party for the purpose of carrying them to the territory of the other Contracting Party;

(2) discharging goods or disembarking passengers consecutively at several ports or terminals within the territory of a Contracting Party after having taken on board these goods or passengers within the territory of the other Contracting Party.

Article 12

Applicability and harmonisation of laws

(1) The laws, rules and regulations under which freedom of navigation shall be exercised, including on immigration, customs, health, veterinary and phytological matters, shall, with a view to an improvement of navigational conditions, be harmonised through joint decision-making. Proposals for harmonised laws, rules and regulations shall be made by the Mekong Navigation Facilitation Committee and submitted for approval to the Contracting Parties.

(2) Contractual relations between vessel operators, cargo owners, service providers etc. as well as their liability towards third parties shall be governed solely by applicable civil, commercial and maritime laws, which shall as much as possible conform to generally accepted international conventions and standards.

Article 13

Provision of necessary services

The Contracting Parties undertake to provide the necessary services in their respective territories to meet the requirements of vessels, their operators, crew members, passengers and traders.

Article 14

Documents for maritime vessels

(1) Maritime vessels shall be required to carry and, upon request of the Competent Authorities, produce documents issued under applicable international conventions or national laws of their flag state.

(2) Maritime vessels exercising freedom of navigation, including maritime vessels used for cross-border transportation, shall not be required to obtain any permit whatsoever issued by a national or local authority of any of the Contracting Parties.

Article 15

Documents and permits for inland waterway vessels

(1) Inland waterway vessels engaged in cross-border transportation shall be required to carry and, upon request of the Competent Authorities, produce the following documents:

(a) their registration certificate;

(b) technical safety and environmental protection certificates issued by national authorities or classification societies;

(c) a Cross-Border Transportation Permit issued by the Competent Authority of their respective nationality;

(d) a cargo manifest and/or a list of passengers with passport details;

(e) an insurance certificate covering the civil liabilities of the ship owner towards third parties, as far as required by applicable law;

(f) a crew member list mentioning titles as well as the professional certificates, passports and, if required, vaccination certificates of each of the crew members.

The Competent Authorities shall acknowledge and recognise all such documents which are issued under the national laws of the Contracting Parties, but reserve the right to refer irregularities, complaints and other relevant issues to the other Contracting Party.

(2) Cross-Border Transportation Permits are classified into 3 categories:

(a) Category 1: permits for vessels undertaking multiple trips, with a maximum validity of 12 months;

(b) Category 2: permits for vessels undertaking only one round trip, with a maximum validity of 60 days;

(c) Special Category: permits for vessels carrying dangerous goods, with a maximum validity of 60 days.

(3) Should a vessel not repatriate within the duration of the permit, the Competent Authority of the other Contracting Party shall, on condition that an acceptable reason be stated, issue a single extension allowing appropriate time for repatriation.

(4) Cross-Border Transportation Permits may prescribe specific routes or limit access to certain ports, terminals or port groups according to the type, capacity and purpose of the vessel.

(5) Cross-Border Transportation Permits shall be issued in accordance with the formats described in Annex D, which shall be considered an integral part of the present Agreement. They shall be done in the language of the issuing Party and in English.

(6) Both Parties shall regularly communicate to each other the updated list Cross-Border Transportation Permits stating the number of vessels, their carrying capacity, dimensions and registration numbers as well as the holders of the Permits.

Article 16

Laws and regulations on immigration, customs, health, veterinary and phytological matters, environment

(1) The laws and regulations on immigration, customs, health, veterinary and phytological matters and environment shall be enacted by the Contracting Parties.

(2) The laws and regulations referred to under paragraph (1) shall conform to applicable international conventions and generally accepted international practice.

(3) Inspections carried out under the laws and regulations referred to under paragraph (1) shall not unnecessarily impede the exercise of freedom of navigation or cause unreasonable delays.

(4) For the purpose of the application of customs laws and regulations of each Contracting Party, navigation of vessels engaged in transit transportation shall be considered maritime navigation. Except for weapons, ammunition, explosives or radioactive substances, narcotic drugs, psychotropic substances, rare and endangered animals, no transit, import or export permission whatsoever from the authorities of the transit country shall be required for the transit of goods.

Article 17

Formalities

(1) Vessels engaged in transit transportation shall fulfil all formalities related to immigration, customs, health, veterinary and phytological inspections as follows:

(a) upon entry:

(i) single stop formality carried out by the Vietnamese relevant authorities at Vung Tau or at the Cua Dinh An;

(ii) single stop formality carried out by the Cambodian relevant authorities at Phnom Penh or at any other port or terminal of destination;

(b) upon departure:

(i) single stop formality carried out by the Cambodian relevant authorities at Phnom Penh or at any other port or terminal of departure;

(ii) single stop formality carried out by the Vietnamese relevant authorities at the Vinh Xuong – Thuong Phuoc (Viet Nam) – Kaom Samnor (Cambodia) border gate.

(2) Vessels engaged in cross-border transportation shall fulfil all single-stop formalities related to immigration, customs, health, veterinary and phytological inspections at the port or terminal of departure and at the port or terminal of destination.

In case there are no relevant authorities for processing formalities at the port, the formalities shall be carried out at the border gate.

(3) Upon arrival of the vessel at any of the river mouths or border gates specified in paragraphs (1) and (2), officials belonging to relevant authorities shall board and leave vessels jointly so as to avoid unnecessary delays.

(4) The Contracting Parties shall organise all formalities and related procedures so as to enable vessels and all interested parties to fulfil them at day and by night. They shall ensure that, subject to the vessel having properly notified its expected time of arrival or departure respectively, relevant authorities are immediately available when the vessel arrives at the point where the formalities and procedures are to take place.

Article 18

Pilotage

(1) The Contracting Parties undertake to provide adequate pilotage services to all vessels requesting pilotage assistance.

(2) Pilotage shall be made compulsory only for:

(a) vessels engaged in transit or cross-border transportation of 250 GT upward;

(b) other vessels engaged in cross-border transportation carrying dangerous goods.

(3) Owners and masters of vessels other than those referred to under paragraph (2) shall have the right to obtain pilotage on condition that their request is made in advance and in conformity with international standards.

(4) Pilotage Regulations shall provide for, inter alia:

(a) the issue of Pilotage Exemption Certificates to experienced masters or skippers having good local knowledge as well as the conditions that must be met in order to obtain such Certificates;

(b) the organisation of pilotage, including the location of pilotage stations and boarding and disembarking procedures;

(c) exemptions or limitations of liability for pilotage services and pilots;

(d) any specification which is necessary for the implementation of the above principles, including detailed definitions of vessel types, specifications on tonnage, classifications of dangerous goods, as well as further rules and conditions;

(e) all other aspects of pilotage services.

(5) The Pilotage Regulations shall be laid down by the Contracting Parties. The Mekong Navigation Facilitation Committee shall make proposals for a harmonisation of the Pilotage Regulations, which shall conform to generally accepted international practice and standards.

Article 19

Crew members

(1) Crew members of vessels of either Contracting Party shall use passports or equivalent travel documents in accordance with the laws and regulations of the country of registration. Crew members of vessels engaged in transit transportation shall use their internationally recognised seamen's passports.

(2) Crew members of vessels of either Contracting Party or third states shall be permitted to contact their consular officials or their diplomatic representatives for settling any formalities.

(3) Crew members of vessels of either Contracting Party or third states shall be permitted to go ashore during the period of stay of their vessel in a port or terminal of the other Contracting Party in accordance with the latter's laws and regulations.

(4) In the case of sickness, crew members of vessels of either Contracting Party or third states shall be allowed to remain in the territory of the other Contracting Party for the time necessary for treatment, in accordance with the latter's laws and regulations.

(5) Crew members of vessels of either Contracting Party or third states may enter the territory of the other Contracting Party for the purposes of joining vessels or repatriation or for any other reason accepted by the relevant authorities, after applicable formalities were fulfilled, provided that these do not unreasonably impede the normal operation of vessels. Crew members holding valid passports or an equivalent travel document, issued by relevant authorities, and working on board of maritime and inland waterway vessels engaged in transit or cross-border transportation are exempt from entry and exit visa requirements.

Article 20

Criminal jurisdiction

(1) Persons on board of vessels engaged in transit or cross-border transportation having the nationality of either a Contracting Party or a third state shall, during their presence in the territory of any of the Contracting Parties, comply with the laws and regulations of the latter.

(2) The criminal jurisdiction of a Contracting Party should however not be exercised on board a foreign maritime or inland waterway vessel using a regulated waterway to arrest any person or to conduct any investigation in connection with any crime committed on board the vessel during its passage, save only in the following cases:

(a) if the consequences of the crime extend to that Contracting Party;

(b) if the crime is of such nature as to disturb the peace of the country or the good order of the Mekong river system;

(c) if the assistance of the local authorities has been requested by the master or the skipper of the vessel or by a diplomatic agent or consular officer of the flag State; or

(d) if such measures are necessary for the suppression of traffic in illicit or prohibited goods, including narcotic drugs or psychotropic substances, weapons, explosives or radioactive substances.

(3) In the cases provided for in paragraph (2), the Contracting Party concerned shall, if the master or the skipper so requests, notify a diplomatic agent or consular officer of the flag State before taking any steps, and shall facilitate contact between such agent or officer and the vessel's crew. In cases of emergency this notification may be communicated while the measures are being taken.

(4) In considering whether or in what manner an arrest should be made, the local authorities shall have due regard to the interests of navigation.

(5) The provisions of this Article shall not prejudice the rights of the Competent Authorities in the enforcement of the applicable laws and regulations relating to customs, public health and control measures over the safety of vessels and ports, the protection of human life, security of goods, immigration as well as the transportation of dangerous goods and environmental pollution, provided that such measures take due consideration of freedom of navigation as guaranteed by the present Agreement.

Article 21

Third party liability insurance

Vessel owners of either Contracting Party as well as foreign vessel owners shall have insurance cover or other financial security in order to cover their liabilities to third parties in conformity with applicable international conventions as well as national laws and regulations of the respective Contracting Parties.

Article 22

Assistance to vessels in distress

(1) Should a vessel be involved in a distress situation and not be able to remedy the situation, the master or the skipper shall notify this fact to the local relevant authorities. The latter shall endeavour to give assistance to the vessel as well as its crew members, passengers and cargoes and shall as soon as possible inform the diplomatic representatives and the Competent Authority of the flag state.

(2) In the event of the vessel being forced to anchor outside the allowed area, the master or the skipper shall report the location of the vessel to the local Competent Authority.

(3) In the event of a Contracting Party not having sufficient salvage or rescue capability in order to cope with a distress situation affecting a vessel of the other Contracting Party or a third state, it may allow and facilitate the other Contracting Party or third countries to bring into their national territory additional service providers, equipment and facilities for salvage and rescue purposes.

(4) In the event of cargo being salved, handled and stored on shore, cargo owners shall reimburse expenses incurred for the storage of salved properties in accordance with the existing laws of the Contracting Parties.

(5) In the event of a person on board being injured or ill, first aids shall be provided by competent authorities in conformity with applicable local and international regulations and standards.

Subchapter C

Dues, taxes and fees

Article 23

Tariff

(1) No dues of any kind may be levied anywhere on the regulated waterways and in ports and terminals, other than proportional dues in the nature of payment for specific services effectively rendered to vessels. These dues shall be as low as possible.

(2) Without prejudice to paragraph (1), vessels engaged in transit transportation shall pay a formality fee, a channel fee and, in case pilotage services are used, a pilotage fee.

(3) Without prejudice to paragraph (1), vessels engaged in cross-border transportation shall pay a formality fee, a channel fee, a tonnage fee, and, in case pilotage services are used, a pilotage fee.

(4) Vessels using the regulated waterways shall not be liable to pay any other due, tax or fee of any kind other than those specified under paragraphs (2) and (3).

(5) The tariffs of fees referred to under paragraphs (2) and (3) shall be adopted by the Competent Authorities of the Contracting Parties in conformity with the laws and regulations of the respective Contracting Parties. The Mekong Navigation Facilitation Committee shall:

(a) regularly and at least annually review the tariffs and make proposals for harmonisation to the Contracting Parties, whereby the tariffs in force upon entry into force of the present Agreement shall serve as a basis for the first revision;

(b) elaborate proposals for the introduction of more advantageous rates for regular users, such as reductions or fixed periodical rates.

(6) All dues referred to in this Article shall, both as regards their rates and the method of their application, be levied in such a manner as to avoid a detailed examination of the cargo, except in cases of suspected fraud or infringement of regulations, and so as to facilitate the prompt and efficient turnaround of vessels as well as international trade and traffic in general.

(7) The Competent Authorities shall ensure that the levying of dues and taxes and any other payment, irrespective of their nature or denomination, takes place in strict conformity with legally adopted tariffs, laws and regulations of the Contracting Party concerned.

Article 24

Exemptions from import taxes and duties

The following goods shall be exempt from import taxes and duties when brought into the territory of the other Contracting Party:

(1) fuel and lubricating oil necessary for inland waterway and maritime vessels' engines stored in tanks in a quantity within the content index in accordance with the technical standards of the country of registration;

(2) spare parts, being declared upon entry, serving as replacement, damaged parts taken out of a vessel and other necessary tools for the purpose of vessel repair during transportation;

(3) luggage, personal effects, belongings and supplies of crew members in accordance with the national regulations of the relevant Contracting Party.

Article 25.

Convertible currencies

The proceeds accruing from shipping services or other related services rendered by service providers of one Contracting Party to service recipients of the other Contracting Party shall be effected in freely convertible currencies mutually accepted by both Contracting Parties. Such proceeds can be used for making payments in, or be freely remitted from the country of either Contracting Party.

Chapter 3

TECHNICAL MANAGEMENT OF WATERWAYS

Article 26

General duties relating to maintenance and aids to navigation

Each Contracting Party shall maintain in good order the regulated waterways within its territory, and provide and maintain adequate aids to navigation so as to enable vessels, at least over the entire stretch of the transit routes, to sail permanently by day and by night.

Article 27

Minimum technical and operational requirements

Upon a proposal of the Mekong Navigation Facilitation Committee, the Contracting Parties shall adopt detailed technical and operational requirements for the regulated waterways. These requirements shall contain minimum standards for the maintenance and improvement of the navigable waterways and relate, inter alia, to the dimensions, the capacity and/or the draught of vessels as well as specify_clearances, including air clearances under bridges.

Article 28

Prohibition to impair navigability and obligation to remove obstacles

The Contracting Parties shall refrain from adopting any measures or regulations that might directly or indirectly impair navigability or make it permanently more difficult, and shall take, as soon as possible, the necessary measures to remove all obstacles and hazards to navigation.

Article 29

Designation of alternative routes

In the case of a blockade or obstruction of a fairway within the territory of a Contracting Party, the latter shall as soon as possible open another route suitable for transportation so as to ensure the uninterrupted exercise of navigation, and take all measures to restore navigability on the normal route. In the case of new routes being made available which replace existing regulated waterways, such new routes shall offer at least the same facilities to navigation, be considered regulated waterways within the meaning of this Agreement and be entirely governed by the provisions thereof.

Article 30

Cooperation on improvement works and aids to navigation

The Contracting Parties undertake to permanently cooperate with a view to the maintenance and improvement of the navigability of the regulated waterways and the necessary investments related thereto. In particular, the Contracting Parties undertake to:

(a) maintain the regulated waterways within their respective territory in order to meet the technical and operational requirements referred to in Article 27;

(b) cooperate with a view to the improvement of channels and aids to navigation, giving priority to the transit routes;

(c) seek technical, financial and other support from the Mekong River Commission and other organisations and countries.

Chapter 4

MEKONG NAVIGATION FACILITATION COMMITTEE

Article 31

Creation of the Mekong Navigation Facilitation Committee

A Committee composed of representatives of the Contracting Parties and known as the Mekong Navigation Facilitation Committee is hereby created.

Article 32

General duties of the Committee

The Mekong Navigation Facilitation Committee is charged with:

(a) ensuring the smooth implementation of the present Agreement and actively contributing to the realisation of its objectives;

(b) improving and harmonising the regulations and other conditions under which freedom of navigation is exercised;

(c) promoting and intensifying the cooperation between the Contracting Parties in all matters related to navigation in the Mekong river system and related activities;

(d) obtaining compliance with the provisions of the present Agreement.

Article 33

Specific duties of the Committee

(1) With a view to the harmonisation of laws, rules and regulations and the facilitation of navigation within the Mekong river system, the Mekong Navigation Facilitation Committee shall make proposals for the adoption and, if need be, the revision by the Contracting Parties of:

(a) rules and regulations for safe navigation and the avoidance of collisions (including rules of the road);

(b) Pilotage Regulations as referred to in Article 18;

(c) tariffs of fees as referred to in Article 23, and related conditions;

(d) rules and regulations on aids to navigation;

(e) rules and regulations on vessel traffic services;

(f) rules and regulations on the transportation of dangerous goods;

(g) rules and regulations on search and rescue services and on the provision of adequate salvage capacity;

(h) rules and regulations on coordinated cross-border pollution prevention, response and contingency plans;

(i) rules and regulations on the investigation of accidents;

(j) technical regulations on surveys of waterways and vessels;

(k) rules and regulations laying down common training and certification standards;

(l) rules and regulations on the use and operation of floating structures;

(m) any other rules deemed necessary.

(2) The implementing regulations referred to in paragraph (1) shall conform to the present Agreement, other applicable international conventions and generally accepted international standards.

(3) The Mekong Navigation Facilitation Committee is also charged with:

(a) addressing recommendations to the Competent Authorities with a view to compliance with this Agreement and its implementing regulations;

(b) investigating and proposing the opening of additional border gates as referred to in Article 6;

(c) investigating and proposing the opening of additional ports, terminals and port groups as referred to in Article 7;

(d) investigating and proposing the amendment, revision or replacement of the waterway map as referred to in Article 8;

(e) establishing and proposing minimum technical and operational requirements as referred to in Article 27;

(f) receiving communications from the Contracting Parties concerning any maintenance, improvement and investment plan, project or measure prepared or undertaken by them;

(g) receiving requests, proposals, recommendations and complaints from public authorities, natural persons, companies or other legal entities of all nationalities, including representatives of foreign countries, using the Mekong river system, and, at the request of a Contracting Party, hearing the said authorities, natural persons, companies or other legal entities and further dealing with the matter in the most appropriate way;

(h) co-operating with the Mekong River Commission and the National Mekong Committees;

(i) proposing amendments to this Agreement, if any.

Article 34

Institutional organisation of the Committee

(1) The Mekong Navigation Facilitation Committee shall consist of:

(a) an Executive Council composed of one Minister or his Alternate of either Contracting Party who is responsible for navigation;

(b) a Board composed of three members nominated by the Competent Authority of either Contracting Party, at least one of whom shall be at director-general level;

(c) Working Groups composed of representatives nominated by either Competent Authority who are experienced in the matters referred to the Working Group concerned;

(d) a Waterway Transportation Consultative Group consisting of representatives appointed by relevant waterway transport associations.

(2) Subject to prior or subsequent approval by the respective Governments, which shall be requested in due time, the Executive Council shall have powers to:

(a) establish and adopt implementing regulations under the present Agreement;

(b) take any other legally binding decision of a general or regulatory nature pertaining to the implementation of the present Agreement.

(3) The Board is charged with:

(a) preparing decisions to be taken by the Executive Council;

(b) issuing recommendations as referred to in Article 33(3)(a);

(c) dealing with third parties as provided in Article 33(3)(g) and (h);

(d) issuing guidelines and recommendations on good practices pertaining to any aspect of navigation in the Mekong river system;

(e) taking decisions in individual cases pertaining to the implementation of the present Agreement;

(f) taking all necessary measures in order to ensure the exercise of freedom of navigation and to counteract disruptions thereof.

(4) The Working Groups are charged with preparing and facilitating the work of the Executive Council and the Board and with all other tasks assigned to them by either the Executive Council or the Board.

(5) Upon request or on its own initiative, the Waterway Transportation Consultative Group shall make recommendations to the other organs of the Mekong Navigation Facilitation Committee.

(6) At its first meeting, the Executive Council shall adopt the regulations governing the organisation and functioning of the Mekong Navigation Facilitation Committee.

Chapter 5

DISPUTE SETTLEMENT

Article 35

Negotiations

Any difference which may arise in connection with the interpretation or implementation of the present Agreement shall be settled by negotiation and consultation within the Mekong Navigation Facilitation Committee. Should the difference persist, it shall be referred for settlement to the Governments of the Contracting Parties through diplomatic channels.

Article 36

Arbitration

Disputes related to this Agreement which were not settled according to Article 35 or disputes related to other applicable conventions between the Contracting Parties related to the subject-matter of the present Agreement shall be submitted to arbitration according to the principles of international law.

Chapter 6

FINAL PROVISIONS

Article 37

Entry into force

(1) This Agreement shall enter into force on the date of the last notification issued by a Contracting Party that all legal procedures required under its national law are fully completed.

(2) Immediately upon signature, this Agreement shall be applied provisionally pending the procedures specified under paragraph (1).

Article 38

Duration

The present Agreement shall be valid during five years and automatically be renewed for the next five years unless terminated by either of the Contracting Parties via diplomatic letter six (6) months before the end of the current five year-period.

Article 39

Revision, amendment and modification

(1) If either of the Contracting Parties notifies in writing the other Contracting Party of its intention to start negotiations to revise, amend or modify the Agreement, such negotiations shall start within six (6) months after the date of receipt of the notification.

(2) The following decisions shall be laid down in an agreement arrangement of the Competent Ministers of the Contracting Parties which will take immediate effect:

(a) decisions to add waterways to the list of regulated waterways, as referred to in Article 2 (1) (b);

(b) decisions to declare additional border gates open, as referred to in Article 6(2);

(c) decisions to amend, revise or replace the map referred to in Article 8(2).

Done at Phnom Penh on the 17th December 2009 in two originals in Vietnamese, Khmer and English languages, all these versions being equally authentic. In case of divergence in interpretation, the English version shall prevail.

For the Government of the Socialist Republic of Viet Nam

Le Manh Hung
Vice Minister
Ministry of Transport

For the Royal Government of Cambodia

Mom Sibon
Secretary of State
Ministry of Transport and Public Works

Annex A

List of regulated waterways and transit routes

1. Regulated waterways in Cambodia

Section number shown in the Waterway map in Annex B	Name of waterway	Starting point - End point	Length (km)
1a	Tonle Sap Lake	From Chong Kneas to Kampong Chhnang	152
1b	Tonle Sap	From Kampong Chhnang to Phnom Penh	100
1c	Mekong River	From Phnom Penh to the Kaom Samnor / Vinh Xuong border gate	102
2	Mekong River	From Kampong Cham to Phnom Penh	106

2. Regulated waterways in Viet Nam

Section number shown in the Waterway map in Annex B	Name of waterway	Starting point - End point	Length (km)
1a	Mekong/Tien River	From the Vinh Xuong / Kaom Samnor border gate to the Tan Chau Canal confluence	12.3
1b	Mekong/Tien River	From the Tan Chau Canal confluence to the Keng Thap Muoi No. 2 Canal confluence	56.3

1c	Mekong/Tien River	From the Tan Chau Canal confluence to the Vam Nao River confluence	23.5
1d	Mekong/Tien River	From the Keng Thap Muoi No. 1 Canal confluence to the Rach Ky Hon Canal confluence	112.9
1e	Mekong/Tien River	From the Rach Ky Hon Canal confluence to the sea	41.1
2a.1	Vam Nao River	From the Mekong/Tien River confluence to the Bassac/Hau River confluence	6.5
2a.2	Bassac/Hau River	From the Vam Nao River confluence to Can Tho port	68
2a.3	Bassac/Hau River	From Can Tho port to the sea (Buoy 0)	117.8
2b.1	Tan Chau Canal	From the Mekong/Tien River confluence to the Bassac/Hau River confluence	9.5
2b.2	Bassac/Hau River	From the Tan Chau Canal confluence to the Vam Nao River confluence	39.5
3a.1	Kenh Thap Muoi No 1	From the Mekong/Tien River confluence to the Vam Co Tay River	90.5
3a.2	Vam Co Tay River	From Km 43 to Km 82	39
3a.3	Kenh Thu Thua	From the Vam Co Tay confluence to the Vam Co Dong confluence	10.5
3a.4	Vam Co Dong River	From Km 105 to Km 108	3
3a.5	Ben Luc - Cho Dem River	From the Vam Co Dong confluence to the Kenh Doi confluence	20
3a.6	Kenh Doi	From the Cho Dem River confluence to the Rach Ong Lon confluence	8.5

3a.7	Kenh Te	From the Rach Ong Lon confluence to HCMC	4.5
3b.1	Kenh Cho Gao	From Rach Ky Hon to Rach La	28
3b.2	Vam Co River	From Km 8 to Km 18	10
3b.3	Kenh Nuoc Man	From the Vam Co River confluence to the Can Giuoc River confluence	2
3b.4	Can Giuoc River	From the Kenh Nuoc Man confluence to Km 0	22
3b.5	Kenh Cay Kho	From Km 3 + 500m to Km 0	3.5
3b.6	Rach Ong Lon	From Kenh Cay Kho to Kenh Te confluence	5
3b.7	Kenh Te	From the Rach Ong Lon confluence to HCM City	4.5
3c.1	Vam Co River	From Rach La to the Soi Rap River confluence	24
3c.2	Soai Rap River	From the Vam Co River confluence to the Nha Be confluence (Sai Gon River)	20
3c.3	Sai Gon River	From the Nha Be confluence (Sai Gon River) to HCMC port	13
3d.1	Estuary	From the Mekong/Tien River estuary to the Soi Rap River estuary	20
3d.2	Soai Rap River	From the Soi Rap River estuary to the Keng Nuoc Man confluence	16
3c.2	Soai Rap River	From the Kenh Nuoc Man confluence to the Sai Gon river confluence	20
3c.3	Sai Gon River	From the Soi Rap River confluence to HCMC port	13
3d.1	Estuary	From the Mekong/Tien River estuary to the Soi Rap River estuary	20
3e.1	Estuary	From the Soi Rap River estuary to the Sai Gon River estuary	25

3e.2	Sai Gon River	From the Sai Gon River estuary to the Soi Rap River confluence	35
4	Sai Gon River	From the provincial boundary to HCMC port	47
5	Bassac river	From the Bassac – Vam Nao confluence to the Bassac – Ba The confluence	16.4
6a	Tri Ton – Hau Giang	From the Bassac – Tri Ton confluence to Rach Gia Ha Tien confluence	58
6b	Rach Gia – Ha Tien	From Rach Gia Ha Tien to Ha Tien ciment plant	56.9

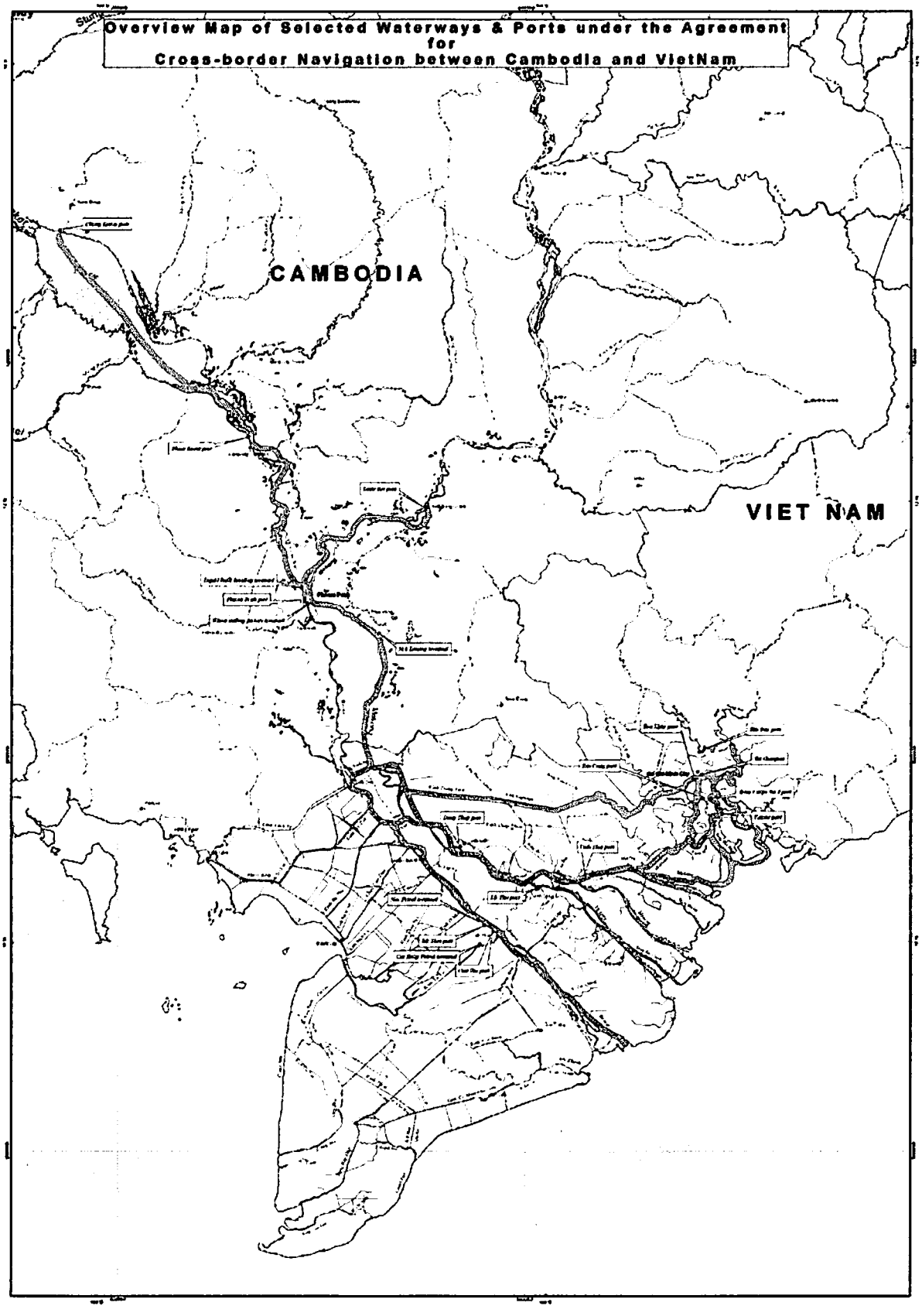
3. Transit routes

The Mekong/Tien River route via the Cua Tieu up to Phnom Penh Port follows regulated waterways No. 1e, 1d, 1c, 1b and 1a in Viet Nam and No. 1c and 1b in Cambodia, and vice versa.

The Bassac/Hau River route via the Cua Dinh An and further via the Vam Nao Pass and the Mekong/Tien River up to Phnom Penh Port follows regulated waterways No. 2a.3, 2a.2, 2a.1, 1c, 1b and 1a in Viet Nam and No. 1c and 1b in Cambodia, and vice versa.

Annex B

Waterway map



Annex C

Ports, terminals and port groups

1. List of ports, terminals and port groups in Cambodia

No	Name of the Ports/Terminals/Port groups	Ownership	Rivers	Type of cargo	River Classifications	Specifications			Remark
						Length (m)	Width (m)	Depth (m)	
1	Conventional and Passenger floating Piers. (TS1)	PPAP	Tonle Sap	General Cargo, Passenger	Unspecified	45	15	5,3	
2	Conventional and (TS3) Container terminal	PPAP	Tonle Sap	General Cargo, Container	Unspecified	300	20	6,3	
3	Domestic terminal (TS5)	PPAP	Tonle Sap	General Cargo	Unspecified			4,5	
4	Sokimex floating Pier. (TS7)	Sokimex Co.Ltd	Tonle Sap	Fuel	Unspecified	30	7	4,6	
5	Savimex Floating Pier. (TS9)	Savimex Co.Ltd	Tonle Sap	Fuel	Unspecified	15	5	4,0	
6	Terminal Km6 (TS11)	Green Trade Co.Ltd	Tonle Sap	General Cargo	Unspecified	40	6	4,0	
7	Prek Pneou Pier (TS15)	Siam Gas Co.Ltd	Tonle Sap	Gas	Unspecified	Two Piles		5,0	

6. Unauthorised modification, addition or amendment of/to the Permit is strictly forbidden. Any case of loss should be immediately reported to the issuing authority.

7. The vessel shall only navigate within the prescribed routes and to and from the prescribed ports, terminals and port groups. If no specific routes, ports, terminals or port groups are prescribed in this Permit, a vessel engaged in cross-border transportation shall be permitted to use any of the regulated waterways and any of the ports, terminals and port groups designated under the Agreement between the Royal Government of Cambodia and the Government of the Socialist Republic of Viet Nam on Waterway Transportation.

No	Name of the Ports/Terminals/Port groups	Ownership	Rivers	Type of cargo	River Classifications	Specifications			Remark
						Length (m)	Width (m)	Depth (m)	
8	Tela terminal (TS17)	Tela Co.Ltd	Tonle Sap	Fuel	Unspecified	30	8	4,6	
9	Bright Victory Pier (TS19)	Bright Victory Co.Ltd	Tonle Sap	Fuel	Unspecified	25	6	4,6	
10	Men Sarun terminal (TS21)	Men Sarun Co.Ltd	Tonle Sap	General Cargo	Unspecified	200	15	5,0	
11	Kampong Chhnang Port	MPWT	Tonle Sap	Domestic general, Cargo	Unspecified	20	6	4	
12	Siem Reap Port (Chong Khneas)	MPWT	Tonle Sap	Domestic general Cargo, Passenger	Unspecified				Under evelopment
13	Mekong Shore berth (Bright Victory Branch)	Bright Victory Mekong, Petroleum Co.Ltd	Upper Mekong	Fuel	Unspecified			5,5	
14	Prek Anchanh Shore, Berths. (UM1)	PPAP	Upper Mekong	Wood Products	Unspecified			5	
15	Tonle Bet Shore Berth (UM2)	PPAP	Upper Mekong	General Cargo	Unspecified			5	

No	Name of the Ports/Terminals/Port groups	Ownership	Rivers	Type of cargo	River Classifications	Specifications			Remark
						Length (m)	Width (m)	Depth (m)	
16	Kampong Cham, Domestic terminal (UM3)	PPAP	Upper Mekong	General Cargo, Passenger	Unspecified			4	
17	Dey Eth Terminal (LM5)	PPAP	Lower Mekong	General Cargo	Unspecified	35	20	14	
18	Total Floating Pier (LM11)	Total Co.Ltd	Lower Mekong	Fuel,Gas	Unspecified	30	6	10	
19	New Container terminal (LM17)	PPAP	Lower Mekong		Unspecified			10	Under evelopment
20	Petronas Floating Pier (LM19)	Petronas Co.Ltd	Lower Mekong	Fuel	Unspecified	30	6	14	
21	Prek Ksay floating Pier	LHR Asean Investment Co.Ltd	Lower Mekong	Fuel	Unspecified	20	6	2	
22	Sokimex Prek Ksay Pier (LM2)	Sokimex Co.Ltd	Lower Mekong	Fuel	Unspecified			3	
23	Neak Loeung	PPAP	Lower Mekong	General Cargo	Unspecified			4	
24	Asia Flour Mill Corperation Shore Berth (TB3)	Asia Flour Mild Co.Ltd	Tonle Basak	General Cargo	Unspecified			6	

No	Name of the Ports/Terminals/Port groups	Ownership	Rivers	Type of cargo	River Classifications	Specifications			Remark
						Length (m)	Width (m)	Depth (m)	
25	Chak Angre Floating pier (TB5)	EDC. Chak Angre.	Tonle Basak	Fuel	Unspecified	25	6	4	

2. List of ports, terminals and port groups in Viet Nam

No	Name of the ports/terminals/port groups	Ownership	Rivers	Type of cargo	River classifications	Specifications		
						Length (m)	Width (m)	Depth (m)
1	Thu Duc power plant port	Thu Duc power plant	Kenh Xang	Fuel	Class 3	120	15	3.0.
2	Mien Nam logistics port	Mien Nam Logistics Company	Kenh Xang	Container, General Cargo	Class 3	120	15	3.0
3	Mien Nam steel plant port	Mien Nam steel company	Kenh Xang	Iron ore	Class 3	45	15	3.0
4	Tay Nam port	Tay Nam Trade company	Sai Gon river	Container, General Cargo	Class 2	130	25	4.5
5	Truong Tho port	Mechanical company	Sai Gon river	Container, General Cargo	Class 3	460	30	4.5

No	Name of the ports/terminals/port groups	Ownership	Rivers	Type of cargo	River classifications	Specifications		
						Length (m)	Width (m)	Depth (m)
6	Trancimex port	Foreign trade company	Sai Gon river	Container, General Cargo	Class 3	100	30	4.5
7	Phuc Long port	Phuc Long Join stock company	Sai Gon river	Container, General Cargo	Class 3	80	30	4.5
8	Hoang Long port	Hoang Long Ltd. Company	Dong Nai river	General cargo	Class 4	50	15	3.0
9	Hoang Tuan port	Hoang Tuan Ltd. Company	Vam Co Dong river	General cargo	Class 3	50	15	3.0
10	Ton That Thuyet port	Southern Waterway Transport Cooporation	Kenh Te	General cargo	Class 3	220	15	3.0
11	Tay Ninh port	Tay Ninh oil and gas company	Vam Co Dong river	Fuel and gas	Class 4	60	30	3.0
12	Sai Gon ciment plant	Sai Gon ciment plant	Dong Nai	Ciment, Clinke	Class 3	80	30	3.0
13	Long Binh Tan Fuel port	Dong Nai fuel company	Dong Nai river	Fuel	Class 4	120	30	3.0
14	Tin Nghia port	Tin Nghia Ltd. Company	Dong Nai river	General Cargo	Class 3	124	30	4.0
15	Thanh Tai port	Thanh Tai Trade company	Vam Co Dong river	General cargo, fuel	Class 3	300	20	4.5

No	Name of the ports/terminals/port groups	Ownership	Rivers	Type of cargo	River classifications	Specifications		
						Length (m)	Width (m)	Depth (m)
16	Buocbong port	Ben Luc Buocbong Ltd. Company	Vam Co Dong river	Gas	Class 3	200	20	4.5
17	MT Gas port	MT Gas Ltd. Company	Vam Co Dong river	General Cargo, Gas	Class 3	140	16	4.5
18	Long Binh port	Southern Waterway Transport Cooporation	Dong Nai river	General cargo	Class 2	560	30	4.5
19	Ciment Ha Tien II plant	Ha Tien – Can Tho ciment company	Bassac river	General cargo	Class 3	50	15	4.0
20	Huynh Lam port	Huynh Lam enterprise	Bassac river	General cargo	Class 4	50	15	4.0
21	An Giang equipment port	An Giang equipment Company	Rach Can Tho	General cargo	Class 4	-	-	2.6
22	Cai Rang fuel port	Nam Bo fuel company	Rach Can Tho	General cargo	Class 4	-	-	2.8
23	Duc Long port	Duc Long infrastructure	Co Chiem	General cargo	Class 3	-	-	2.5
24	Ha Tien – Kien Giang ciment plant	Ha Tien ciment company II	Kenh Ba Hon	General cargo	Class 3	-	-	2.4

No	Name of the ports/terminals/port groups	Ownership	Rivers	Type of cargo	River classifications	Specifications		
						Length (m)	Width (m)	Depth (m)
25	Long Binh port	My Thoi – An Giang port group	Bassac river	General cargo	Class 3	-	-	2.5
26	Bao Mai port	Bao Mai enterprise	Bassac river	General cargo	Class 4	-	-	2.5
27	Chau Doc passenger port	An Giang Tourist management unit	Bassac river	Passenger port	Class 2	-	-	2.0
28	Viet Dan port	Dong Thap fish import – export company	Co Chiem river	General cargo	Class 4	-	-	2.5
29	Sai Gon sea port group		Sai Gon river		Maritime channel			
30	Nha Be sea port group		Nha Be, Long Tau rivers		Maritime channel			
31	Cai Lat sea port group		Dong Nai river		Maritime channel			
32	Hiep Phuoc sea port group		Soai Rap river		Maritime channel			
33	Transship area		Thieng Lieng		Maritime channel			
34	Dong Nai industrial zone		Dong Nai river		Maritime channel			
35	Go Dau, Phuoc An,		Thi Vai		Maritime			

No	Name of the ports/terminals/port groups	Ownership	Rivers	Type of cargo	River classifications	Specifications		
						Length (m)	Width (m)	Depth (m)
	Phu My, Cai Mep port areas		river		channel			
36	Vung Tau sea port group		Dinh river		Maritime channel			
37	Can Tho sea port group		Bassac river		Maritime channel			
38	Dong Thap sea port group		Mekong		Maritime channel			
39	My Tho sea port group		Mekong		Maritime channel			
40	Hon Chuong, Rach Gia port areas				Maritime channel			

Annex D

Format of Cross-Border Transportation Permit

[COVER]

Socialist Republic of Viet Nam

[or]

Kingdom of Cambodia

[insert national emblem and/or logo of issuing authority]

CROSS-BORDER TRANSPORTATION PERMIT

[PAGE 1]

Socialist Republic of Viet Nam

[or]

Kingdom of Cambodia

[insert national emblem and/or logo of issuing authority]

CROSS-BORDER TRANSPORTATION PERMIT

issued under the Agreement between the Royal Government of Cambodia and the Government of the Socialist Republic of Viet Nam on Waterway Transportation

by *[insert name of issuing authority]*

☐ for an inland waterway vessel undertaking multiple trips (Category 1)

☐ for an inland waterway vessel undertaking one round trip (Category 2)

☐ for an inland waterway vessel carrying dangerous goods (Category 3)

[tick box]

[PAGE 2]

ISSUE AND VALIDITY

This is Cross-Border Transportation Permit No. .....

Issuing country: .....

Issuing authority: .....

Place of issue: .....

Date of issue: .....

Date of expiry: .....

Category: [*either* 'inland waterway vessel undertaking multiple trips (Category 1)' *or* 'inland waterway vessel undertaking one round trip (Category 2)' *or* 'inland waterway vessel carrying dangerous goods (Category 3)']

Name of vessel: .....

[insert name and/or stamp and/or signature of issuing authority of official]

[PAGE 3]

RENEWALS

Date of renewal: .....

New date of expiry: .....

Place of renewal: .....

Remarks: .....

[insert name and/or stamp and/or signature of issuing authority of official]

[PAGE 4]

VESSEL PARTICULARS

Name of vessel: .....

Type and purpose of vessel: .....

Registration no.: .....

GRT: .....

DWT: .....

LOA: .....

Beam: .....

Maximum draught: .....

Year built: .....

Type and number of engine: .....

Maximum speed: .....

HP / kW: .....

[PAGE 5]

OWNER OR OPERATOR PARTICULARS

Owner or operator of vessel: .....

Address of owner or operator: .....

[only if applicable under national law]: No. of company or operator's license: .....

Place of issue: .....

Date of issue: .....

Date of expiry: .....

[PAGE 6]

ROUTES, PORTS, TERMINALS AND PORT GROUPS

under Art 15(4) of the Agreement between the Royal Government of Cambodia and the Government of the Socialist Republic of Viet Nam on Waterway Transportation (if applicable)

Prescribed routes: .....

Prescribed ports and/or terminals and/or port groups: .....

[PAGES 7-47]

CERTIFICATIONS

of summary checks at the border gate and of inspections at the port or terminal of departure and at the port or terminal of destination

.....

[PAGE 48]

RULES OF USE

1. This Permit contains 48 pages with the exclusion of the cover pages.
2. This Permit shall be carried on board of the vessel and shall be produced to the competent authorities upon request.
3. This Permit shall only be used for the vessel stated in it.
4. This Permit shall not be extended more than once and shall only remain valid until its date of expiry.
5. The expired Permit shall be returned to the issuing authority.