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AGREEMENT FOR THE ESTABLISHMENT OF AN ASEAN DEVELOPMENT FUND

The Governments of Brunei Darussalam, the Kingdom of Cambodia, 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 Viet Nam;

COMMITTING to realise the ASEAN Vision 2020 and build an ASEAN Community as articulated in the Declaration of ASEAN Concord II;

DESIRING to implement expeditiously the Vientiane Action Programme (VAP) and related ASEAN action plans towards the realisation of an ASEAN Community that is open, dynamic and resilient;

RECOGNISING the necessity of providing financial resources to support the implementation of the VAP and its successor Plans;

DO HEREBY AGREE as follows:

Article I
Establishment of the ASEAN Development Fund

1. The ASEAN Development Fund (ADF) shall be established and implemented in accordance with the annexed Terms of Reference, which forms an integral part of this Agreement.

2. The initial contribution of each ASEAN Member Country to the ADF shall be one million US dollars

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(US$1,000,000). This initial contribution shall comprise the existing contributions of each ASEAN Member Country to the ASEAN Fund. These existing contributions of each ASEAN Member Country to the ASEAN Fund shall be transferred to the ADF upon the entry into force of this Agreement.

3. All other monies of the ASEAN Fund representing its accumulated unprogrammed earnings and its records shall also be transferred to the ADF.

Article II
Entry into Force and Termination

1. This Agreement shall enter into force on the date of signature of all the ASEAN Member Countries and shall remain in force until it is terminated by the decision of the ASEAN Foreign Ministers.

2. The entry into force of this Agreement shall automatically constitute the termination of the Agreement for the Establishment of a Fund for ASEAN, signed by the ASEAN Foreign Ministers on 23 July 1994 in Bangkok, and the transfer of all monies and records of the ASEAN Fund to the ASEAN Development Fund.

Article III
Final Provision

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 authorised by their respective Governments, have signed this Agreement.

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DONE at Vientiane, Lao PDR, this Twenty-Sixth Day of July in the Year Two Thousand and Five, in a single original copy in the English language.

For Brunei Darussalam:

MOHAMED BOLKIAH
Minister of Foreign Affairs

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:

SOMSAVAT LENGSAVAD
Deputy Prime Minister and Minister of Foreign Affairs

For Malaysia:

DATO' SERI SYED HAMID ALBAR
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:

Dr. KANTATHI SUPHAMONGKHON
Minister of Foreign Affairs

For the Socialist Republic of Viet Nam:

NGUYEN DY NIEN
Minister for Foreign Affairs

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TERMS OF REFERENCE OF THE ASEAN DEVELOPMENT FUND (ADF)

Objectives

1. The ASEAN Development Fund shall serve as ASEAN's common pool of financial resources to support the implementation of the Vientiane Action Programme (VAP) and its successor documents. In particular, the ADF shall be used for the following purposes:

   i. To leverage funding of regional cooperation programmes and projects from Dialogue Partners and other external donors. When used for counterpart funding, the amount shall not exceed 20% of the total funding raised regardless of whether the co-funding source is an ASEAN Member Country or an external donor;

   ii. To provide seed funding for initial activities of large-scale projects, requiring major financial support from a Dialogue Partner or donor institution; and

   iii. To provide full funding support to small and short-term projects of a confidential or strategic nature.

Guiding Principles

2. The ADF shall be established and managed according to the following guiding principles:

   i. The basic element of the ADF shall be equal contributions by ASEAN Member Countries. The initial contribution of each ASEAN Member Country to the ADF shall be one million US dollars (US$1,000,000). This initial contribution shall comprise the existing contributions of each ASEAN Member Country to the ASEAN Fund. These existing contributions of each ASEAN Member Country to the ASEAN Fund shall be transferred to the ADF upon the Agreement's entry into force;

   ii. ASEAN Member Countries, at any time, are encouraged to make additional voluntary contribution(s) in any amount in addition to their initial contributions;

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iii. The ADF shall be open to contributions from other public and private sources. No restrictions or conditions shall be imposed by other public and private sources with regard to the use of their contributions; and

iv. Contributions by the ASEAN Member Countries to the ADF shall be distinct and separate from their contributions to the operating budget of the ASEAN Secretariat, and to other ASEAN funds of a sectoral nature.

Arrangements for Managing and Utilising the ADF

Custody and Management of the Fund

3. The ADF shall be held in trust at the ASEAN Secretariat, subject to the same rules and conditions that are applied to other existing trust funds in regard to investment, disbursement, accounting and auditing procedures.

4. The ADF will be increased by equal contributions of the ASEAN Member Countries in the amount US$100,000 by the end of the year 2007.

Programming and Appraisal of Proposed Projects

5. Use of the ADF shall be programmed on a regular basis every two years to realise each of the three pillars of the ASEAN Community and to narrow the development gap among ASEAN Member Countries. Selection of regional cooperation measures to be included in the ADF programme shall take explicit account of the need for: (a) priority measures in realising each of the three pillars of the Community; (b) striking a parallel and balanced development and implementation of the three pillars of the Community; and (c) narrowing the development gap among ASEAN Member Countries so that they could move forward in a unified manner.

6. The two-yearly ADF programme shall be approved by the ASEAN Standing Committee (ASC) as basis for preparation of specific project proposals for ADF funding support.

7. Projects seeking ADF support shall be appraised based on criteria including regionality, appropriateness and relevance in the context of the VAP and its successor documents, quality of design, cost-effectiveness, and sustainability. Appraisal of projects shall be made by the ASEAN Secretariat Project Appraisal Committee

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(PAC) based on those criteria. The standard format for ASEAN project proposals shall be used.

Eligible Expenditures

8. Utilisation of the fund is mainly for implementation of programmes, projects and activities identified in the VAP and its successor Plans.

9. The ADF shall support projects and activities with clearly defined set of objectives and targets within a set timeframe for implementation.

10. The items of expenditure in a project budget shall be classified into three (3) general categories as follows:

    i. Administrative costs: rent, utilities, office space, salaries of locally engaged personnel, insurance and taxes;
    ii. Operational costs: project overhead costs, recruitment costs, compensation of professional staff engaged in the project, its related expenditure (e.g. travel, accommodation, per diem) equipment and supplies; and
    iii. Capital costs: land and building, and equipment costing more than US$10,000.

11. Only the operational costs of the project shall be eligible for support under the ADF.

12. The capital and administrative costs shall be borne by the Host Government of the project.

13. Travelling, accommodation and other expenses of delegations attending regular meetings of duly established ASEAN bodies are not eligible expenditures under the ADF.

Funding Approval

14. Approval authority for use of the fund by a project shall be obtained from the ASC taking into account the recommendations of the PAC of the ASEAN Secretariat submitted through the Secretary General of ASEAN, in consideration of the nature of activities eligible for support under the ADF.

Ownership of Property

15. The ownership of property acquired as a result of expenditures for financing capital costs as provided for in Paragraphs 10.iii and 12

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shall be vested in the Host Government or the ASEAN Secretariat for projects which are hosted by the ASEAN Secretariat.

16. The ownership of office equipment such as computers, audio-video appliances; laboratory instruments; and the like, acquired as a result of expenditures for financing operational costs of projects shall be vested in the Host Government, or the ASEAN Secretariat for projects which are hosted by the ASEAN Secretariat to help ensure the sustainability of benefits after project completion. The Host Government or the ASEAN Secretariat, as applicable may redeploy property acquired under a project to other projects supported by the ADF under cost- effective arrangements, or it may sell such property when circumstances warrant. Any such redeployment or sale shall be reported by the Host Government or the ASEAN Secretariat, as applicable to the ASC. Any proceeds from the sale of property shall accrue to the ADF.

17. The Host Government or the ASEAN Secretariat, as applicable may not exercise their right to dispose of any property, the ownership of which has been vested to it under Paragraphs 15 and 16, until after the completion of the project.

18. The ownership of intellectual property acquired as a result of the project shall be vested in the ASEAN Member Countries. The disposition and use of intellectual property rights shall be governed by guidelines to be determined by the ASC.

Reporting

19. All project implementing agencies receiving ADF support for projects of duration longer than six months are required to submit six-monthly financial reports to the ASEAN Secretariat, for consolidation into a regular six-monthly financial statement for review by the ASC.

20. At the end of a project, a project completion report including a full accounting of all funds received from the ADF shall be submitted by the project implementing agency within 60 days of project completion. Any excess funds unutilised by the project shall be returned by the project implementing agency to the ASEAN Secretariat within 90 days of project completion.

21. The ASEAN Secretariat shall provide a six-monthly financial statement to the ASC to update ASEAN Member Countries on the status of the ADF.

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Amendments

22. ASEAN Member Countries or the ASEAN Secretariat may propose amendments at any time to these Guidelines and submit them for consideration by the ASC.

Utilisation of Remaining Funds

23. At the end of the period of the implementation of the VAP, any funds remaining in the ADF shall be carried over for the implementation of the successor ASEAN action programmes or for any other related purposes approved by the ASC.

Entry into Effect

24. (i) This TOR shall enter into effect upon the entry into force of the Agreement for the Establishment of an ASEAN Development Fund and shall remain in force until the Agreement is terminated.

(ii) Upon the entry into effect of this TOR, the Agreement for the Establishment of a Fund for ASEAN signed in Bangkok on 23 July 1994 and the ASEAN Fund established by the said Agreement shall be terminated and all remaining monies and records of the ASEAN Fund shall form part of the ADF.

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