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MEMORANDUM OF UNDERSTANDING ON THE ASEAN POWER GRID

The Governments of the Association of Southeast Asian Nations, namely: 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 (hereinafter referred to collectively as "ASEAN" or "Member Countries", or individually, as "Member Country");

RECALLING the Agreement on ASEAN Energy Cooperation signed in Manila, Philippines, on 24th June 1986, which emphasised cooperation among the Member Countries in developing energy resources to strengthen the economic resilience of the individual Member Countries as well as the economic resilience and solidarity of ASEAN, and developing strategies to promote energy-related trade within the ASEAN region;

RECALLING also that the ASEAN Vision 2020 adopted by the ASEAN Leaders on 15th December 1997 at the Second ASEAN Informal Summit in Kuala Lumpur, Malaysia, called for the establishment of electricity interconnecting arrangements within ASEAN through the ASEAN Power Grid, (hereinafter referred to as the "ASEAN Power Grid");

RECOGNISING the objectives of the Forum of the Heads of ASEAN Power Utilities/Authorities (HAPUA) to, among others, promote the creation of regional power interconnection projects through the exchange of experience and information on planning, construction and operation of interconnected systems, the acquisition of appropriate technology and methodology on all aspects of an

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interconnected system, and joint studies on transfer of electrical energy through interconnection;

RECALLING further that the ASEAN Plan of Action for Energy Cooperation (APAEC) 1999-2004 adopted at the 17th ASEAN Ministers on Energy Meeting (AMEM) held in Bangkok, Thailand on 3rd July 1999, and the ASEAN Plan of Action for Energy Cooperation (APAEC) 2004-2009 adopted at the 22nd AMEM in Makati City, Metro Manila, Philippines on 9th June 2004, called for instituting policy framework and implementation modalities and facilitating the implementation of the ASEAN Interconnection Master Plan, with the view towards the early realisation of the ASEAN Power Grid;

ACKNOWLEDGING the policy goals of the ASEAN Power Grid's Roadmap for Integration approved at the 20th AMEM Meeting in Bali, Indonesia on 5th July 2002, and the 2003 Final Report of the ASEAN Interconnection Master Plan Study (AIMS) endorsed by 21st AMEM in Langkawi, Malaysia on 3rd July 2003 to be the reference document for the implementation of the power interconnection projects in the ASEAN region;

RESPONDING to the ASEAN Leaders' strategic thrust in the Vientiane Action Programme (VAP) 2004-2010 adopted in the Tenth ASEAN Summit in Vientiane, Lao PDR on 29th November 2004, for the significant implementation of the ASEAN Power Grid through an established policy framework and modalities for power interconnection and trade, as well as enhanced energy infrastructure facilities in ASEAN with the commissioning of power interconnection projects;

AFFIRMING that the ASEAN Power Grid would create economic benefits and opportunities for power exchange and trade amongst the Member Countries;

MINDFUL of the need to recognise, coordinate and rationalise these efforts, plans and programmes for power interconnection and trade;

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RECOGNISING that the involvement of the governments of the Member Countries and participation of the private sector are needed to support these plans and programmes for the realisation of the ASEAN Power Grid;

HAVE AGREED AS FOLLOWS:

ARTICLE I
OBJECTIVE

The Member Countries, subject to the terms of this Memorandum of Understanding, and the laws, rules, regulations and national policies from time to time in force in each member country, agree to strengthen and promote a broad framework for the Member Countries to cooperate towards the development of a common ASEAN policy on power interconnection and trade, and ultimately towards the realisation of the ASEAN Power Grid to help ensure greater regional energy security and sustainability on the basis of mutual benefit.

ARTICLE II
GENERAL PROVISIONS

Member Countries shall:

1. Establish cooperation on a bilateral and/or multilateral basis, on the various aspects of the development of the common ASEAN policy on power interconnection and trade and the realisation of the ASEAN Power Grid;

2. Initiate studies and updates either on a bilateral or multilateral basis, to support and encourage the implementation of the power interconnection projects in ASEAN, having reference to, among others, the 2003 Final Report of the ASEAN Interconnection Master Plan Study;

3. Encourage cooperation and pooling of resources by the governments and/or private sector for joint projects

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subject to commercial viability pertaining to the ASEAN Power Grid;

4. Subject to, and consistent with, the national laws of each Member Country, take individual and collective initiatives to study, assess, and review national and regional legal and institutional frameworks for power interconnection and trade, concerning cross-border issues relative to the commercial and economic feasibility, construction, financing, operation, and maintenance of the ASEAN Power Grid, as herein below agreed upon.

ARTICLE III
CROSS-BORDER ISSUES

Member Countries shall conduct relevant studies on the following:

1. Technical

Harmonisation of technical specifications for the ASEAN Power Grid, such as, but not limited to, design and construction standards, system operation and maintenance codes and guidelines, safety, environment and measurement standards which are internationally recognised by the electricity supply industry.

2. Financing

Available modes or arrangements for the financing of the construction, operation and maintenance of the ASEAN Power Grid. In this respect, ASEAN recognise the important role that would be played by the private sector in some Member Countries.

3. Taxation and Tariff

Arrangements for the mutually agreed imposition of, or exemption from, import, export or transit fee, duty, tax or

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other government imposed fees and charges on the construction, operation, and maintenance of the ASEAN Power Grid.

4. Regulatory and Legal Frameworks

Harmonisation of regulatory and legal frameworks within ASEAN to hasten the implementation of bilateral or cross-border power interconnection and trade.

5. Electric Power Trade

Institutional and contractual arrangements for power trade. These arrangements shall take into account the different levels of development or maturity of the electricity supply industry in individual Member Countries.

6. Third Party Access

Arrangement for third party access for power interconnection and trade in accordance with such internationally accepted standards in the electricity supply industry and formulation of a transmission pricing framework within ASEAN.

ARTICLE IV
PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

1. The protection of intellectual property rights shall be enforced in conformity with the respective national laws, rules and regulations of the Member Countries and with other international agreements signed by the Member Countries.

2. The use of the name, logo and/or official emblem of any of the Member Countries on any publication, document and/or paper is prohibited without the prior written approval of the relevant Member Country/Countries.

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3. Notwithstanding anything in paragraph 1 above, the intellectual property rights in respect of technological development, products and services development, carried out:

a. Jointly by the Member Countries or research results obtained through the joint activity effort of the Member Countries, shall be jointly owned by the Member Countries concerned in accordance with the terms to be mutually agreed upon; and

b. Solely and separately by the Member Country or the research results obtained through the sole and separate effort of the Member Country, shall be owned by the Member Country concerned.

ARTICLE V
INSTITUTIONAL ARRANGEMENTS

1. The Heads of ASEAN Power Utilities/Authorities (HAPUA) Council, being responsible for the effective implementation of the ASEAN Power Grid, shall initiate the formation of an ASEAN Power Grid Consultative Committee (APGCC), to be composed of representatives from Member Countries and the HAPUA Member Utilities. This ASEAN Power Grid Consultative Committee shall facilitate and assist the HAPUA Council in the implementation of this Memorandum of Understanding.

2. The HAPUA Council shall submit periodic reports on the implementation of this Memorandum of Understanding to the ASEAN Ministers on Energy Meeting (AMEM), through the ASEAN Senior Officials Meeting on Energy (SOME).

ARTICLE VI
CONFIDENTIALITY

All Member Countries shall observe the confidentiality of documents, information or data received pursuant to the

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implementation of this Memorandum of Understanding. This obligation shall be observed by Member Countries during the period of validity of this Memorandum of Understanding and after the expiry or termination of this Memorandum of Understanding, unless otherwise agreed by all Member Countries.

ARTICLE VII
SETTLEMENT OF DISPUTES

Any claim or dispute between two (2) or more of the Member Countries, arising out of the interpretation or implementation of this Memorandum of Understanding will be settled amicably by consultations or negotiations between the Member Countries involved in the claim or dispute.

ARTICLE VIII
SUSPENSION

Each Member Country reserves the right, for reasons of national security, national interest, public order or public health, to suspend, temporarily, either in whole or in part, the implementation of this Memorandum of Understanding. A Member Country shall give notice of its intention to suspend the said implementation of this Memorandum of Understanding by giving written notice to the Secretary General of ASEAN, who shall immediately notify all other Member Countries. Such suspension shall take effect immediately after notification has been given to the other Member Countries.

ARTICLE IX
RELATION TO OTHER AGREEMENTS

1. Agreements with Non-ASEAN Member Countries

This Memorandum of Understanding shall not restrict any Member Country from having similar agreements with non-

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ASEAN Member Countries provided that such agreements do not create and/or impose obligations upon a Member Country that is not a party to such agreements, and that such agreements shall not impair and/or prevent a Member Country who is a party to such agreements from fulfilling its obligations under this Memorandum of Understanding.

2. Other Existing Agreements

The Member Countries hereby undertake that they shall continue to respect their rights and obligations under any other similar agreements, to which they are also parties, on power interconnection and electric power trading existing prior to this Memorandum of Understanding.

ARTICLE X
FINAL PROVISIONS

1. This Memorandum of Understanding shall be deposited with the Secretary- General of ASEAN who shall promptly furnish a certified true copy to each Member Country.

2. This Memorandum of Understanding is subject to ratification or acceptance by all the Member Countries. The Instrument of Ratification or Acceptance shall be deposited with the Secretary-General of ASEAN who shall promptly inform each Member Country of such deposit.

3. This Memorandum of Understanding shall enter into force upon the deposit of Instruments of Ratification or Acceptance by all the Member Countries with the Secretary-General of ASEAN.

4. This Memorandum of Understanding shall remain in force for a period of fifteen (15) years, unless terminated earlier by agreement of all the Member Countries. The expiry or termination of this Memorandum of Understanding shall be without prejudice to the rights and obligations of the

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Member Countries arising from this Memorandum of Understanding prior to the effective date of expiry or termination of this Memorandum of Understanding.

5. A Member Country may at anytime give notice of its intention to withdraw from this Memorandum of Understanding, by giving written notice to the Secretary - General of ASEAN, who shall immediately notify all other Member Countries. Such withdrawal shall take effect six (6) months from the date of the said notice.

6. This Memorandum of Understanding may be extended beyond its period of validity, as stipulated in paragraph 4 of this Article, with the agreement of all Member Countries.

7. Any Member Country may propose any amendment to the provisions of this Memorandum of Understanding. Such amendment shall be effected by written consent of all the Member Countries. Any amendment to this Memorandum of Understanding shall be without prejudice to the rights and obligations of the Member Countries, prior to the effective date of such amendment.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective governments, have signed this Memorandum of Understanding on the ASEAN Power Grid.

DONE at **Singapore** on this **Twenty-Third** day of **August** in the Year **Two Thousand and Seven**, in a single original copy in the English Language.

For Brunei Darussalam:

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YAHYA BAKAR
Minister of Energy at the Prime Minister's Office

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SECRETARY GENERAL, THE ASEAN SECRETARIAT

For the Kingdom of Cambodia:

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SUY SEM
Minister of Industry, Mines and Energy

For the Republic of Indonesia:

.....

DR. PURNOMO YUSGIANTORO
Minister of Energy and Mineral Resources

For the Lao People's Democratic Republic:

.....

DR. BOSAYKHAM VONGDARA
Minister of Energy and Mines

For Malaysia:

.....

DR. LIM KENG YAIK
Minister of Energy, Water and Communications

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PERMIT SECRETARY GENERAL, THE ASEAN SECRETARIAT



For the Union of Myanmar:

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BRIG. GEN. LUN THI
Minister of Energy

For the Republic of the Philippines:

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ANGELO T. REYES
Secretary of Energy

For the Republic of Singapore:

.....

S. ISWARAN
Minister of State for Trade and Industry

For the Kingdom of Thailand:

.....

DR. PIYASVASTI AMRANAND
Minister of Energy

For the Socialist Republic of Viet Nam:

.....

LE DUONG QUANG
Vice Minister of Industry and Trade

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