ASEAN CONVENTION ON COUNTER TERRORISM

Member Countries of the Association of Southeast Asian Nations (ASEAN) - 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 as "the Parties";

RECALLING the Charter of the United Nations and relevant principles of international law, the relevant international conventions and protocols relating to counter terrorism and relevant resolutions of the United Nations on measures aimed at countering international terrorism, and reaffirming our commitment to protect human rights, fair treatment, the rule of law, and due process as well as the principles enshrined in the Treaty of Amity and Cooperation in Southeast Asia done at Bali on 24 February 1976;

REAFFIRMING that terrorism cannot and should not be associated with any religion, nationality, civilisation or ethnic group;

RECALLING also the ASEAN Declaration on Joint Action to Counter Terrorism and the Declaration on Terrorism adopted at the ASEAN Summits in 2001 and 2002 respectively;

REAFFIRMING our commitment to the Vientiane Action Programme done at Vientiane on 29 November 2004, particularly its thrust on "shaping and sharing of norms" and the need, among others, to work towards the conclusion of an ASEAN Mutual Legal Assistance Agreement, and an ASEAN Convention on Counter Terrorism, and the

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establishment of an ASEAN Extradition Treaty as envisaged by the 1976 Declaration of ASEAN Concord;

DEEPLY CONCERNED over the grave danger posed by terrorism to innocent lives, infrastructure and the environment, regional and international peace and stability as well as to economic development;

REALISING the importance of identifying and effectively addressing the root causes of terrorism in the formulation of any counter terrorism measures;

REITERATING that terrorism, in all its forms and manifestations, committed wherever, whenever, and by whomsoever, is a profound threat to international peace and security and a direct challenge to the attainment of peace, progress and prosperity for ASEAN and the realisation of ASEAN Vision 2020;

REAFFIRMING our strong commitment to enhance cooperation in countering terrorism which covers the prevention and suppression of all forms of terrorist acts;

REITERATING the need to improve regional cooperation on counter terrorism and undertake effective measures through deepening cooperation among ASEAN law enforcement agencies and relevant authorities in countering terrorism;

ENCOURAGING the Parties to become parties as soon as possible to the relevant international conventions and protocols relating to counter terrorism;

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Have agreed as follows:

Article I

Objective

This Convention shall provide for the framework for regional cooperation to counter, prevent and suppress terrorism in all its forms and manifestations and to deepen cooperation among law enforcement agencies and relevant authorities of the Parties in countering terrorism.

Article II

Criminal Acts of Terrorism

1. For the purposes of this Convention, "offence" means any of the offences within the scope of and as defined in any of the treaties listed as follows:

   a. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;

   b. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971;

   c. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, adopted in New York on 14 December 1973;

   d. International Convention Against the Taking of Hostages, adopted in New York on 17 December 1979;

   e. Convention on the Physical Protection of Nuclear Material, adopted in Vienna on 26 October 1979;

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f. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 24 February 1988;

g. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988;

h. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;

i. International Convention for the Suppression of Terrorist Bombings, adopted in New York on 15 December 1997;

j. International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999;

k. International Convention for the Suppression of Acts of Nuclear Terrorism, adopted in New York on 13 April 2005;

l. Amendment to the Convention on the Physical Protection of Nuclear Material, done at Vienna on 8 July 2005;

m. Protocol of 2005 to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at London on 14 October 2005; and

n. Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed

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Platforms Located on the Continental Shelf, done at London on 14 October 2005.

2. On depositing its instrument of ratification or approval, a Party which is not a Party to a treaty listed in paragraph 1 of this Article may declare that, in the application of this Convention to that Party, that treaty shall be deemed not to be included in paragraph 1 of this Article. This declaration shall cease to have an effect as soon as the treaty enters into force for the Party having made such a declaration, which shall notify the depositary as stated in paragraph 2 of Article XX of this entry into force.

3. When a Party ceases to be a party to a treaty listed in paragraph 1 of this Article, it may make a declaration as provided for in this Article, with respect to that treaty.

Article III

Sovereign Equality, Territorial Integrity and Non-Interference

The Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-interference in the internal affairs of other Parties.

Article IV

Preservation of Sovereignty

Nothing in this Convention entitles a Party to undertake, in the territory of another Party, the exercise of jurisdiction or performance of functions which are exclusively reserved for the authorities of that other Party by its domestic laws.

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Article V

Non-Application

This Convention shall not apply where the offence is committed within a single Party, the alleged offender and the victims are nationals of that Party, the alleged offender is found in the territory of that Party and no other Party has a basis under this Convention to exercise jurisdiction.

Article VI

Areas of Cooperation

1. The areas of cooperation under this Convention may, in conformity with the domestic laws of the respective Parties, include appropriate measures, among others, to:

a. Take the necessary steps to prevent the commission of terrorist acts, including by the provision of early warning to the other Parties through the exchange of information;

b. Prevent those who finance, plan, facilitate, or commit terrorist acts from using their respective territories for those purposes against the other Parties and/or the citizens of the other Parties;

c. Prevent and suppress the financing of terrorist acts;

d. Prevent the movement of terrorists or terrorist groups by effective border control and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;

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e. Promote capacity-building including trainings and technical cooperation and the holding of regional meetings;

f. Promote public awareness and participation in efforts to counter terrorism, as well as enhance inter-faith and intra-faith dialogue and dialogue among civilisations;

g. Enhance cross-border cooperation;

h. Enhance intelligence exchange and sharing of information;

i. Enhance existing cooperation towards developing regional databases under the purview of the relevant ASEAN bodies;

j. Strengthen capability and readiness to deal with chemical, biological, radiological, nuclear (CBRN) terrorism, cyber terrorism and any new forms of terrorism;

k. Undertake research and development on measures to counter terrorism;

l. Encourage the use of video conference or teleconference facilities for court proceedings, where appropriate; and

m. Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice.

2. Subject to the consent of the Parties concerned, Parties shall cooperate to address the root causes of terrorism and conditions conducive to the spread of terrorism

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to prevent the perpetration of terrorist acts and the propagation of terrorist cells.

Article VII

State Jurisdiction

1. A Party shall take such measures as may be necessary to establish its jurisdiction over the offences covered in Article II of this Convention when:

   a. The offence is committed in the territory of that Party; or

   b. The offence is committed on board a vessel flying the flag of that Party or an aircraft which is registered under the laws of that Party at the time the offence is committed; or

   c. The offence is committed by a national of that Party.

2. A Party may also establish its jurisdiction over any such offence when:

   a. The offence is committed against a national of that Party; or

   b. The offence is committed against a state or government facility of that Party abroad, including its embassy or other diplomatic or consular premises; or

   c. The offence is committed in an attempt to compel that Party to do or to abstain from doing any act; or

   d. The offence is committed by a stateless person with habitual residence in the territory of that Party.

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3. A Party shall likewise establish its jurisdiction over the offences covered in Article II of this Convention in cases where the alleged offender is present in its territory and it does not extradite that person to any of the Parties that have established their jurisdiction in accordance with paragraph 1 or 2 of this Article.

4. This Convention does not exclude the exercise of any criminal jurisdiction established by a Party in accordance with its domestic laws.

Article VIII

Fair Treatment

1. Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the laws of the Party in the territory of which that person is present and applicable provisions of international law, including international human rights law.

2. Upon receiving information that a person who has committed or who is alleged to have committed an offence covered in Article II of this Convention may be present in its territory, the Party concerned shall take such measures as may be necessary under its domestic laws to investigate the facts contained in the information.

3. Upon being satisfied that the circumstances so warrant, the Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic laws so as to ensure that person's presence for the purpose of prosecution or extradition.

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4. Any person regarding whom measures referred to in paragraph 3 of this Article are being taken shall be entitled:

a. To communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights;

b. To be visited by a representative of that State; and

c. To be informed of that person's rights under subparagraphs (a) and (b) of paragraph 4 of this Article.

5. The rights referred to in paragraph 4 of this Article shall be exercised in conformity with the laws and regulations of the Party in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 4 of this Article are intended.

6. When a Party, pursuant to the present Article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of ASEAN, the Parties which have established jurisdiction in accordance with paragraph 1 or 2 of Article VII, and, if it considers it advisable, any other interested Parties, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The Party which is carrying out the investigation referred to in paragraph 2 of this Article shall promptly inform the said Parties of its findings and shall indicate whether it intends to exercise jurisdiction over the said person.

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Article IX

General Provisions

1. The Parties shall adopt such measures as may be necessary, including, where appropriate, national legislation, to ensure that offences covered in Article II of this Convention, especially when it is intended to intimidate a population, or to compel a government or an international organisation to do or to abstain from doing any act, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.

2. Pursuant to Article VI of this Convention, the Parties shall, where possible, establish channels of communication between their competent agencies to facilitate the exchange of information to prevent the commission of offences covered in Article II of this Convention.

3. The Party where the alleged offender is prosecuted shall, upon the request of the other Parties claiming jurisdiction over the same, communicate the status of the case at any stage of the proceedings to those other Parties.

Article X

Status of Refugees

The Parties shall take appropriate measures, in conformity with the relevant provisions of their respective domestic laws and applicable international law, including international standards of human rights, before granting refugee status, where the Parties recognise and grant such status, for the purpose of ensuring that the asylum seeker has not planned, facilitated or participated in the commission of terrorist acts.

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Article XI

Rehabilitative Programmes

The Parties shall endeavour to promote the sharing of best practices on rehabilitative programmes including, where appropriate, social reintegration of persons involved in the commission of any of the offences covered in Article II of this Convention with the objective of preventing the perpetration of terrorist acts.

Article XII

Mutual Legal Assistance in Criminal Matters

1. The Parties shall, in conformity with their respective domestic laws, afford the widest measure of assistance in connection with investigations or criminal proceedings brought in respect of the offences covered in Article II of this Convention.

2. The Parties shall, where they are parties to the Treaty on Mutual Legal Assistance in Criminal Matters done in Kuala Lumpur on 29 November 2004, carry out their obligations under paragraph 1 of this Article in conformity with that Treaty.

Article XIII

Extradition

1. The Party in the territory of which the alleged offender is present shall, in cases to which Article VII of this Convention applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the domestic laws of that Party. Those authorities shall

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take their decision in the same manner as in the case of any other offence of a grave nature under the domestic laws of that Party.

2. The offences covered in Article II of this Convention shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the Parties before the entry into force of this Convention. The Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

3. When a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, the requested Party may, at its option, and in conformity with its domestic laws, consider this Convention as a legal basis for extradition in respect of the offences covered in Article II of this Convention.

Article XIV

Political Offences Exception

None of the offences covered in Article II of this Convention shall be regarded for the purposes of extradition under Article XIII of this Convention or mutual legal assistance in criminal matters under Article XII of this Convention as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance in criminal matters based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

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Article XV

Designation of Central Authorities or Coordinating Structures

Each Party shall designate, as appropriate, a central authority or coordinating structure to enhance cooperation under this Convention.

Article XVI

Implementation, Monitoring and Review

The relevant ASEAN sectoral bodies involved in ASEAN cooperation on countering terrorism shall be responsible for monitoring and reviewing the implementation of this Convention.

Article XVII

Confidentiality

1. Each Party shall preserve the confidentiality and secrecy of documents, records and other information received from any other Party, including the source thereof.

2. No document, record or other information obtained pursuant to this Convention shall be disclosed to or shared with any other Party, State or person except with the prior written consent of the Party which provided such document, record or information.

Article XVIII

Relationship with Other International Instruments

This Convention shall not derogate from obligations subsisting between the Parties pursuant to other international agreements nor, where the Parties agree, shall

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it prevent the Parties from providing assistance to each other pursuant to other international agreements or the provisions of their respective domestic laws.

Article XIX

Settlement of Disputes

Any difference or dispute between the Parties arising from the interpretation or application of the provisions of this Convention shall be settled amicably through consultation and negotiation between the Parties through diplomatic channels or any other peaceful means for the settlement of disputes as agreed upon between the Parties.

Article XX

Ratification, Approval and Depositary

1. This Convention shall be subject to ratification or approval in accordance with the internal procedures of the Parties.

2. The instruments of ratification or approval shall be deposited with the Secretary-General of ASEAN who shall promptly inform the other Parties of such deposit.

Article XXI

Entry into Force and Amendment

1. This Convention shall enter into force on the 30th (thirtieth) day following the date of the deposit of the 6th (sixth) instrument of ratification or approval with the Secretary-General of ASEAN in respect of those Parties that have submitted their instruments of ratification or approval.

2. For any Party ratifying or approving this Convention after the deposit of the 6th (sixth) instrument of ratification or

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approval, but before the day the Convention enters into force, the Convention shall also apply to that Party on the date the Convention enters into force.

3. In respect of a Party ratifying or approving this Convention subsequent to its entry into force pursuant to paragraph 1, it shall enter into force for that Party on the date its instrument of ratification or approval is deposited.

4. This Convention may be modified or amended at any time by mutual written consent of the Parties. Such modification or amendment shall enter into force on such date as shall be mutually agreed upon by Parties and shall form part of this Convention.

5. Any modification or amendment shall not affect the rights and obligations of the Parties arising from or based on the provisions of this Convention before the entry into force of such modification or amendment.

Article XXII

Withdrawal

1. Any Party may withdraw from this Convention at any time after the date of the entry into force of this Convention for that Party.

2. The withdrawal shall be notified by an instrument of withdrawal to the Secretary-General of ASEAN.

3. The withdrawal shall take effect 180 (one hundred and eighty) days after the receipt of the instrument of withdrawal by the Secretary-General of ASEAN.

4. The Secretary-General of ASEAN shall promptly notify all the other Parties of any withdrawal.

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Article XXIII

Registration

This Convention shall be registered by the Secretary-General of ASEAN to the United Nations Secretariat pursuant to Article 102 of the Charter of the United Nations.

DONE at Cebu, Philippines, this Thirteenth Day of January in the Year Two Thousand and Seven, in a single original copy in the English language.

For Brunei Darussalam:



HAJI HASSANAL BOLKIAH
Sultan of Brunei Darussalam

For the Kingdom of Cambodia:



SAMDECH HUN SEN
Prime Minister



For the Republic of Indonesia:

DR. SUSILO BAMBANG YUDHOYONO
President

For the Lao People's Democratic Republic:

BOUASONE BOUPHAVANH
Prime Minister

For Malaysia:

DATO' SERI ABDULLAH AHMAD BADAWI
Prime Minister

For the Union of Myanmar:

GENERAL SOE WIN
Prime Minister

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DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT

For the Republic of the Philippines:

GLORIA MACAPAGAL-ARROYO
President

For the Republic of Singapore:

LEE HSIEN LOONG
Prime Minister

For the Kingdom of Thailand:

GENERAL SURAYUD CHULANONT (RET.)
Prime Minister

For the Socialist Republic of Viet Nam:

NGUYEN TAN DUNG
Prime Minister

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