NB 291

ASEAN FRAMEWORK AGREEMENT ON THE FACILITATION OF GOODS IN TRANSIT

PREAMBLE

The Members of the Association of South East Asian Nations (hereinafter referred to as **"Contracting Parties"**);

Inspired to maintain, further develop and strengthen friendly relations and cooperation between their countries;

Reiterating their commitment to foster smooth, rapid and efficient movement of goods between and among Contracting Parties;

Recalling the decisions of the First ASEAN Informal Summit held on 30 November 1996 in Jakarta and the Second ASEAN Informal Summit held on 15 December 1997 in Kuala Lumpur, to cooperate in the area of facilitation of goods in transit and to expeditiously study the necessary measures to facilitate the transportation of goods both in transit and inter-State, covering land, maritime and air links, respectively;

Noting Article V of the General Agreement on Tariffs and Trade (GATT 1994) on "Freedom of Transit" and other relevant international conventions on goods in transit;

Agreeing that the ASEAN Framework Agreement on the Facilitation of Goods in Transit (hereinafter referred to as **"this Agreement"**) provides the most effective arrangement for facilitating inter-State traffic and transit transport among ASEAN countries;

Undertaking to encourage and facilitate inter-State traffic and transit transport among the Contracting Parties;

CERTIFIED COPY
SECRETARY GENERAL OF ASEAN

Have agreed as follows :

Article 1

Objectives

The objectives of this Agreement are :

a) to facilitate transportation of goods in transit, to support the implementation of the ASEAN Free Trade Area, and to further integrate the region's economies;

b) to simplify and harmonize transport, trade and customs regulations and requirements for the purpose of facilitation of goods in transit; and

c) to establish an effective, efficient, integrated and harmonized transit transport system in ASEAN.

Article 2

Principles

The Contracting Parties shall be guided by the following principles under this Agreement :

a) Most Favoured Nation Treatment : Contracting Parties shall accord to transit transport to or from the territory of any other Contracting Parties treatment no less favourable than the treatment accorded to transit transport to or from any other country;

b) National Treatment : Contracting Parties shall accord to products which have been in transit through the territory of any other Contracting Party treatment no less favourable than that which would have been accorded to such products had they been transported from their place of origin to their destination without going through the territory of such other Contracting Party;

c) Consistency : Contracting Parties shall ensure the consistent application of the relevant laws and regulations, procedures, and administration guidelines and other rulings within each Contracting Party;

CERTIFIED COPY
SECRETARY GENERAL OF ASEAN
asean

d) Simplicity : Contracting Parties shall endeavour to ensure the simplification of all transit transport procedures and requirements in ASEAN;

e) Transparency : Contracting Parties shall make all laws, regulations, procedures and administrative notifications pertaining to the relevant authorities publicly available in a prompt, transparent and readily accessible manner;

f) Efficiency : Contracting Parties shall ensure the efficient and effective administration of transit transport to facilitate movement of goods in transit;

g) Appeals : Contracting Parties shall ensure that an effective mechanism for the review of the decisions by the relevant authorities of Contracting Parties is made available and accessible to users and providers of transit transport within ASEAN; and

h) Mutual Assistance : Contracting Parties shall endeavour their utmost cooperation and mutual assistance between the concerned agencies involved in the facilitation of goods in transit in ASEAN.

PART I
GENERAL PROVISIONS

Article 3

Definitions

For the purposes of this Agreement:

(a) "Transit transport" means transit of goods and means of transport across the territory of one or more Contracting Parties, when the passage across such territory or territories, with or without transshipment, warehousing, breaking bulk or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of one or more Contracting Parties across whose territory the traffic passes;

CERTIFIED COPY asean SECRETARY GENERAL OF ASEAN

(b) "Internal transport" means the carriage of goods loaded in the territory of a Contracting Party for unloading at a place within the territory of the same Contracting Party;

(c) "Means of transport" means road vehicles, railway rolling stock, sea and inland waterways craft and aircraft;

(d) "Dangerous goods" means those substances and articles which may affect the interest of environment, health, safety and national security;

(e) "Perishable goods" means fresh, chilled or frozen fish, crustacean, molluscs, fruits, vegetables, chilled or frozen meat or poultry, dairy and dairy products, eggs and egg products, and swine and pork products ; and

(f) "Secretary-General" means Secretary-General of the Association of South East Asian Nations.

Article 4

Scope of Application

1. The provisions of this Agreement shall apply to transit transport.

2. Inter-State transport shall be agreed upon by all the Contracting Parties. For this purpose, the Contracting Parties shall enter into negotiations and expeditiously conclude a separate ASEAN Framework Agreement on the Facilitation of Inter-State Transport.

Article 5

Grant of Rights

1. Subject to the provisions of this Agreement, each Contracting Party shall grant to other Contracting Parties :

   a) the right of transit transport; and

   b) the right to load and discharge third countries' goods destined for or coming from Contracting Parties.

CERTIFIED COPY SECRETARY GENERAL OF ASEAN

2. The Contracting Parties, through whose territory the transit transport takes place, will endeavour to provide facilities for transit transport in accordance with the provisions of this Agreement.

3. Transit Transport shall not be subject to any unnecessary delays or restrictions and shall be exempt from customs duties, taxes and other charges except charges for specific services rendered in connection with such transport.

4. Goods carried in sealed road vehicles, combination of vehicles or container shall not be subjected to examination at Customs offices en route. However, to prevent abuses such as smuggling and fraud, Customs authorities of either Contracting Party, may in exceptional cases, and particularly when irregularity is suspected, carry out an examination of the goods at such offices or other areas designated by Customs authorities.

PART II
DESIGNATION OF TRANSIT TRANSPORT ROUTES

Article 6

Designation of Transit Transport Routes and Facilities

1. The Contracting Parties shall adopt a list of designated transit transport routes to be specified in Protocol 1 of this Agreement.

2. For the benefit of safety, the Contracting Parties shall endeavour to provide in their territories vehicle rest areas on these specified routes at appropriate intervals.

Article 7

Frontier Facilities

1. The Contracting Parties agree to designate frontier posts at border points to be specified in Protocol 2 to facilitate transit transport.

2. The Contracting Parties shall provide adequate facilities and related installations at frontier posts over the transit transport routes.

CERTIFIED COPY
asean
SECRETARY GENERAL OF ASEAN

3. The Contracting Parties shall endeavour to:

(a) Provide, whenever possible, and within their national jurisdiction, frontier posts which are physically adjacent to those of other Contracting Parties concerned with control areas with checking requirements in order to facilitate the clearance and examination of the means of transport and goods in transit, so that repeated unloading and reloading of these goods may be avoided. Nothing shall prevent two or more Contracting Parties from conducting joint examination at the same place by officials of these Contracting Parties;

(b) Ensure that adequate manpower resources are made available for the speedy completion and clearance of frontier formalities, such as immigration, customs, health and foreign exchange controls;

(c) Allow goods in transit to be temporarily stored in approved places;

(d) Coordinate working hours of adjacent posts; and

(e) Provide, wherever possible, adequate parking space for containers and for vehicles awaiting goods clearance.

4. The Contracting Parties agree to be guided, wherever possible, by the provisions of the International Convention on Harmonization of Frontier Control of Goods, signed at Geneva on 21 October 1982, in their efforts to harmonise frontier facilities for goods in transit.

PART III
GENERAL CONDITIONS FOR ROAD TRANSPORT

Article 8

Traffic Regulations

The Contracting Parties shall endeavour to take appropriate measures to ensure the harmonization of road traffic regulations in force in their territories conform in substance to the provisions of the Convention on Road Traffic, signed at Vienna on 8 November 1968, and the Convention on Road Sign and Signals, signed at Vienna on 8 November 1968.

CERTIFIED COPY
SECRETARY GENERAL OF ASEAN
asean

Article 9

Transit Transport Services

1. Each Contracting Party shall allow the use of means of transport registered in other Contracting Parties to provide transit transport services on its territory in accordance with Article 5 of this Agreement.

2. The type and quantity of road vehicles to be used for transit transport shall be agreed upon between all Contracting Parties, to be specified in Protocol 3, before the transport services are inaugurated. Thereafter, the type and quantity of road vehicles shall be discussed from time to time between the Contracting Parties.

Article 10

Road Transport Permits

The Contracting Parties undertake to harmonize road transport permit requirements in order to facilitate transit transport.

Article 11

Technical Requirements of Vehicles

Means of transport used in road transit transport shall conform to the technical requirements regarding vehicle dimensions, maximum weights and loads, emission standards and related matters to be specified in Protocol 4.

Article 12

Mutual Recognition of Inspection Certificates

1. The Contracting Parties undertake to institute periodic inspection of road vehicles registered in each respective territory and used for transit transport operations.

2. The Contracting Parties shall recognize periodic inspection certificates of road vehicles used for transit transport issued by the other Contracting Parties, in accordance with the Agreement on the

CERTIFIED COPY asean SECRETARY GENERAL OF ASEAN

Recognition of Commercial Vehicle Inspection Certificates for Goods Vehicles and Public Service Vehicles Issued by ASEAN Member Countries signed at Singapore on 10 September 1998.

Article 13

Mutual Recognition of Driving Licenses

The Contracting Parties shall recognize domestic driving licenses issued by all other Contracting Parties in accordance with the Agreement on the Recognition of Domestic Driving Licenses Issued by ASEAN Countries signed at Kuala Lumpur on 9 July 1985.

Article 14

Motor Vehicle Third-Party Insurance Scheme

1. The road vehicle entering the territory of the other Contracting Party shall strictly comply with the laws and regulations related to third-party insurance covering for the insurance of their means of transport to cover third-party liability incurred in the course of transit transport.

2. The Contracting Parties undertake to harmonize or establish a common ASEAN scheme of compulsory motor vehicle third-party liability insurance to be specified in Protocol 5.

3. The ASEAN scheme of compulsory motor vehicle third-party liability insurance shall provide, at least, all the guarantees required by the laws and regulations governing compulsory motor vehicle third-party insurance in the Contracting Parties.

Article 15

Charges and Other Financial Obligations

The Contracting Parties endeavour to simplify, consolidate and harmonize charges and other financial obligations which are levied on the means of transport.

CERTIFIED COPY asean SECRETARY GENERAL OF ASEAN

PART IV
GENERAL CONDITIONS FOR RAIL TRANSPORT

Article 16

Connecting and Transit Services

1. Connecting and transit services on railway lines linking the territories of the Contracting Parties shall be performed at designated interchange stations.

2. Border stations, interchange stations and type and quantity of rolling stock shall be designated in Protocol 6. The Protocol shall also specify basic operational arrangements relating to such matters as technical inspection of rolling stock .

3. The Contracting Parties shall encourage their railways to conclude inter-railway agreements, including arrangements for the acceptance of technical inspection of rolling stock, which are consistent with the provisions of this Agreement and its Protocols.

PART V
CUSTOMS CONTROL, SANITARY AND PHYTOSANITARY MEASURES

Article 17

Harmonization and Simplification of Customs Procedures

1. The Contracting Parties shall simplify and, whenever possible, harmonize the customs control procedures of transit transport to ensure compliance with the laws and regulations which the Customs are responsible for enforcing.

2. The Contracting Parties shall facilitate joint customs inspection, wherever possible, of transit transport at their designated frontier points.

3. The Contracting Parties agree to be guided, whenever possible, by the standards and recommended practices of Annex E1 concerning Customs Transit of the International Convention on the Simplification and Harmonization of Customs Procedures,

CERTIFIED COPY SECRETARY GENERAL OF ASEAN asean

concluded at Kyoto on 18 May 1973, as amended, under the auspices of the World Customs Organization.

Article 18

Establishment of a Customs Transit System

1. The Contracting Parties shall establish a customs transit system for the purposes of facilitating the movement of goods in their territories.

2. The Contracting Parties agree to apply the customs transit system to be specified in Protocol 7.

Article 19

Establishment of Sanitary and Phytosanitary Measures

The Contracting Parties shall establish sanitary and phytosanitary measures to be specified in Protocol 8, to facilitate the movement of goods in their territories and ensure compliance with the laws and regulations which the relevant authorities are responsible for enforcing.

PART VI
MISCELLANEOUS PROVISIONS

Article 20

Special Provisions on Transport of Dangerous Goods

Transit transport of dangerous goods to be specified in Protocol 9 shall not be permitted under this Agreement, unless there is a special permit of the Contracting Party in whose territory the transportation is undertaken.

CERTIFIED COPY asean SECRETARY GENERAL OF ASEAN

Article 21

Special Provisions on Transport of Prohibited and/or Restricted Goods

Transit transport of goods prohibited and/or restricted in the transit territory of a Contracting Party, to be specified in Protocol 7, shall not be permitted under this Agreement.

Article 22

Special Provisions on Transport of Perishable Goods

Subject to the provisions of this Agreement, the Contracting Parties shall endeavour to facilitate transport of perishable goods.

Article 23

Provision of Greater Facilities

This Agreement does not entail in any way the withdrawal of transit facilities which are greater than those provided for in this Agreement as long as the terms and conditions are consistent with the principles embodied in this Agreement. This Agreement also does not preclude the granting of greater facilities , which may be agreed between Contracting Parties in the future.

Article 24

Domestic Legislation

1. Domestic legislation and regulations relating to transport of goods shall, in so far as this Agreement and its Protocols do not lay down, apply equally and without discrimination to transit transport.

2. The Contracting Parties endeavour to harmonize and simplify their rules, regulations and administrative procedures relating to transit transport in accordance with the provisions of this Agreement.

CERTIFIED COPY
asean
SECRETARY GENERAL OF ASEAN

Article 25

Working Groups

After the signing of this Agreement, related Working Groups shall be established or designated, to conclude the Protocols which shall form integral parts of this Agreement. These are :

Protocol 1	Designation of Transit Transport Routes and Facilities
Protocol 2	Designation of Frontier Posts
Protocol 3	Types and Quantity of Road Vehicles
Protocol 4	Technical Requirements of Vehicles
Protocol 5	ASEAN Scheme of Compulsory Motor Vehicle Third-Party Liability Insurance
Protocol 6	Railways Border and Interchange Stations
Protocol 7	Customs Transit System
Protocol 8	Sanitary and Phytosanitary Measures
Protocol 9	Dangerous Goods

Article 26

Compliance with National Laws

Except where otherwise provided in Agreements between the Contracting Parties, including this Agreement:

(a) means of transport of one Contracting Party including persons and goods shall, when in the territory of the other Contracting Party, comply with national laws and regulations in force in that territory ; and

(b) neither of the Parties shall impose on persons or goods of the other Contracting Party requirements which are more

CERTIFIED COPY SECRETARY GENERAL OF ASEAN asean

restrictive than those applied by its national laws and regulations on its own means of transport.

Article 27

Transparency

1. The Contracting Parties shall ensure transparency of its respective laws, regulations and administrative procedures which affect the facilitation of transit transport of goods under this Agreement and its Protocols.

2 For this purpose, all Contracting Parties shall deposit with the ASEAN Secretariat, not later than six months after this Agreement has entered into force, their aforementioned laws, regulations and administrative procedures.

3. If the aforementioned documents are not in the English language, their English translation shall also be deposited within one year after this Agreement has entered into force.

Article 28

Assistance for Traffic Accidents

Should the means of transport of one Contracting Party including persons and goods be involved in traffic accidents in the territory of another Contracting Party, the latter shall provide all possible assistance to the means of transport, including persons and goods, and notify the appropriate authorities of the Contracting Party concerned as soon as possible.

PART VII
INSTITUTIONAL ARRANGEMENTS

Article 29

Institutional Arrangements

1. A National Transit Transport Coordinating Committee shall be established in each of the Contracting Parties for the effective and efficient coordination and implementation of this Agreement.

CERTIFIED COPY
asean
SECRETARY GENERAL OF ASEAN

2. A Transit Transport Coordinating Board shall be established and composed of senior official nominated from each Contracting Party and a representative of the ASEAN Secretariat, to oversee the overall coordination and implementation of this Agreement. The Board is also authorized to invite and seek the assistance of other relevant ASEAN coordinating bodies, for all matters related to the implementation of this Agreement.

3. The Transit Transport Coordinating Board shall make periodic reports on the implementation of this Agreement, and seek appropriate guidance on significant issues as necessary, from the relevant ASEAN Ministerial bodies.

4. The ASEAN Secretariat shall assist the Transit Transport Coordinating Board in its functions and responsibilities under this Agreement, and in particular, in the monitoring and reporting of the progress of the implementation of this Agreement. The ASEAN Secretariat shall submit evaluation reports to the Transit Transport Coordinating Board, for further action.

PART VIII
FINAL CLAUSES

Article 30

Dispute Settlement

The provisions of the ASEAN Protocol on Dispute Settlement Mechanism, done at Manila on 20th day of November 1996, shall apply to consultation and the settlement of disputes under this Agreement.

Article 31

Accession of New Members

New Members of ASEAN shall accede to this Agreement on terms and conditions consistent with it and which have been agreed between them and the existing Members of ASEAN. Accession shall be through the signing and deposit of the Instrument of Accession of this Agreement with the Secretary – General of ASEAN, who shall promptly furnish each Contracting Party a certified true copy thereof.

CERTIFIED COPY
asean
SECRETARY GENERAL OF ASEAN

Article 32

Other Agreements in Force

This Agreement or any actions taken thereto shall not affect the rights and obligations of the Contracting Parties under any existing agreements or International Conventions to which they are also Contracting Parties.

Article 33

Final Provisions

1. This Agreement is subject to ratification or acceptance by the Contracting Parties.

2. The Instrument of Ratification or Acceptance shall be deposited with the Secretary General of ASEAN who shall promptly inform each Contracting Party of such deposit.

3. This Agreement shall enter into force upon the deposit of Instruments of Ratification or Acceptance by all Contracting Parties with the Secretary General of ASEAN.

4. No reservations may be made to this Agreement either at the time of signature or ratification.

5. Any amendment to the provisions of this Agreement shall be effected by consent of all the Contracting Parties.

IN WITNESS WHEREOF, the undersigned, being duly authorized to sign by their respective Governments, have signed the ASEAN Framework Agreement on the Facilitation of Goods in Transit.

DONE at Hanoi, Vietnam on the 16th day of December 1998, in a single copy in the English language.

CERTIFIED COPY
asean
SECRETARY GENERAL OF ASEAN

For the Government of Brunei Darussalam

ABDUL RAHMAN TAIB
Minister of Industry and Primary Resources

For the Government of the Republic of Indonesia

GINANDJAR KARTASASMITA
Coordinating Minister for Economy, Finance and Industry

For the Government of the Lao People's Democratic Republic

SOULIVONG DARAVONG
Minister of Industry and Handicrafts

For the Government of Malaysia

16/12/98

DATO' SERI RAFIDAH AZIZ
Minister of International Trade and Industry

For the Government of the Union of Myanmar

BRIGADIER GENERAL DAVID O. ABEL
Minister at the Office of the Chairman
of the State Peace and Development Council

CERTIFIED COPY
SECRETARY GENERAL OF ASEAN
asean

For the Government of the Republic of the Philippines

JOSE TRINIDAD PARDO
Secretary of Trade and Industry

For the Government of the Republic of Singapore

LEE YOCK SUAN
Minister for Trade and Industry

For the Government of the Kingdom of Thailand

SURIN PITSUWAN
Minister of Foreign Affairs

For the Government of the Socialist Republic of Vietnam

TRUONG DINH TUYEN
Minister of Trade

CERTIFIED COPY
SECRETARY GENERAL OF ASEAN
asean