Basic Documents - Fifth ASEAN Summit: Introductory Note

Sompong Sucharitkul
Golden Gate University School of Law, ssucharitkul@ggu.edu

Follow this and additional works at: http://digitalcommons.law.ggu.edu/pubs
Part of the International Law Commons

Recommended Citation
http://digitalcommons.law.ggu.edu/pubs/540

This Conference Proceeding is brought to you for free and open access by the Faculty Scholarship at GGU Law Digital Commons. It has been accepted for inclusion in Publications by an authorized administrator of GGU Law Digital Commons. For more information, please contact jfischer@ggu.edu.
BASIC DOCUMENTS
FIFTH ASEAN SUMMIT
BANGKOK, DECEMBER 14 - 15, 1995

BANGKOK SUMMIT DECLARATION AND ANNEXES*
[Done at Bangkok, December 15, 1995]
+ Cite as 35 ILM ..... (1996) +

TREATY ON THE SOUTH-EAST ASIA NUCLEAR WEAPON-FREE ZONE
WITH ANNEX AND PROTOCOL**
[Done at Bangkok, December 15, 1995]
+ Cite as 35 ILM ..... (1996) +

INTRODUCTORY NOTE

BY

SOMPONG SUCHARITKUL

* Reproduced from the text supplied by the ASEAN Secretariat. The Introductory Note was prepared for International Legal Materials by Sompong Sucharitkul, D.C.L., Distinguished Professor of International and Comparative Law, Golden Gate University School of Law, First ASEAN Secretary-General (Thailand) 1967-1970.

** Reproduced from the text supplied by the Ministry of Foreign Affairs of Thailand, with an Introductory Note by Sompong Sucharitkul.
ASEAN, The Association of South-East Asian Nations was established by the ASEAN Declaration of August 8, 1967 in Bangkok, Thailand, with five founding members: Indonesia, Malaysia, the Philippines, Singapore and Thailand. Brunei Darussalam was admitted as the sixth member of ASEAN by the Declaration of January 7, 1984 in Jakarta,\textsuperscript{1} and Vietnam became the seventh member of the Association since July 28, 1995, following the Admission Ceremony in Brunei Darussalam.\textsuperscript{2}

The documents reproduced in this volume incorporate the results of the Fifth Formal ASEAN Summit Meeting in Bangkok on December 14-15, 1995. The First ASEAN Summit was convened at Denpasar, Bali, in Indonesia, culminating in the Declaration of ASEAN Concord on February 24, 1976,\textsuperscript{3} and the Conclusion of the Treaty of Amity and Cooperation in South-East Asia of the same date.\textsuperscript{4} The Second ASEAN Summit was held in Kuala Lumpur, Malaysia, followed by the Press Joint-Communiqué, known as the Accord of Kuala Lumpur of August 5, 1977.\textsuperscript{5} The Third ASEAN Summit was convened in Manila, the Philippines, following an upheaval in that country and resulted in the adoption of the Manila Declaration of 1987, the Protocol Amending the Treaty of Amity and Cooperation in South-East Asia and an Agreement for the Promotion and Protection of Investments of December 15, 1987.\textsuperscript{6} The Fourth Summit was held in Singapore, high-lighted by the adoption of the Singapore Declaration

\begin{itemize}
  \item \textsuperscript{1} ASEAN Documents Series 1967-1988, p. 45, third edition, by ASEAN Secretariat, Jakarta, Declaration of the Admission of Brunei Darussalam into ASEAN.
  \item \textsuperscript{2} ASEAN, Twenty-Eighth ASEAN Ministerial Meeting, Brunei Darussalam, July 28, 1995, pp. 10-20.
  \item \textsuperscript{3} ASEAN Documents Series 1967-1988, p. 36, cited in Note 1 above.
  \item \textsuperscript{4} \textit{Ibid.}, at p. 39, Bali, February 24, 1976.
  \item \textsuperscript{5} \textit{Ibid.}, at p. 54, Joint Press Communiqué, Meeting of the ASEAN Heads of Government, Kuala Lumpur, August 4-5, 1977.
  \item \textsuperscript{6} The documents reproduced in 27 ILM 596 (1988) include (1) the Manila Declaration of 1987; (2) the Joint Press Statement; (3) the Protocol Amending the Treaty of Amity and Cooperation in South-East Asia (together with the original English text of the Treaty); (4) an Agreement for the Promotion and Protection of Investments; (5) the Revised Basic Agreement on ASEAN Industrial Joint Ventures; (6) the Protocol on Improvements on Extension of Tariff Preferences under the ASEAN Preferential Trading and Rollback on Non-Tariff Barriers among ASEAN Countries.
\end{itemize}
of 1992, the Framework Agreement on Enhancing ASEAN Economic Cooperation and the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA) of January 28, 1992.\(^7\)

From the practice of ASEAN of nearly three decades, a consistent pattern appears to have emerged for the convening of ASEAN Summit Meetings which have been held on a rotational basis in alphabetical order from Indonesia, Malaysia, the Philippines and Singapore to Thailand in 1995. Heads of government of ASEAN countries meet once a year on an informal basis, but the Formal Summit Meeting will now be held every three years, the next one in Vietnam in 1998, preceded by a number of informal gatherings of ASEAN leaders and heads of government. There will be an informal summit of ASEAN and prospective new members in Indonesia in December 1996.

**BANGKOK SUMMIT DECLARATION OF 1995**

In the Bangkok Summit Declaration of 1995, the Heads of State and Government of ASEAN noted the significant progress and accomplishment of ASEAN. They were encouraged by the admission of Vietnam and the participation of Laos and Cambodia as Observers, and by the accession of all South-East Asian countries to the Treaty of Amity and Cooperation in South-East Asia (TAC) and its endorsement by the United Nations General Assembly Resolution 47/53(b) and by the signing of the South-East Asia Nuclear Weapon-Free Zone (SEANWFZ) Treaty by all the ten countries of South-East Asia including Myanmar. They declared their aim to work towards the speedy realization of ASEAN for the entire region with ASEAN identity, spirit and sense of community, elevating functional cooperation to a higher plane to bring shared prosperity to all its members and citizens, moving towards greater economic integration based on existing activities, initiating new areas and promoting closer cooperation in international fora.

---

\(^7\) The documents adopted at the Fourth ASEAN Summit in 1992 in Singapore were supplied by the Ministry of Foreign Affairs of Singapore. Follow-up actions were reviewed in the Annual Report of the ASEAN Standing Committee 1992-1993, ASEAN Secretariat, Jakarta; see in particular, The Year in Perspective: An Overview, pp. 5-15, summarizing Developments in Political and Security Cooperation, in Economic Cooperation, in Functional Cooperation and in External Relations.
ASEAN will foster its national and regional resilience in political, economic, social, cultural, humanitarian and other fields which will enhance peace, security and prosperity in Asia and the Pacific.

POLITICAL AND SECURITY COOPERATION

In the field of political and security cooperation, the ASEAN Heads of State and Government have agreed to establish an ASEAN comprising all countries in South-East Asia, guided by the principles underlying the TAC and the Declaration of ASEAN Concord. ASEAN will continue to play a central role in cooperation with other participants in developing the ASEAN Regional Forum (ARF) to ensure peace and security in the Asia-Pacific Region, reaffirming its commitment to the Zone of Peace, Freedom and Neutrality (ZOPFAN), and calling upon the nuclear-weapon States to extend their cooperation by acceding to the Protocol of the Treaty. In particular, ASEAN will actively participate in the Asia-Europe Meeting (ASEM), as member States did, in Bangkok on March 1-2, 1996.

ECONOMIC COOPERATION

In the field of economic cooperation, ASEAN is accelerating the progress towards actualization of AFTA before the target date of year 2003, i.e., by 2000 to maximize the number of items with tariffs reduced to 0-5 % as well as expanding the list of products with no tariff by the same year, while intensifying its cooperative relationships with its dialogue partners and other regional groupings such as CER, EU and NAFTA. ASEAN will promote sub-regional arrangements, such as the various triangles and the Mekong region. It will enhance cooperation in freer trade in services through implementation of the ASEAN Framework Agreement on Services, a member State retaining its right to take prudential measures consistent with the General Agreement on Trade in Services (GATS). An ASEAN Patent system and an ASEAN Trade Mark system will be further explored consistent with the establishment of an ASEAN
investment region in order to implement an ASEAN Plan of Action on Cooperation and Promotion of Foreign Direct Investment and Intra-ASEAN Investment. ASEAN is embarking on new initiatives to achieve global competitiveness in agriculture and forestry while maintaining the sustainability of its resources, to complement ASEAN’s thrust in realizing AFTA. ASEAN will implement the Medium-Term Program of Action on Energy Cooperation (1995-1999) with greater participation by private sector. ASEAN promotes sustainable tourism development, preservation of cultural and environmental resources, the provision of transportation and other infrastructure, simplification of immigration procedures and human resources development. ASEAN will strengthen its links with the ASEAN Chambers of Commerce and Industry, and cooperate closely in the fora of WTO and APEC, as well as the East Asia Economic Caucus (EAEC). A General Dispute Settlement Mechanism (DSM) will be adopted for all disputes arising out of ASEAN economic agreements.

FUNCTIONAL COOPERATION

ASEAN will strive towards technological competitiveness by building on regional strength and regional cooperation in science and technology that is self-sustaining and demand-driven with private sector participation. Economic prosperity will be advanced in sustainable manner for the benefit of future generations and a balanced ecosystem while preserving and promoting the cultural and artistic heritage as an integral part of life and spirit in ASEAN. Community education in sustainable development will be promoted. ASEAN will work towards the equitable and effective participation of women in all fields and levels of society, and further enhance cooperative efforts towards drug abuse and illicit traffickings.

EXTERNAL RELATIONS

ASEAN will remain outward-looking and will deepen its external relation with its partners in a globally inter-dependent world.
ANNEXES

A Protocol to amend the Agreement of ASEAN Preferential Trading Arrangements was adopted to amend the Rules of Origin to phase in all Preferential Tariff Arrangements (PTA) products into the CEPT scheme following the decision taken by the Sixth AFTA Council in Phuket, Thailand, on April 27, 1995, (Annex 1). The Operational Certification Procedures are contained in Annex 2.

The ASEAN Framework Agreement on Services, reaffirmed ASEAN commitments of GATS and pursuant to the Singapore Summit Declaration of January 28, 1992, to explore further measures on border and non-border areas of cooperation to supplement and complement the liberalization of trade, agreed that ASEAN Member States shall extend to one another preference in Trade in Services, clarifying the objectives and defining the areas of cooperation, liberalization, and negotiation of specific commitments, thereby facilitating and widening the areas of preferential treatment between two and more ASEAN Member States.

The ASEAN Framework Agreement on Intellectual Property Cooperation is designed to foster closer cooperation in the field of intellectual property and related fields to provide a firm basis for economic progress, the expeditious realization of AFTA and prosperity among the Member States of ASEAN, recognizing the need to promote closer cooperation and understanding in these fields to contribute to regional dynamism, synergy and growth and to promote greater and freer flow of investment within ASEAN.

An additional Protocol was adopted for the Accession of Vietnam to the Framework Agreement on Enhancing Economic Cooperation, concluded by ASEAN Member States at the Fourth Summit Meeting in 1992 in Singapore, as amended by the Bangkok Protocol on December 15, 1995 at the Fifth Summit Meeting, to allow Vietnam to observe and carry out its obligations under the amended Agreement as from January 1, 1996.

Likewise, another Protocol was adopted to permit accession of Vietnam to the Agreement on CEPT scheme for AFTA, recognizing that Vietnam has undertaken to prepare a list for tariff reduction, effective January 1, 1996 and ending at 0-5% tariff on January 1, 2006.

A final Protocol was adopted to amend the Agreement on ASEAN Energy Cooperation
to accommodate the need to have a more focused energy cooperation in ASEAN, so as to pursue activities designed to enhance the ASEAN economic cooperation in the region in accordance with the Framework Agreement on Enhancing ASEAN Economic Cooperation as embodied in the 1992 Singapore Declaration.

**TREATY ON THE SOUTH-EAST ASIA WEAPON-FREE ZONE**

The Treaty is another reaffirmation of ASEAN leaders' determination to maintain peace and security in the region of south-East Asia in the spirit of friendly relations and cooperation, mutual understanding and good neighborliness, as enunciated in previous declarations and communiqués of ASEAN Member States. It recalls the Program of Action on ZOPFAN adopted at the Twenty-Sixth ASEAN Ministerial Meeting in Singapore in July 1993, and the importance of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in contributing towards international peace and security. Its conclusion is consistent with the Final Document of the Tenth Special Session of the United Nations General Assembly which encourages the establishment of nuclear-weapon free zones. The Treaty is designed to protect the region from environmental pollution and the hazards posed by radioactive wastes and other radioactive materials. It contains an article on the use of terms, the application of the treaty, the basic undertakings by State Parties, without prejudice to the right to use nuclear energy for their economic development and social progress and for useful purposes. It refers to IAEA safeguards, and emphasizes the need to comply with the Convention on Early Notification of a Nuclear Accident. It contains provisions with regard to the visits of foreign ships and aircraft, including transit passages. The Treaty establishes a Commission with an Executive Committee to ensure proper operation of verification measures in accordance with the Control System in Article 10. The Treaty contains provisions on remedial measures and a dispute settlement clause. It also defines its role with other international organizations. It was signed by all the ten South-East Asian States.

The Treaty has an Annex describing the procedure for a Fact-Finding Mission and a Protocol to the Treaty which in Article 3 provides that the Treaty is open for signature by the
People's Republic of China, the Russian Federation, the United Kingdom of Great Britain, and Northern Ireland, and the United States of America. The Treaty would be useful once it is signed by all or even a few permanent members of the Security Council of the United Nations. While there is no race among the five listed in the Protocol, time will tell whether, signed or unsigned by any Nuclear Power, the Treaty will have any meaningful impact on the peace and stability in the region of South-East Asia, in response to the collective cry of its peoples for peace, progress and prosperity.

Sompong SUCHARITKUL
San Francisco, March 27, 1996
SOMPONG SUCHARITKUL

Docteur en Droit (Paris)
LL.M. (Harvard)
Diploma (Hague Academy of International Law)

Distinguished Professor of International and Comparative Law
Director, Center for Advanced International Legal Studies;
LL.M. in International Legal Studies; and
Bangkok Summer Law Study Program
Golden Gate University School of Law

For fifteen years, Professor SUCHARITKUL served as Ambassador of Thailand to the BENELUX countries, Japan, France, Portugal, Italy, Greece and Israel, as well as the European Economic Community and UNESCO. He represented Thailand in the United Nations General Assembly for nearly three decades and was Chairman of Thailand's delegation to the Third U.N. Conference on the Law of the Sea. He has been a Member and a Special Rapporteur of the International law Commission and a Member of the Permanent Court of Arbitration (Thai National Group); and Vice President of the International Academy of Human Rights (Paris). Professor SUCHARITKUL is currently a Member of the Commercial Arbitration Centre at Cairo; and the Regional Centre for Arbitration at Kuala Lumpur, Malaysia, as well as a Member of the Panels of Arbitrators and of Conciliators of the International Centre for the Settlement of Investment Disputes (ICSID), World Bank, Washington, DC; and a Mediator and Arbitrator of the World Intellectual Property Organization (WIPO) Arbitration Center, Geneva, Switzerland. In addition, Professor SUCHARITKUL serves as an elected Member of the Institute of International Law (Geneva), and a Corresponding Collaborator of UNIDROIT (Rome).

Professor SUCHARITKUL has written extensively in the field of international legal studies and is also serving as Editor-in-Chief of the Annual Survey of International and Comparative Law, a Law Journal published by Golden Gate University School of Law.

Professor SUCHARITKUL has taught international law at universities in Thailand, Singapore, the Netherlands, Switzerland and the United States.
BANGKOK SUMMIT DECLARATION OF 1995

WE, the Heads of State and Government of ASEAN;

INSPIRED by the significant progress and accomplishments of ASEAN;

ENCOURAGED by the admission of Vietnam as the seventh member of ASEAN and the participation of Laos and Cambodia as Observers;

ENCOURAGED FURTHER by the accession by all Southeast Asian countries to the Treaty of Amity and Cooperation in Southeast Asia (TAC) and its endorsement by the United Nations General Assembly in Resolution 47/53 (b) and by the signing of the Southeast Asia Nuclear Weapon-Free Zone (SEANWFZ) Treaty;

CONFIDENT of the early realisation of the ASEAN vision of embracing the whole of Southeast Asia;

EMBOLDENED by ASEAN’s economic dynamism and its growing importance in world trade;

MINDFUL of the existence of internal and external challenges to ASEAN’s identity, solidarity, effectiveness and competitiveness;

RESOLUTE in our determination to enhance cooperation, peace and prosperity in our region;

DESIRING to create a caring, cohesive and technologically advanced ASEAN community, whose strength lies in a common regional identity;

DETERMINED to achieve further economic integration through greater cooperation;

AND RESOLUTE in improving the quality of life of its people through human development to enable them to realize their full potential and capacity to contribute towards further progress as productive and responsible members of society;

DO HEREBY DECLARE THAT:

1 ASEAN shall work towards the speedy realisation of an ASEAN comprising all Southeast Asian countries as it enters the 21st century;

2 ASEAN shall take concrete steps to further strengthen the ASEAN identity, spirit and sense of community through wider participation of ASEAN citizens;
3 ASEAN shall elevate functional cooperation to a higher plane to bring shared prosperity to all its members;

4 ASEAN shall move towards greater economic integration by building on existing economic cooperation activities, initiating new areas of cooperation, and promoting closer cooperation in international fora;

5 ASEAN shall undertake measures to further strengthen its national and regional resilience in the political, economic, social, cultural, humanitarian and other fields; and

6 ASEAN shall continue to actively participate and cooperate in various regional and international fora to enhance peace, security and prosperity in Asia and the Pacific and the world.

POLITICAL AND SECURITY COOPERATION

7 In the field of political and security cooperation, we have agreed that:

- ASEAN is committed to the establishment of an ASEAN comprising all countries in Southeast Asia which will be guided by the spirit and principles underlying the TAC and the Declaration of ASEAN Concord. Cooperative peace and shared prosperity shall be the fundamental goals of ASEAN;

- ASEAN Member States shall facilitate and expedite the realisation of an ASEAN comprising all countries in Southeast Asia by developing further the channels of dialogue and avenues for interaction with the prospective ASEAN Member States in Southeast Asia at various levels and in the economic, political, cultural, social, scientific and technological, and other functional fields. This historic Meeting of the Heads of State and Government of the ten Southeast Asian countries in Bangkok marked a significant step forward towards the realisation of this vision;

- ASEAN shall explore ways to consolidate its tradition of consultation and consensus within an expanded ASEAN. In a rapidly changing world, ASEAN shall remain bold, forward looking, dynamic and nimble in order to safeguard the vital interests of its diverse members;

- ASEAN shall intensify dialogue on intra-ASEAN security cooperation;
ASEAN shall continue to play a central role, in cooperation with other participants, in developing the ASEAN Regional Forum (ARF) into an effective and meaningful process for ensuring peace and security in the Asia-Pacific region as conceived in the ASEAN Concept Paper on the ARF;

ASEAN shall seek an early, peaceful resolution of the South China Sea dispute and shall continue to explore ways and means to prevent conflict and enhance cooperation in the South China Sea consistent with the provisions of the TAC and the ASEAN Declaration on the South China Sea of 1992 as well as international law including the United Nations Convention on the Law of the Sea;

ASEAN reaffirms its commitment to Zone of Peace, Freedom and Neutrality (ZOPFAN), as envisaged in its 1993 "Programme of Action on ZOPFAN";

ASEAN calls on all non-Southeast Asian countries to associate themselves with the TAC. ASEAN recognises that such an association will contribute positively towards the security and stability of the region and is working actively to finalise the modality for doing so;

ASEAN calls upon the nuclear-weapon States, for the maximum effectiveness of the Treaty on Southeast Asia Nuclear Weapon-Free Zone, to extend their cooperation by acceding to the Protocol of this Treaty. The Treaty is yet another contribution of Southeast Asian countries to the strengthening of the security in the region and to the maintenance of world peace and stability;

ASEAN urges all nuclear-weapons States to implement more vigorous measures to reduce and eliminate all nuclear weapons in compliance with their long-standing obligations under the Nuclear Weapons Non-Proliferation Treaty. ASEAN also calls upon these States to expeditiously conclude a credible and comprehensive Test Ban Treaty in the interest of world peace;

ASEAN shall actively participate in the Asia-Europe Meeting in Bangkok on 1-2 March 1996. This historic meeting of the Heads of State and Government of ten Asian nations and Fifteen European nations and the President of the European Commission, should contribute towards building a new partnership for greater growth between Asia and Europe; and
ASEAN shall explore ways and means to enhance cooperation with the United Nations, with the view to promoting peace and stability in the region. ASEAN shall also work towards making the United Nations a more equitable, effective, and relevant body for promoting peace and prosperity in the region and globally in the post-Cold War era. ASEAN shall give particular attention towards the effort to making the membership of the Security Council more reflective of the prevailing balance among nations; to enhancing the capacity and effectiveness of the world body to carry out its peace-making, peace-keeping, peace-building and preventive diplomacy function; and to strengthening the work of the United Nations in the social and economic fields.

ECONOMIC COOPERATION

In the field of economic cooperation, we have agreed to adopt the following Agenda for Greater Economic Integration:

- ASEAN shall further accelerate the progress towards the actualisation of AFTA before the target date of Year 2003. Member Countries will maximise the number of items with tariffs reduced to 0-5% by the year 2000 as well as expand the number of products with tariffs reduced to 0% by the same year;

- ASEAN shall remove all quantitative restrictions and non-tariff barriers and shall schedule the elimination of NTBs beginning 1 January 1996;

- ASEAN shall introduce greater transparency in standards and conformance, align product standards with international standards and undertake projects to facilitate mutual recognition agreements on a bilateral or plurilateral basis, to facilitate greater intra-regional trade. ASEAN shall identify the work programmes to achieve these objectives and commence work in 1996;

- ASEAN shall harmonise tariff nomenclature at the HS 8-digit level and implement the GATT Valuation System by 1997. ASEAN shall also create a green lane system to expedite the clearance of CEPT products;

- ASEAN shall intensify its cooperative relationships and pursue vigorously economic linkages with its dialogue partners and other regional groupings such as CER, EU and NAFTA;
ASEAN shall continue to support sub-regional arrangements as they have a vital role to play in accelerating economic growth;

ASEAN shall move towards enhancing cooperation and freer trade in services through the implementation of the ASEAN Framework Agreement on Services;

ASEAN Member States shall enter into negotiations of specific commitments on market access, national treatment and additional commitments covering all services sectors and all modes of supply. The first round of negotiations shall begin on 1 January 1996 and conclude no later than 31 December 1998. The negotiations will give emphasis to financial services, maritime transport, telecommunications, air transport, tourism, construction and business services. Subsequent rounds of negotiations shall be undertaken until a higher level of liberalisation is achieved. Member States will be given the flexibility to determine the extent of sectors to be offered for negotiation. For the duration of the negotiations, each Member State agrees not to take any measures in such a manner as to improve its negotiating position and leverage. However, a Member State shall not be prevented from taking prudential measures consistent with the General Agreement on Trade in Services (GATS);

ASEAN, conscious of the importance of intellectual property in intra-ASEAN and world trade, shall implement the Framework Agreement on Intellectual Property Cooperation which will increase cooperation amongst ASEAN Member Countries in the intellectual property area and which further confirms ASEAN’s determination to explore the possibility of setting up an ASEAN Patent System and an ASEAN Trademark System;

ASEAN shall work towards establishing an ASEAN investment region which will help enhance the area’s attractiveness and competitiveness for promoting direct investment. The promotion of direct investment into and amongst ASEAN Member Countries will help in the development and growth of the ASEAN economies. In this regard, ASEAN shall implement, among other investment measures, an ASEAN Plan of Action on Cooperation and Promotion of Foreign Direct Investment and Intra-ASEAN Investment;

ASEAN shall implement a new industrial cooperation scheme which is CEPT based and has been developed together with the private sector.
The new scheme will encourage investment in technology-based industries and value-added activities:

- ASEAN shall implement the ASEAN Plan of Action on Infrastructure Development in order to provide efficient and cost-effective infrastructure facilities in the region;

- ASEAN shall complete the implementation of the ASEAN Plan of Action in Transport and Communications for 1994-1996 leading to the development of multimodal transport, interconnectivity in telecommunications, harmonisation of road transport laws, rules and regulations, and human resource development. The Plan may also include the development of an open-sky policy;

- ASEAN shall embark on new initiatives to achieve global competitiveness in agriculture and forestry while maintaining the sustainability of its resources. ASEAN shall increase the competitiveness of agriculture and forestry by increased application of science and technology, investment in human resource development as well as through greater liberalisation of trade in agriculture and forest products;

- ASEAN shall implement a programme of action that will further enhance trade and investment in industrial minerals to support the industrialisation of Member States and complement ASEAN’s thrust in realising AFTA. ASEAN shall also continue to create a conducive environment for private sector participation by making rules and procedures transparent. A mineral database shall be set in place and be immediately operationalised to support the cooperation programme;

- ASEAN shall ensure greater security and sustainability of energy supply through diversification, development and conservation of resources, the efficient use of energy, and the wider application of environmentally sound technologies. ASEAN shall implement the Medium-Term Programme of Action on Energy Cooperation (1995-1999) with greater private sector participation in various modes of investment, transfer of technology and human resource development, with major thrust on power sector development;

- ASEAN shall focus on promoting sustainable tourism development, preservation of cultural and environmental resources, the provision of transportation and other infrastructure, simplification of immigration procedures and human resource development;
ASEAN shall implement the Action Plan for SME Development emphasising information access, technology, financing, human resource development and marketing;

ASEAN shall strengthen its links with the ASEAN-Chambers of Commerce and Industry to enable the private sector to participate more effectively in the ASEAN policy formulation process and in programme implementation;

ASEAN shall cooperate closely on international trade issues in international fora including the WTO and APEC. Since international financial and macroeconomic policies can have a significant effect on the region’s economies, ASEAN shall play a more active role in shaping the agenda of international financial and macroeconomic issues;

ASEAN shall continue with efforts to advance further the East Asia Economic Caucus (EAEC);

ASEAN Sectoral Ministers as well as Senior Officials shall meet regularly to embark on new initiatives to strengthen economic cooperation. ASEAN Economic Ministers and the Senior Economic Officials shall continue to be the coordinating bodies for all economic activities. All ASEAN economic cooperation decisions shall be made by flexible consensus so that Member Countries wishing to embark on any cooperation scheme may do so while the others can join at a later date; and

ASEAN shall adopt a General Dispute Settlement Mechanism (DSM) which shall apply to all disputes arising from ASEAN economic agreements. Under this general mechanism, there may be specific mechanisms tailored to various economic agreements.

FUNCTIONAL COOPERATION

In the field of functional cooperation, we have agreed that:

ASEAN shall strive towards technological competitiveness by building on national strength and regional cooperation in science and technology that is self-sustaining and demand driven with active participation from the private sector;
ASEAN shall continue to develop human resources in science and technology to cope with the pace of scientific and technological advancement, as a means to attain and sustain a competitive edge in the international economic arena;

ASEAN shall advance the economic prosperity and social well-being of its peoples in a sustainable manner, in partnership with the private sector, for the benefit of future generations and in the interest of ensuring a balanced ecosystem;

ASEAN shall seek to conserve, preserve and promote the cultural and artistic heritage as an integral part of life and spirit in ASEAN. Towards this end, ASEAN shall seek to foster a dynamic environment conducive to the creative expressions of indigenous, traditional, modern and contemporary cultural forms and values while recognising the commonalities and differences in traditions as great sources of artistic creativity;

ASEAN shall upgrade its human resources by investing in building institutional capacities for education, training and research, science and technology and technology transfer as well as strengthening the networking of HRD institutions;

ASEAN shall raise awareness of ASEAN among its peoples, in particular the younger generation, and to instill in them a consciousness of the spirit and identity embodied in ASEAN, by harnessing all appropriate modes and technologies in the media and communications, education and through greater interaction among its peoples;

ASEAN shall reinforce its efforts to improve the quality of life of its peoples by ensuring social justice, improving the quality of and access to social services and working towards the reduction of poverty;

ASEAN, committed to the total eradication of illiteracy, shall work towards developing better informed and educated societies, through cooperation in educational development on an inter-disciplinary basis and the provision of basic education for all;

ASEAN shall engage the support of the public, private, international and national organizations and agencies in community building through appropriate educational processes, in recognition of the crucial role of community education in sustainable development;

ASEAN shall continue to strengthen the family as a foundation for a strong, caring and cohesive society, capable of meeting new challenges arising from
rapid social and economic changes, by promoting strong family values and bonds and providing for safety nets for families to help cushion the impact of such changes;

- ASEAN shall work towards the equitable and effective participation of women in all fields and levels of society;

- ASEAN shall enhance regional cooperation for the survival, protection and development of children and for youth development;

- ASEAN shall continue to strengthen collective response to the problems and challenges posed by HIV/AIDS, including the mobilization of resources to support implementation of priority activities;

- ASEAN shall further enhance cooperative efforts against drug abuse and illicit trafficking, with special emphasis being given to demand reduction programmes and information exchange and dissemination, with the aim of creating a drug-free ASEAN;

- ASEAN shall take into account the existence of new challenges to the peace, economic growth and stability of the region and the implication of these challenges;

- ASEAN shall continue to promote the participation of various sectors of society, including NGOs and other similar organizations, in relevant activities of ASEAN; and

- ASEAN shall intensify its cooperation in the field of civil service matters to further enhance the efficiency and effectiveness of their individual civil services.

EXTERNAL RELATIONS

9 ASEAN shall continue to attach importance and further the Dialogue Process involving its Dialogue, Sectoral and Consultative Partners on the basis of mutual benefit and in the spirit of goodwill and partnership.

10 ASEAN shall remain outward looking and shall deepen its external relations with its partners in a globally interdependent world.
DONE at Bangkok, this 15th day of December 1995.

For Brunei Darussalam:  

HAJI HASSANAL BOLKIAH  
Sultan of Brunei Darussalam

For the Republic of Indonesia:  

SOEHARTO  
President

For Malaysia:  

DR MAHATHIR BIN MOHAMAD  
Prime Minister

For the Republic of the Philippines:  

FIDEL V. RAMOS  
President

For the Republic of Singapore:  

GÔH GUOK TONG  
Prime Minister

For the Kingdom of Thailand:  

BANHARN SILPA-ARCHA  
Prime Minister

For the Socialist Republic of Vietnam:  

VO VAN KIET  
Prime Minister
PROTOCOL TO AMEND THE AGREEMENT ON
ASEAN PREFERENTIAL TRADING ARRANGEMENTS

The Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand, Member States of the Association of South East Asian Nations (ASEAN);

NOTING the Agreement on ASEAN Preferential Trading Arrangements (PTA) signed in Manila on 24 February 1977;

RECALLING the decision of the Sixth ASEAN Free Trade Area (AFTA) Council in Phuket, Thailand on 27 April 1995 to phase in all PTA products into the CEPT Scheme;

DESIRING to amend the Rules of Origin and its Operational Certification Procedures in the Agreement on ASEAN Preferential Trading Arrangements in accordance with Article 17 (3) of the Agreement which provides for the amendment to the Agreement, so as to implement this decision;

HAVE AGREED AS FOLLOWS:


This Protocol shall enter into force upon the deposit of instruments of ratification or acceptance by all signatory governments with the Secretary-General of ASEAN which shall be done not later than 1 January 1996.

This Protocol shall be deposited with the Secretary-General of ASEAN who shall promptly furnish certified copies thereof to all Member Countries.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed the Protocol to Amend the Agreement on ASEAN Preferential Trading Arrangements.
DONE at Bangkok, this 15th day of December 1995 in a single copy in the English Language.

For the Government of Brunei Darussalam:

ABDUL RAHMAN TAIB
Minister of Industry and Primary Resources

For the Government of the Republic of Indonesia:

T. ARIWIBOWO
Minister of Industry and Trade

For the Government of Malaysia:

RAFIDAH AZIZ
Minister of International Trade and Industry

For the Government of the Republic of the Philippines:

RIZALINO S. NAVARRO
Secretary of Trade and Industry

For the Government of the Republic of Singapore:

YEO CHEOW TONG
Minister for Trade and Industry

For the Government of the Kingdom of Thailand:

AMNUAY VIRAVAN
Deputy Prime Minister
ANNEX 1

RULES OF ORIGIN FOR THE CEPT

In determining the origin of products eligible for the CEPT Scheme under the Agreement on the CEPT, the following Rules shall be applied:

Rule 1: Originating Products

Products under the CEPT imported into the territory of a Member State from another Member State which are consigned directly within the meaning of Rule 5 hereof, shall be eligible for preferential concessions if they conform to the origin requirements under any one of the following conditions:

(a) Products wholly produced or obtained in the exporting Member State as defined in Rule 2; or

(b) Products not wholly produced or obtained in the exporting Member State, provided that the said products are eligible under Rule 3 or Rule 4.

Rule 2: Wholly Produced or Obtained

Within the meaning of Rule 1(a), the following shall be considered as wholly produced or obtained in the exporting Member State:

(a) Mineral products extracted from its soil, its water or its seabeds;

(b) Agricultural products harvested there;

(c) Animals born and raised there;

(d) Products obtained from animals referred to in paragraph (c);

(e) Products obtained by hunting or fishing conducted there;

(f) Products of sea fishing and other marine products taken from the sea by its vessels;

(g) Products processed and/or made on board its factory ships exclusively from products referred to in paragraph (f) above;

(h) Used articles collected here, fit only for the recovery of raw materials;

(i) Waste and scrap resulting from manufacturing operations conducted there; and

(j) Goods produced there exclusively from the products referred to in paragraph (a) to (i) above.
Rule 3: Not Wholly Produced or Obtained

(a) (i) A product shall be deemed to be originating from ASEAN Member States, if at least 40% of its content originates from any Member State.

(ii) Subject to Sub-paragraph (i) above, for the purpose of implementing the provisions of Rule 1(b), products worked on and processed as a result of which the total value of the materials, parts or produce originating from non-ASEAN countries or of undetermined origin used does not exceed 60% of the FOB value of the product produced or obtained and the final process of the manufacturer is performed within the territory of the exporting Member State.

(b) The value of the non-originating materials, parts or produce shall be:

(i) The CIF value at the time of importation of the products or importation can be proven; or

(ii) The earliest ascertained price paid for the products of undetermined origin in the territory of the Member State where the working or processing takes place.

The formula for 40% ASEAN Content is as follows:

\[
\frac{\text{Value of Imported Non-ASEAN Materials, Parts of Produce} + \text{Value of Undetermined Origin Materials, Parts or Produce}}{\text{FOB Price}} \times 100\% < 60\%
\]

Rule 4: Cumulative Rule of Origin

Products which comply with origin requirements provided for in Rule 1 and which are used in a Member State as inputs for a finished product eligible for preferential treatment in another Member States shall be considered as products originating in the Member State where working or processing of the finished product has taken place provided that the aggregate ASEAN content of the final product is not less than 40%.

Rule 5: Direct Consignment

The following shall be considered as consigned directly from the exporting Member State to the importing Member State:
(a) If the products are transported passing through the territory of any other ASEAN country;
(b) If the products are transported without passing through the territory of any other non-ASEAN country;
(c) The products whose transport involves transit through one or more intermediate non-ASEAN countries with or without transhipment or temporary storage in such countries, provided that:

(i) The transit entry is justified for geographical reason or by consideration related exclusively to transport requirements;
(ii) The products have not entered into trade or consumption there; and
(iii) The products have not undergone any operation there other than unloading and reloading or any operation required to keep them in good condition.

Rule 6: Treatment of Packing

(a) Where for purposes of assessing customs duties a Member State treats products separately from their packing, it may also, in respect of its imports consigned from another Member State, determine separately the origin of such packing.
(b) Where paragraph (a) above is not applied, packing shall be considered as forming a whole with the products and no part of any packing required for their transport or storage shall be considered as having been imported from outside the ASEAN region when determining the origin of the products as a whole.

Rule 7: Certificate of Origin

A claim that products shall be accepted as eligible for preferential concession shall be supported by a Certificate of Origin issued by a government authority designated by the exporting Member State and notified to the other Member States in accordance with the Certification Procedures to be developed and approved by the Senior Economic Officials Meeting (SEOM).

Rule 8: Review

These rules may be reviewed as and when necessary upon request of a Member State and may be open to such modifications as may be agreed upon by the Council of Ministers.
ANNEX 2

OPERATIONAL CERTIFICATION PROCEDURES FOR THE RULES OF ORIGIN OF THE ASEAN COMMON EFFECTIVE PREFERENTIAL TARIFF SCHEME FOR THE ASEAN FREE TRADE AREA

For the purpose of implementing the Rules of Origin for the CEPT Scheme, the following operational procedures on the issuance and verification of the Certificate of Origin (Form D) and the other related administrative matters, shall be observed:

Authorities

Rule 1

The Certificate of Origin shall be issued by the Government authorities of the exporting Member State.

Rule 2

(a) The Member State shall inform every other Member State of the names and addresses of the Government authorities issuing the Certificate of Origin and shall provide specimen signatures and specimen of officials seals used by the Government authorities.

(b) The above information and specimens shall be provided to every other Member State and a copy furnished to the ASEAN Secretariat. Any change in names, addresses, or official seals shall be promptly informed in the same manner.

Rule 3

For the purpose of verifying the conditions for preferential treatment, the Government authorities designated to issue the Certificate of Origin shall have the right to call for any supporting documentary evidence or to carry out any check considered appropriate. If such right cannot be obtained through the existing national laws and regulations, it shall be inserted as a clause in the application form referred to in the following Rules 4 and 5.

Applications

Rule 4

The manufacturer and/or exporter of the products qualified for preferential treatment shall apply in writing to the relevant Government authorities requesting for the pre-exportation verification of the origin of the products. The result of the verification, subject to review periodically or whenever appropriate, shall be accepted as the supporting evidence in verifying the origin of the said products to be exported thereafter. The pre-exportation verification may not apply to the products of which, by their nature, origin can be easily verified.
Rule 5

At the time of carrying out the formalities for exporting the products under preferential treatment, the exporter or his authorised representative shall submit a written application for the Certificate of Origin together with appropriate supporting documents proving that the products to be exported qualify for the issuance of a Certificate of Origin.

Pre-Exportation Examination

Rule 6

The Government authorities designated to issue the Certificate of Origin shall, to the best of their competence and ability, carry out proper examination upon each application for the Certificate of Origin to ensure that:

(a) The application and the Certificate of Origin are duly completed and signed by the authorised signatory;

(b) The origin of the product is in conformity with the Rules of Origin;

(c) The other statements of the Certificate of Origin correspond to supporting documentary evidence submitted;

(d) Description, quantity and weight of goods, marks and numbers of packages, number and kinds of packages, as specified, conform to the products to be exported.

Issuance of Certificate of Origin

Rule 7

(a) The Certificate of Origin must be an ISO A4 size paper in conformity to the specimen as shown in Appendix "A". It shall be made in English.

(b) The Certificate of Origin shall comprise one original and three (3) carbon copies of the following colours:

<table>
<thead>
<tr>
<th>Type</th>
<th>Colour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original</td>
<td>light violet</td>
</tr>
<tr>
<td>Duplicate</td>
<td>orange</td>
</tr>
<tr>
<td>Triplicate</td>
<td>orange</td>
</tr>
<tr>
<td>Quadruplicate</td>
<td>orange</td>
</tr>
</tbody>
</table>

(c) Each Certificate of Origin shall bear a reference number separately given by each place or office of issuance.
(d) The Original copy shall be forwarded, together with the triplicate, by the exporter to the importer for submissions to the Customs Authority at the port or place of importation. The duplicate shall be retained by the issuing authority in the exporting Member State. The quadruplicate shall be retained by the exporter. After the importation of the products, the triplicate shall be marked accordingly in box 4 and returned to the issuing authority within a reasonable period of time.

Rule 8

To implement the provisions of Rule 3 and Rule 4 of the Rules of Origin, the Certificate of Origin issues by the final exporting Member State shall indicate the relevant rules and applicable percentage of ASEAN content in Box 8.

Rule 9

Neither erasures nor superimpositions shall be allowed on the Certificate of Origin. Any alteration shall be made by striking out the erroneous materials and making any addition required. Such alterations shall be approved by the person who made them and certified by the appropriate Government authorities. Unused spaces shall be crossed out to prevent any subsequent addition.

Rule 10

(a) The Certificate of Origin shall be issued by the relevant Government authorities of the exporting Member State at the time of exportation or soon thereafter whenever the products to be exported can be considered originating in that Member State within the meaning of the Rules of Origin.

(b) In exceptional cases where a Certificate of Origin has not been issued at the time of exportation or soon thereafter due to involuntary errors or omissions or other valid causes, the Certificate of Origin may be issued retroactively but no longer than one year from the date of shipment, bearing the words "ISSUED RETROACTIVELY".

Rule 11

In the event of theft, loss or destruction of a Certificate of Origin, the exporter may apply in writing to the Government authorities which issued it for the certified true copy of the original and the triplicate to be made out on the basis of the export documents in their possession bearing the endorsement of the words "CERTIFIED TRUE COPY" in Box 12. This copy shall bear the date of issuance of the original Certificate of Origin. The certified true copy of a Certificate of Origin shall be issued not longer than one year from the date of issuance of the original Certificate of Origin and on condition that the exporter provides to the relevant issuing authority the fourth copy.
Presentation

Rule 12

The Original Certificate of Origin shall be submitted together with the triplicate to the Customs Authorities at the time of lodging the import entry for the products concerned.

Rule 13

The following time-limit for the presentation of the Certificate of Origin shall be observed:

(a) Certificate of Origin must be submitted to the Customs Authorities of the importing Member State within four (4) months from the date of endorsement by the relevant Government authorities of the exporting Member State;

(b) Where the products pass through the territory of one or more non-ASEAN countries in accordance with the provisions of Rule 5(c) of the Rules of Origin, the time-limit laid down in paragraph (a) above for the submission of the Certificate of Origin is extended to six (6) months;

(c) Where the Certificate of Origin is submitted to the relevant Government authorities of the importing Member State after the expiration of the time-limit for its submission, such Certificate is still to be accepted when failure to observe the time-limit results from force majeure or other valid causes beyond the control of the exporter; and

(d) In all cases, the relevant Government authorities in the importing Member State may accept such Certificate of Origin provided that the products have been imported before the expiration of the time-limit of the said Certificate of Origin.

Rule 14

In the case of consignments of products originating in the exporting Member State and not exceeding US$200.00 FOB, the production of a Certificate of Origin shall be waived and the use of simplified declaration by the exporter that the products in question have originated in the exporting Member State will be accepted. Products sent through the post not exceeding US$200.00 FOB shall also be similarly treated.

Rule 15

The discovery of minor discrepancies between the statements made in the Certificate of Origin and those made in the documents submitted to the Customs Authorities of the importing Member State for the purpose of carrying out the formalities for importing the products shall not ipso-facto invalidate the Certificate of Origin, if it does in fact correspond to the products submitted.
Rule 16

(a) the importing Member State may request a retroactive check at random and/or when it has reasonable doubt as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the products in question or of certain parts thereof.

(b) The request shall be accompanied with the Certificate of Origin concerned and shall specify the reasons and any additional information suggesting that the particulars given on the said Certificate of Origin may be inaccurate, unless the retroactive check is requested on a random basis.

(c) The Customs Authorities of the importing Member State may suspend the provisions on preferential treatment while awaiting the result of verification. However, it may release the products to the importer subject to any administrative measures deemed necessary, provided that they are not held to be subject to import prohibition or restriction and there is no suspicion of fraud.

(d) The issuing Government authorities receiving a request for retroactive check shall respond to the request promptly and reply within three (3) months after the receipt of the request.

Rule 17

(a) The application for Certificates of Origin and all documents related to such application shall be retained by the issuing authorities for not less than two (2) years from the date of issuance.

(b) Information relating to the validity of the Certificate of Origin shall be furnished upon request of the importing Member State.

(c) Any information communicated between the Member States concerned shall be treated as confidential and shall be used for the validation of Certificates of Origin purposes only.

Special Cases

Rule 18

When destination of all or parts of the products exported to a specified Member State is changed, before or after their arrival in the Member State, the following Rules shall be observed:

(a) If the products have already been submitted to the Customs Authorities in the specified importing Member State, the Certificate of Origin shall, by a written application of the importer, be endorsed to this effect for all or parts of
products by the said authorities and the original returned to the importer. The triplicate shall be returned to the issuing authorities.

(b) If the changing of destination occurs during transportation to the importing Member State as specified in the Certificate of Origin, the exporter shall apply in writing, accompanied with the issued Certificate of Origin, for the new issuance for all or parts of products.

Rule 19

For the purpose of implementing Rule 5(c) of the Rules of Origin, where transportation is effected through the territory of one or more non-ASEAN countries, the following shall be produced to the Government authorities of the importing Member State:

(a) A through Bill of Lading issued in the exporting Member State;
(b) A Certificate of Origin issued by the relevant Government authorities of the exporting Member State;
(c) A copy of the original commercial invoice in respect of the product; and
(d) Supporting documents in evidence that the requirements of Rule 5(c) sub-paragraphs (i), (ii) and (iii) of the Rules of Origin are being complied with.

Rule 20

(a) Products sent from an exporting Member State for exhibition in another country and sold during or after the exhibition for importation into a Member State shall benefit from the CEPT Scheme on the condition that the products meet the requirements of the Rules of Origin provided that it is shown to the satisfaction of the relevant Government authorities of the importing Member State that:

(i) an exporter has despatched those products from the territory of the exporting Member State to the Country where the exhibition is held and has exhibited them there;
(ii) the exporter has sold the goods or transferred them to a consignee in the importing Member State;
(iii) the products have been consigned during the exhibition or immediately thereafter to the importing Member State in the state in which they were sent for the exhibition.

(b) For the purpose of implementing the above provisions, the Certificate of Origin must be produced to the relevant Government authorities of the importing Member State. The name and address of the exhibition must be indicated. As an evidence for the identification of the products and the conditions under
which they were exhibited, a certificate issued by the relevant Government authorities of the country where the exhibition took place together with supporting documents prescribed in Rule 19(d) may be required.

(c) Paragraph (a) shall apply to any trade, agricultural or crafts exhibition, fair or similar show or display in shops or business premises with the view to the sale of foreign products and where the products remain under Customs control during the exhibition.

Action Against Fraudulent Acts

Rule 21

(a) When it is suspected that fraudulent acts in connection with the Certificate of Origin have been committed, the Government authorities concerned shall cooperate in the action to be taken in the respective State against the persons involved.

(b) Each Member State shall be responsible for providing legal sanctions for fraudulent acts related to Certificate of Origin.

Settlement of Disputes

Rule 22

(a) In the case of a dispute concerning origin determination, classification of products or other matters, the Government authorities concerned in the importing and exporting Member States shall consult each other with a view to resolving the dispute, and the result shall be reported to the other Member States for information.

(b) In the case of where no settlement can be reached bilaterally, the issue concerned shall be decided by the SEOM.
ASEAN FRAMEWORK AGREEMENT ON SERVICES

The Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of Philippines, the Republic of Singapore, the Kingdom of Thailand, and the Socialist Republic of Vietnam:

RECOGNISING the Singapore Declaration of 1992 which provides that ASEAN shall move towards a higher plane of economic cooperation to secure regional peace and prosperity;

RECALLING that the Heads of Government, at the Fourth Summit held in Singapore on 27-28 January 1992 declared that an ASEAN Free Trade Area (AFTA) shall be established in the region;

NOTING that the Framework Agreement on Enhancing ASEAN Economic Cooperation signed in Singapore on 28 January 1992 provides that ASEAN Member States shall explore further measures on border and non-border areas of cooperation to supplement and complement the liberalisation of trade;

RECOGNISING that intra-ASEAN economic cooperation will secure a liberal trading framework for trade in services which would strengthen and enhance trade in services among ASEAN Member States;

DESIRING to mobilise the private sector in the realisation of economic development of ASEAN Member States in order to improve the efficiency and competitiveness of their service industry sector;

REITERATING their commitments to the rules and principles of the General Agreement on Trade in Services (hereinafter referred to as "GATS") and noting that Article V of GATS permits the liberalising of trade in services between or among the parties to an economic integration agreement;

AFFIRMING that ASEAN Member States shall extend to one another preference in trade in services;
HAVE AGREED AS FOLLOWS:

Article I
Objectives

The objectives of the Member States under the ASEAN Framework Agreement on Services (hereinafter referred to as “this Framework Agreement”) are:

(a) to enhance cooperation in services amongst Member States in order to improve the efficiency and competitiveness, diversify production capacity and supply and distribution of services of their service suppliers within and outside ASEAN;

(b) to eliminate substantially restrictions to trade in services amongst Member States; and

(c) to liberalise trade in services by expanding the depth and scope of liberalisation beyond those undertaken by Member States under the GATS with the aim to realising a free trade area in services.

Article II
Areas of Cooperation

1. All Member States shall participate in the cooperation arrangements under this Framework Agreement. However, taking cognizance of paragraph 3 of Article I of this Framework Agreement on Enhancing ASEAN Economic Cooperation, two or more Member States may proceed first if other Member States are not ready to implement these arrangements.

2. Member States shall strengthen and enhance existing cooperation efforts in service sectors and develop cooperation in sectors that are not covered by existing cooperation arrangements, through *inter alia*:

(a) establishing or improving infrastructural facilities;

(b) joint production, marketing and purchasing arrangements;

(c) research and development; and
(d) exchange of information.

3. Member States shall identify sectors for cooperation and formulate Action Plans, Programmes and Understandings that shall provide details on the nature and extent of cooperation.

Article III
Liberalisation

Pursuant to Article 1 (c), Member States shall liberalise trade in services in a substantial number of sectors within a reasonable time-frame by:

(a) eliminating substantially all existing discriminatory measures and market access limitations amongst Member States; and

(b) prohibiting new or more discriminatory measures and market access limitations.

Article IV
Negotiation of Specific Commitments

1. Member States shall enter into negotiations on measures affecting trade in specific service sectors. Such negotiations shall be directed towards achieving commitments which are beyond those inscribed in each Member State's schedule of specific commitments under the GATS and for which Member States shall accord preferential treatment to one another on an MFN basis.

2. Each Member State shall set out in a schedule, the specific commitments it shall undertake under paragraph 1.

3. The provisions of this Framework Agreement shall not be so construed as to prevent any Member State from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zones of services that are both locally produced and consumed.
Article V
Mutual Recognition

1. Each Member State may recognise the education or experience obtained, requirements met, or licenses or certifications granted in another Member State, for the purpose of licensing or certification of service suppliers. Such recognition may be based upon an agreement or arrangement with the Member State concerned or may be accorded autonomously.

2. Nothing in paragraph 1 shall be so construed as to require any Member State to accept or to enter into such mutual recognition agreements or arrangements.¹

Article VI
Denial of Benefits

The benefits of this Framework Agreement shall be denied to a service supplier who is a natural person of a non-Member State or a juridical person owned or controlled by persons of a non-Member State constituted under the laws of a Member State, but not engaged in substantive business operations in the territory of Member State(s).

Article VII
Settlement of Disputes

1. The Protocol on Dispute Settlement Mechanism for ASEAN shall generally be referred to and applied with respect to any disputes arising from, or any differences between Member States concerning the interpretation or application of, this Framework Agreement or any arrangements arising therefrom.

2. A specific dispute settlement mechanism may be established for the purposes of this Framework Agreement which shall form an integral part of this Framework Agreement.

¹ These agreements or arrangements are concluded for Member States only. In the event a Member State wishes to join such agreements or arrangements, it should be given equal opportunity to do so at any time.
Article VIII
Supplementary Agreements or Arrangements

Schedules of specific commitments and Understandings arising from subsequent negotiations under this Framework Agreement and any other agreements or arrangements, Action Plans and Programmes arising thereunder shall form an integral part of this Framework Agreement.

Article IX
Other Agreements

1. This Framework Agreement or any action taken under it shall not affect the rights and obligations of the Member States under any existing agreements² to which they are parties.

2. Nothing in this Framework Agreement shall affect the rights of the Member States to enter into other agreements not contrary to the principles, objectives and terms of this Framework Agreement.

3. Upon the signing of this Framework Agreement, Member States shall promptly notify the ASEAN Secretariat of any agreements pertaining to or affecting trade in services to which that Member is a signatory.

Article X
Modification of Schedules of Specific Commitments

1. A Member State may modify or withdraw any commitment in its schedule of specific commitments, at any time after three years from the date on which that commitment entered into force provided:

   (a) that it notifies other Member States and the ASEAN Secretariat of the intent to modify or withdraw a commitment three months before the intended date of implementation of the modification or withdrawal; and

² Existing Agreements are not affected as these have been notified in the MFN Exemptions List of the GATS.
(b) that it enters into negotiations with an affected Member State to agree to necessary compensatory adjustment.

2. In achieving a compensatory adjustment, Member States shall ensure that the general level of mutually advantageous commitment is not less favourable to trade than that provided for in the schedules of specific commitments prior to such negotiations.

3. Compensatory adjustment shall be made on an MFN basis to all other Member States.

4. The SEOM with the endorsement of the AEM may draw up additional procedures to give effect to this Article.

---

**Article XI**

**Institutional Arrangements**

1. The SEOM shall carry out such functions to facilitate the operation of this Framework Agreement and further its objectives, including the organisation of the conduct of negotiations, review and supervision of the implementation of this Framework Agreement.

2. The ASEAN Secretariat shall assist SEOM in carrying out its functions, including providing the support for supervising, coordinating and reviewing the implementation of this Framework Agreement.

---

**Article XII**

**Amendments**

The provisions of this Framework Agreement may be amended through the consent of all the Member States and such amendments shall become effective upon acceptance by all Member States.
Article XIII
Accession of New Members

New Members of ASEAN shall accede to this Framework Agreement on terms and conditions agreed between them and signatories to this Framework Agreement.

Article XIV
Final Provision

1. The terms and definitions and other provisions of the GATS shall be referred to and applied to matters arising under this Framework Agreement for which no specific provision has been made under it.

2. This Framework Agreement shall be deposited with the Secretary-General of ASEAN who shall promptly furnish a certified copy thereof to each Member State.

3. This Framework Agreement shall enter into force upon the deposit of instruments of ratification or acceptance by all signatory governments with the Secretary-General of ASEAN.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this ASEAN Framework Agreement on Services.
DONE at Bangkok, this 15th day of December 1995 in a single copy in the English Language.

For the Government of Brunei Darussalam:

ABDUL RAHMAN TAIB
Minister of Industry and Primary Resources

For the Government of the Republic of Indonesia:

T. ARIWIBOWO
Minister of Industry and Trade

For the Government of Malaysia:

RAFIDAH AZIZ
Minister of International Trade and Industry

For the Government of the Republic of the Philippines:

RIZALINO S. NAVARRO
Secretary of Trade and Industry

For the Government of the Republic of Singapore:

YEO CHEOW TONG
Minister for Trade and Industry

For the Government of the Kingdom of Thailand:

AMNUAY VIRAVAN
Deputy Prime Minister

For the Government of the Socialist Republic of Vietnam:

LE VAN TRIET
Minister of Trade
ASEAN FRAMEWORK AGREEMENT ON INTELLECTUAL PROPERTY COOPERATION

The Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Vietnam, being Member States of the Association of South East Asian Nations (hereinafter referred to as "ASEAN"): RECOGNISING the important role of intellectual property rights in the conduct of trade and the flow of investment among the Member States of ASEAN and the importance of cooperation in intellectual property in the region;

DESIRING to foster closer cooperation in the field of intellectual property and related fields in order to provide a firm basis for economic progress, the expeditious realization of the ASEAN Free Trade Area and prosperity among the Member States of ASEAN;

RECOGNISING the need to promote closer cooperation and understanding among the countries in the region in the field of intellectual property and related fields to contribute to regional dynamism, synergy and growth;

HAVE AGREED AS FOLLOWS:

Article 1
Objectives

1. Member States shall strengthen their cooperation in the field of intellectual property through an open and outward looking attitude with a view to contributing to the promotion and growth of regional and global trade liberalisation.

2. Member States shall promote cooperation in the field of intellectual property among government agencies as well as among the private sectors and professional bodies of ASEAN.

3. Member States shall explore appropriate intra-ASEAN cooperation arrangements in the field of intellectual property, contributing to the enhancement of ASEAN solidarity as well as to the promotion of technological innovation and the transfer and dissemination of technology.

4. Member States shall explore the possibility of setting up of an ASEAN patent system, including an ASEAN Patent Office, if feasible, to promote the region-wide
protection of patent bearing in mind developments on regional and international protection of patent.

5. Member States shall explore the possibility of setting up of an ASEAN trademark system, including an ASEAN Trademark Office, if feasible, to promote the region-wide protection of trademark bearing in mind developments on regional and international protection of trademarks.

6. Member States shall have consultations on the development of their intellectual property regimes with a view to creating ASEAN standards and practices which are consistent with international standards.

Article 2
Principles

1. Member States shall abide by the principle of mutual benefits in the implementation of measures or initiatives aimed at enhancing ASEAN intellectual property cooperation.

2. Member States, being mindful of the international conventions on intellectual property rights to which they are parties, and the international obligations assumed under the provisions of the Agreement on Trade Related Aspects of Intellectual Property Rights, shall implement intra-ASEAN intellectual property arrangements in a manner in line with the objectives, principles, and norms set out in such relevant conventions and the Agreement on TRIPS.

3. Member States shall strive to implement intra-ASEAN intellectual property cooperation arrangements which are beneficial to creators, producers and users of intellectual property and in a manner conducive to social and economic welfare.

4. Member States shall recognise and respect the protection and enforcement of intellectual property rights in each Member State and the adoption of measures necessary for the protection of public health and nutrition and the promotion of the public interests in sectors of vital importance to the Member State’s socio-economic and technological development, which are consistent with their international obligations.

5. Member States are conscious of and understand the necessity for each Member State to adopt appropriate measures to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain-trade or adversely affect the international transfer of technology.
Article 3
Scope of Cooperation

1. Cooperation shall include, inter alia, the fields of copyright and related rights, patents, trademarks, industrial designs, geographical indications, undisclosed information and lay-out designs of integrated circuits.

2. Cooperative activities under this Agreement shall aim, among others, to strengthen ASEAN intellectual property administration; to enhance ASEAN cooperation in intellectual property enforcement and protection; and to explore the possibility of setting up the ASEAN patent and trademark systems.

3. Cooperative activities under this Agreement shall include, inter alia:

3.1 Activities to enhance intellectual property enforcement and protection:
   a. Effective protection and enforcement of intellectual property rights;
   b. Cross border measures cooperation;
   c. Networking of judicial authorities and intellectual property enforcement agencies.

3.2 Activities to strengthen ASEAN intellectual property administration such as:
   a. automation to improve the administration of intellectual property; and
   b. the creation of an ASEAN database on intellectual property registration.

3.3 Activities to strengthen intellectual property legislation such as:
   a. comparative study of the procedures, practices and administration of ASEAN intellectual property offices; and
b. activities related to the implementation of the TRIPS Agreement and other recognised international intellectual property conventions.

3.4 Activities to promote human resources development such as:

a. Networking of intellectual property training facilities or centres of excellence on intellectual property and to explore the possibility of establishing a regional training institute for intellectual property or other appropriate structures; and

b. Exchange of intellectual property personnel and experts.

3.5 Activities to promote public awareness of intellectual property rights.

3.6 Activities to promote private sector cooperation in intellectual property such as to explore the possibility of:

a. The establishment of an ASEAN Intellectual Property Association; and

b. Providing arbitration services or other alternative dispute resolution mechanisms for the resolution of intellectual property disputes.

3.7 Information exchange on intellectual property issues.

3.8 Other cooperative activities as determined by Member States.

4. Details and the modalities to implement the cooperative activities are to be formulated in the form of a program of action on intellectual property under this framework Agreement.

Article 4

Review of Cooperative Activities

An ASEAN mechanism shall be established, comprising representatives from Member States, to review the cooperative activities under this Agreement. It shall meet on a
regular basis to review the progress of the cooperative activities and any arrangement arising therefrom and to submit its findings and recommendations to the ASEAN Senior Economic Officials Meeting (SEOM). The ASEAN Secretariat shall give necessary secretariat support to the mechanism.

Article 5
Consultations

1. Any differences between the member States concerning the interpretation or application of this Agreement shall, as far as possible, be settled amicably between the parties.

2. Member States shall accord adequate opportunity for consultations regarding any representations made by other Member States in relation to the differences between them. If such differences cannot be settled amicably, they shall be dealt with by the SEOM and finally by the ASEAN Economic Ministers Meeting.

Article 6
General Provisions

Nothing in this Agreement shall prejudice any existing or future bilateral or multilateral agreement entered into by any Member State or the national laws of each Member State relating to the protection and enforcement of intellectual property rights.

Article 7
Funding

Activities under this Agreement will be subject to the availability of funds. Expenses incurred as a result of any activity undertaken by a Member State to fulfil the objectives of this Agreement shall be borne by the Member State concerned unless all Member States decide otherwise.

Article 8
Final Provisions

1. The respective Governments of Member States shall undertake the appropriate measures to fulfil the agreed obligations arising from this Agreement.
2. Any amendment to this Agreement shall be made by consensus and shall become effective upon acceptance by all Member States.

3. No reservation shall be made with respect to any of the provisions of this Agreement.

4. This Agreement shall be deposited with the Secretary-General of ASEAN who shall promptly furnish a certified copy thereof to each Member State.

5. This Agreement shall enter into force upon the deposit of instruments of ratification or acceptance by all signatory governments with the Secretary-General of ASEAN.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this ASEAN Framework Agreement on Intellectual Property Cooperation.
DONE in Bangkok on 15th day of December 1995 in a single copy in the English Language.

For the Government of Brunei Darussalam:

ABDUL RAHMAN TAIB
Minister of Industry and Primary Resources

For the Government of the Republic of Indonesia:

ALI ALATAS
Minister for Foreign Affairs

For the Government of Malaysia:

RAFIDAH AZIZ
Minister of International Trade and Industry

For the Government of the Republic of the Philippines:

RIZALINO S. NAVARRO
Secretary of Trade and Industry

For the Government of the Republic of Singapore:

YEO CHEOW TONG
Minister for Trade and Industry

For the Government of the Kingdom of Thailand:

AMNUAY VIRAVAN
Deputy Prime Minister

For the Government of the Socialist Republic of Vietnam:

LE VAN TRIET
Minister of Trade
PROTOCOL FOR THE ACCESSION OF
THE SOCIALIST REPUBLIC OF VIETNAM TO
THE FRAMEWORK AGREEMENT ON ENHANCING
ASEAN ECONOMIC COOPERATION

WHEREAS the Framework Agreement on Enhancing ASEAN Economic Cooperation ("the Agreement") was signed by the Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand on 28 January 1992 at the Fourth Summit Meeting held in Singapore, and amended by the Protocol to Amend the Framework Agreement on Enhancing ASEAN Economic Cooperation ("the Protocol") on 15 December 1995 at the Fifth Summit Meeting held in Bangkok;

WHEREAS Article 2 of the Protocol provides that new Members of ASEAN shall accede to the Agreement on terms and conditions consistent with it and which have been agreed between them and the existing Members of ASEAN;

AND WHEREAS the Socialist Republic of Vietnam has become the seventh Member of ASEAN on 28 July 1995, and has agreed to subscribe or accede, as the case may be, to all Declarations, Treaties and Agreements in ASEAN;

HAVING REGARD to the results of the negotiations directed towards the accession of the Socialist Republic of Vietnam to the Agreement;

RECOGNISING that the Agreement adheres to the principles of the General Agreement on Tariffs and Trade;

NOTING the commitments made by Vietnam in the signed letters by H.E. Nguyen Manh Cam, Minister of Foreign Affairs, Socialist Republic of Vietnam on 28 July 1995 and subsequently by H.E. Le Van Triet, Minister of Trade, Socialist Republic of Vietnam on 7 September 1995;

NOW THEREFORE, the Government of the Socialist Republic of Vietnam hereby accedes to the Agreement and upon the entry into force of this Protocol on 1 January 1996 undertakes to immediately observe and carry out its obligations under the Agreement as amended.

This Protocol shall be deposited with the Secretary-General of ASEAN, who shall promptly furnish a certified copy thereof to each Member Country.

IN WITNESS WHEREOF, the undersigned has signed the Protocol for the Accession of the Socialist Republic of Vietnam to the Framework Agreement on Enhancing ASEAN Economic Cooperation.
DONE at Bangkok, on the 15th day of December 1995 in a single copy in the English Language.

For the Socialist Republic of Vietnam:

VO VAN KIET
Prime Minister
PROTOCOL FOR THE ACCESSION OF
THE SOCIALIST REPUBLIC OF VIETNAM TO THE AGREEMENT ON
THE COMMON EFFECTIVE PREFERENTIAL TARIFF SCHEME (CEPT)
FOR THE ASEAN FREE TRADE AREA (AFTA)

WHEREAS the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA) ("the Agreement") was signed by the Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand on 28 January 1992 at the Fourth Summit Meeting held in Singapore, and amended by the Protocol to Amend the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA) ("the Protocol") on 15 December 1995 at the Fifth Summit Meeting held in Bangkok;

WHEREAS Article 4 of the Protocol provides that new Members of ASEAN shall accede to the Agreement on terms and conditions, consistent with the Framework Agreement on Enhancing ASEAN Economic Cooperation and the Agreement, and which have been agreed between them and the existing Members of ASEAN;

AND WHEREAS the Socialist Republic of Vietnam has become the seventh Member of ASEAN on 28 July 1995, and has agreed to subscribe or accede, as the case may be, to all Declarations, Treaties and Agreements in ASEAN;

HAVING REGARD to the results of the negotiations directed towards the accession of the Socialist Republic of Vietnam to the Agreement;

AND RECOGNISING that the Agreement adheres to the principles, concepts and ideals of the Framework Agreement on Enhancing ASEAN Economic Cooperation signed in Singapore on 28 January 1992 and the amendments thereof;

NOTING the commitments made by Vietnam in the signed letters by H.E. Nguyen Manh Cam, Minister of Foreign Affairs, Socialist Republic of Vietnam, on 28 July 1995 and subsequently by H.E. Le Van Triet, Minister of Trade, Socialist Republic of Vietnam, on 7 September 1995;

NOTING FURTHER that Vietnam shall extend, on a reciprocal basis, Most-Favoured Nation and National Treatment (on turnover tax, luxury tax, exchange rate determination, foreign exchange control and other measures) to ASEAN Member Countries and to provide relevant information as and when requested;

RECOGNISING that Vietnam shall prepare a list for tariff reduction and shall begin tariff reduction effective 1 January 1996 and ending at 0-5% tariff rate on 1 January 2006;
RECOGNISING FURTHER that Vietnam shall phase in products which are temporarily excluded in five equal instalments beginning 1 January 1999 and ending 1 January 2003, and prepare a list of these products for their annual instalment;

ALSO RECOGNISING that Vietnam shall phase in agricultural products which are temporarily excluded beginning 1 January 2000 and ending 1 January 2006, and prepare a list of these products for their annual instalment;

AND RECOGNISING that arrangements pertaining to the ASEAN Preferential Trading Arrangements (PTA) shall not apply to Vietnam;

NOW THEREFORE, the Government of the Socialist Republic of Vietnam hereby accedes to the Agreement and upon the entry into force of this Protocol on 1 January 1996, undertakes to immediately observe and carry out its obligations under the Agreement as amended.

This Protocol shall be deposited with the Secretary-General of ASEAN, who shall promptly furnish a certified copy thereof to each Member Country.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by the Government of the Socialist Republic of Vietnam, has signed the Protocol for the Accession of the Socialist Republic of Vietnam to the Agreement on the Common Effective Preferential Tariff Scheme (CEPT) for the ASEAN Free Trade Area (AFTA).

DONE at Bangkok, this 15th day of December 1995 in a single copy in the English Language.

For the Government of the Socialist Republic of Vietnam:

LE VAN TRIET
Minister of Trade
PROTOCOL AMENDING
THE AGREEMENT ON
ASEAN ENERGY COOPERATION

The Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand:

DESIRING to amend the Agreement on ASEAN Energy Cooperation, hereinafter referred to as the "Agreement", which was signed by the contracting parties on the 24th day of June 1986, in order to accommodate the need to have a more focused energy cooperation in ASEAN as to pursue activities that would enhance the ASEAN economic cooperation in the region in accordance with the Framework Agreement on Enhancing ASEAN Economic Cooperation as embodied in the 1992 Singapore Declaration.

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Article 1 para 2 of the Agreement shall be amended to read as follows:

ARTICLE 1

GENERAL PROVISIONS

2. The range of cooperation will span planning, development, manpower training, information exchange, and encouraging private sector participation, where appropriate, in any of the following energy areas:

(i) resource investigation, exploration, assessment planning and development;
(ii) energy policy and planning;
(iii) technological research, development and demonstration;
(iv) transfer of technology;
(v) implementation of energy efficiency and conservation measures;
(vi) energy and environment;
(vii) energy supply planning and diversification;
(viii) processing, handling, transport and distribution of various energy forms;
(ix) standardization of energy related facilities;
(x) safety programmes in the entire chain from exploration, development, production to distribution of various energy products;
(xi) energy security arrangements for emergency situations; and
(xii) promoting a more conducive environment for commercial and investment opportunities in all aspects of the energy sectors.

ARTICLE 2

Article 2 of the Agreement shall be added with sub para (iv) to read as follows:

ARTICLE 2

COOPERATION IN PLANNING

(iv) developing strategies to promote energy and environmental planning as well as environmental impact assessment and mitigation plans/measures.

ARTICLE 3

The title of Article 4 of the Agreement shall be amended to read as follows:

ARTICLE 4

COOPERATION IN ENERGY EFFICIENCY AND CONSERVATION

ARTICLE 4

Article 8 of the Agreement shall be amended to read as follows:

ARTICLE 8

INSTITUTIONAL AND IMPLEMENTATION ARRANGEMENT

1. The ASEAN Economic Ministers Meeting on Energy Cooperation (AEMMEC), hereinafter referred to as the ASEAN Ministers on Energy Meeting (AMEM), shall be held annually or as appropriate to give guidance as well as approve policies, strategies and action programmes envisaged in this Agreement. Special AMEM may be held as and when necessary. The AMEM shall be supported by Senior Officials Meeting on Energy Cooperation (SOMEC), hereinafter referred to as the Senior Officials' Meeting on Energy (SOME).

2. The SOME shall promote and review the various cooperation programmes envisaged in this Agreement. The SOME shall be held annually, and Special Meetings may be called by the Chairman of SOME at the request of a Member Country/Member Countries.
3. The implementation of this Agreement shall be the responsibility of Member Countries and ASEAN specialized agency(ies)/institution(s) to be designated by SOME and approved by AMEM.

4. The Chairman of SOME jointly with the ASEAN Secretariat, in collaboration with the Chairmen of Ad-Hoc Working Groups and relevant agency(ies)/institution(s) shall coordinate, manage and monitor the implementation of this Agreement particularly programmes related to Articles 2, 3, 4, 5, 6 and 7.

5. The ASEAN Secretariat shall provide administrative support for the SOME and AMEM.

ARTICLE 5

1. This Protocol shall enter into force upon date of signature.

2. This Protocol shall be deposited with the Secretary-General of ASEAN, who shall likewise promptly furnish a certified copy thereof to each Member Country.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Protocol.
DONE at Bangkok, this 15th day of December, year One Thousand Nine Hundred and Ninety Five, in seven copies in the English language.

For the Government of Brunei Darussalam:

H.R.H. PRINCE MOHAMED BOLKIAH
Minister of Foreign Affairs

For the Government of the Republic of Indonesia:

ALI ALATAS
Minister for Foreign Affairs

For the Government of Malaysia:

DATUK ABDULLAH HAJI AHMAD BADAWI
Minister of Foreign Affairs

For the Government of the Republic of the Philippines:

DOMINGO L. SIAZON
Secretary of Foreign Affairs

For the Government of the Republic of Singapore:

PROFESSOR S. JAYAKUMAR
Minister for Foreign Affairs

For the Government of the Kingdom of Thailand:

KASEM S. KASEMSRI
Minister of Foreign Affairs

For the Government of the Socialist Republic of Vietnam:

NGUYEN MANH CAM
Minister of Foreign Affairs
TREATY ON
THE SOUTHEAST ASIA NUCLEAR WEAPON-FREE ZONE

The States Parties to this Treaty:

DESIRING to contribute to the realization of the purposes and principles of the Charter of the United Nations;

DETERMINED to take concrete action which will contribute to the progress towards general and complete disarmament of nuclear weapons, and to the promotion of international peace and security;

REAFFIRMING the desire of the Southeast Asian States to maintain peace and stability in the region in the spirit of peaceful coexistence and mutual understanding and cooperation as enunciated in various communiques, declarations and other legal instruments;

RECALLING the Declaration on the Zone of Peace, Freedom and Neutrality (ZOPFAN) signed in Kuala Lumpur on 27 November 1971 and the Programme of Action on ZOPFAN adopted at the 26th ASEAN Ministerial Meeting in Singapore in July 1993;

CONVINCED that the establishment of a Southeast Asia Nuclear Weapon-Free Zone, as an essential component of the ZOPFAN, will contribute towards strengthening the security of States within the Zone and towards enhancing international peace and security as a whole;

REAFFIRMING the importance of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in preventing the proliferation of nuclear weapons and in contributing towards international peace and security;

RECALLING Article VII of the NPT which recognizes the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories;

RECALLING the Final Document of the Tenth Special Session of the United Nations General Assembly which encourages the establishment of nuclear weapon-free zones;
RECALLING the Principles and Objectives for Nuclear Non-Proliferation and Disarmament, adopted at the 1995 Review and Extension Conference of the Parties to the NPT, that the cooperation of all the nuclear-weapon States and their respect and support for the relevant protocols is important for the maximum effectiveness of this nuclear weapon-free zone treaty and its relevant protocols.

DETERMINED to protect the region from environmental pollution and the hazards posed by radioactive wastes and other radioactive material;

HAVE AGREED as follows:

Article 1
USE OF TERMS

For the purposes of this Treaty and its Protocol:

(a) "Southeast Asia Nuclear Weapon-Free Zone", hereinafter referred to as the "Zone", means the area comprising the territories of all States in Southeast Asia, namely, Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam, and their respective continental shelves and Exclusive Economic Zones (EEZ);

(b) "territory" means the land territory, internal waters, territorial sea, archipelagic waters, the seabed and the sub-soil thereof and the airspace above them;

(c) "nuclear weapon" means any explosive device capable of releasing nuclear energy in an uncontrolled manner but does not include the means of transport or delivery of such device if separable from and not an indivisible part thereof;

(d) "station" means to deploy, emplace, implant, install, stockpile or store;
(e) "radioactive material" means material that contains radionuclides above clearance or exemption levels recommended by the International Atomic Energy Agency (IAEA);

(f) "radioactive wastes" means material that contains or is contaminated with radionuclides at concentrations or activities greater than clearance levels recommended by the IAEA and for which no use is foreseen; and

(g) "dumping" means

(i) any deliberate disposal at sea, including seabed and subsoil insertion, of radioactive wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea, and

(ii) any deliberate disposal at sea, including seabed and subsoil insertion, of vessels, aircraft, platforms or other man-made structures at sea, containing radioactive material,

but does not include the disposal of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures.
Article 2
APPLICATION OF THE TREATY

1. This Treaty, and its Protocol shall apply to the territories, continental shelves, and EEZ of the States Parties within the Zone in which this Treaty is in force.

2. Nothing in this Treaty shall prejudice the rights or the exercise of these rights by any State under the provisions of the United Nations Convention on the Law of the Sea of 1982, in particular with regard to freedom of the high seas, rights of innocent passage, archipelagic sea lanes passage or transit passage of ships and aircraft, and consistent with the Charter of the United Nations.

Article 3
BASIC UNDERTAKINGS

1. Each State Party undertakes not to, anywhere inside or outside the Zone:

   (a) develop, manufacture or otherwise acquire, possess or have control over nuclear weapons;

   (b) station or transport nuclear weapons by any means; or

   (c) test or use nuclear weapons.

2. Each State Party also undertakes not to allow, in its territory, any other State to:

   (a) develop, manufacture or otherwise acquire, possess or have control over nuclear weapons;

   (b) station nuclear weapons; or

   (c) test or use nuclear weapons.
3. Each State Party also undertakes not to:

(a) dump at sea or discharge into the atmosphere anywhere within the Zone any radioactive material or wastes;

(b) dispose radioactive material or wastes on land in the territory of or under the jurisdiction of other States except as stipulated in Paragraph 2(e) of Article 4; or

(c) allow, within its territory, any other State to dump at sea or discharge into the atmosphere any radioactive material or wastes.

4. Each State Party undertakes not to:

(a) seek or receive any assistance in the commission of any act in violation of the provisions of Paragraphs 1, 2 and 3 of this Article; or

(b) take any action to assist or encourage the commission of any act in violation of the provisions of Paragraphs 1, 2 and 3 of this Article.

Article 4
USE OF NUCLEAR ENERGY FOR PEACEFUL PURPOSES

1. Nothing in this Treaty shall prejudice the right of the States Parties to use nuclear energy, in particular for their economic development and social progress.

2. Each State Party therefore undertakes:

(a) to use exclusively for peaceful purposes nuclear material and facilities which are within its territory and areas under its jurisdiction and control;
(b) prior to embarking on its peaceful nuclear energy programme, to subject its programme to rigorous nuclear safety assessment conforming to guidelines and standards recommended by the IAEA for the protection of health and minimization of danger to life and property in accordance with Paragraph 6 of Article III of the Statute of the IAEA;

(c) upon request, to make available to another State Party the assessment except information relating to personal data, information protected by intellectual property rights or by industrial or commercial confidentiality, and information relating to national security;

(d) to support the continued effectiveness of the international non-proliferation system based on the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and the IAEA safeguards system; and

(e) to dispose radioactive wastes and other radioactive material in accordance with IAEA standards and procedures on land within its territory or on land within the territory of another State which has consented to such disposal.

3. Each State Party further undertakes not to provide source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material to:

(a) any non-nuclear-weapon State except under conditions subject to the safeguards required by Paragraph 1 of Article III of the NPT; or

(b) any nuclear-weapon State except in conformity with applicable safeguards agreements with the IAEA.
Article 5
IAEA SAFEGUARDS

Each State Party which has not done so shall conclude an agreement with the IAEA for the application of full scope safeguards to its peaceful nuclear activities not later than eighteen months after the entry into force for that State Party of this Treaty.

Article 6
EARLY NOTIFICATION OF A NUCLEAR ACCIDENT

Each State Party which has not acceded to the Convention on Early Notification of a Nuclear Accident shall endeavour to do so.

Article 7
FOREIGN SHIPS AND AIRCRAFT

Each State Party, on being notified, may decide for itself whether to allow visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships through its territorial sea or archipelagic waters and overflight of foreign aircraft above those waters in a manner not governed by the rights of innocent passage, archipelagic sea lanes passage or transit passage.

Article 8
ESTABLISHMENT OF THE COMMISSION FOR THE SOUTHEAST ASIA NUCLEAR WEAPON-FREE ZONE

1. There is hereby established a Commission for the Southeast Asia Nuclear Weapon-Free Zone, hereinafter referred to as the "Commission".
2. All States Parties are ipso facto members of the Commission. Each State Party shall be represented by its Foreign Minister or his representative accompanied by alternates and advisers.

3. The function of the Commission shall be to oversee the implementation of this Treaty and ensure compliance with its provisions.

4. The Commission shall meet as and when necessary in accordance with the provisions of this Treaty including upon the request of any State Party. As far as possible, the Commission shall meet in conjunction with the ASEAN Ministerial Meeting.

5. At the beginning of each meeting, the Commission shall elect its Chairman and such other officers as may be required. They shall hold office until a new Chairman and other officers are elected at the next meeting.

6. Unless otherwise provided for in this Treaty, two-thirds of the members of the Commission shall be present to constitute a quorum.

7. Each member of the Commission shall have one vote.

8. Except as provided for in this Treaty, decisions of the Commission shall be taken by consensus or, failing consensus, by a two-thirds majority of the members present and voting.

9. The Commission shall, by consensus, agree upon and adopt rules of procedure for itself as well as financial rules governing its funding and that of its subsidiary organs.

Article 9
THE EXECUTIVE COMMITTEE

1. There is hereby established, as a subsidiary organ of the Commission, the Executive Committee.
2. The Executive Committee shall be composed of all States Parties to this Treaty. Each State Party shall be represented by one senior official as its representative, who may be accompanied by alternates and advisers.

3. The functions of the Executive Committee shall be to:

   (a) ensure the proper operation of verification measures in accordance with the provisions on the Control System as stipulated in Article 10;

   (b) consider and decide on requests for clarification and for a fact-finding mission;

   (c) set up a fact-finding mission in accordance with the Annex of this Treaty;

   (d) consider and decide on the findings of a fact-finding mission and report to the Commission;

   (e) request the Commission to convene a meeting when appropriate and necessary;

   (f) conclude such agreements with the IAEA or other international organizations as referred to in Article 18 on behalf of the Commission after being duly authorized to do so by the Commission; and

   (g) carry out such other tasks as may, from time to time, be assigned by the Commission.

4. The Executive Committee shall meet as and when necessary for the efficient exercise of its functions. As far as possible, the Executive Committee shall meet in conjunction with the ASEAN Senior Officials Meeting.

5. The Chairman of the Executive Committee shall be the representative of the Chairman of the Commission. Any submission or communication made by a State Party to the Chairman of the Executive Committee shall be disseminated to the other members of the Executive Committee.
6. Two-thirds of the members of the Executive Committee shall be present to constitute a quorum.

7. Each member of the Executive Committee shall have one vote.

8. Decisions of the Executive Committee shall be taken by consensus or, failing consensus, by a two-thirds majority of the members present and voting.

Article 10
CONTROL SYSTEM

1. There is hereby established a control system for the purpose of verifying compliance with the obligations of the States Parties under this Treaty.

2. The Control System shall comprise:

   (a) the IAEA safeguards system as provided for in Article 5;

   (b) report and exchange of information as provided for in Article 11;

   (c) request for clarification as provided for in Article 12; and

   (d) request and procedures for a fact-finding mission as provided for in Article 13.

Article 11
REPORT AND EXCHANGE OF INFORMATION

1. Each State Party shall submit reports to the Executive Committee on any significant event within its territory and areas under its jurisdiction and control affecting the implementation of this Treaty.

2. The States Parties may exchange information on matters arising under or in relation to this Treaty.
Article 12
REQUEST FOR CLARIFICATION

1. Each State Party shall have the right to request another State Party for clarification concerning any situation which may be considered ambiguous or which may give rise to doubts about the compliance of that State Party with this Treaty. It shall inform the Executive Committee of such a request. The requested State Party shall duly respond by providing without delay the necessary information and inform the Executive Committee of its reply to the requesting State Party.

2. Each State Party shall have the right to request the Executive Committee to seek clarification from another State Party concerning any situation which may be considered ambiguous or which may give rise to doubts about compliance of that State Party with this Treaty. Upon receipt of such a request, the Executive Committee shall consult the State Party from which clarification is sought for the purpose of obtaining the clarification requested.

Article 13
REQUEST FOR A FACT-FINDING MISSION

A State Party shall have the right to request the Executive Committee to send a fact-finding mission to another State Party in order to clarify and resolve a situation which may be considered ambiguous or which may give rise to doubts about compliance with the provisions of this Treaty, in accordance with the procedure contained in the Annex to this Treaty.
Article 14
REMEDIAL MEASURES

1. In case the Executive Committee decides in accordance with the Annex that there is a breach of this Treaty by a State Party, that State Party shall, within a reasonable time, take all steps necessary to bring itself in full compliance with this Treaty and shall promptly inform the Executive Committee of the action taken or proposed to be taken by it.

2. Where a State Party fails or refuses to comply with the provisions of Paragraph 1 of this Article, the Executive Committee shall request the Commission to convene a meeting in accordance with the provisions of Paragraph 3(e) of Article 9.

3. At the meeting convened pursuant to Paragraph 2 of this Article, the Commission shall consider the emergent situation and shall decide on any measure it deems appropriate to cope with the situation, including the submission of the matter to the IAEA and, where the situation might endanger international peace and security, the Security Council and the General Assembly of the United Nations.

4. In the event of breach of the Protocol attached to this Treaty by a State Party to the Protocol, the Executive Committee shall convene a special meeting of the Commission to decide on appropriate measures to be taken.

Article 15
SIGNATURE, RATIFICATION, ACCESSION,
DEPOSIT AND REGISTRATION

1. This Treaty shall be open for signature by all States in Southeast Asia, namely, Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.
2. This Treaty shall be subject to ratification in accordance with the constitutional procedure of the signatory States. The instruments of ratification shall be deposited with the Government of the Kingdom of Thailand which is hereby designated as the Depositary State.

3. This Treaty shall be open for accession. The instruments of accession shall be deposited with the Depositary State.

4. The Depositary State shall inform the other States Parties to this Treaty on the deposit of instruments of ratification or accession.

5. The Depositary State shall register this Treaty and its Protocol pursuant to Article 102 of the Charter of the United Nations.

Article 16
ENTRY INTO FORCE

1. This Treaty shall enter into force on the date of the deposit of the seventh instrument of ratification and/or accession.

2. For States which ratify or accede to this Treaty after the date of this seventh instrument of ratification or accession, this Treaty shall enter into force on the date of deposit of its instrument of ratification or accession.

Article 17
RESERVATIONS

This Treaty shall not be subject to reservations.
Article 18
RELATIONS WITH OTHER INTERNATIONAL ORGANIZATIONS

The Commission may conclude such agreements with the IAEA or other international organizations as it considers likely to facilitate the efficient operation of the Control System established by this Treaty.

Article 19
AMENDMENTS

1. Any State Party may propose amendments to this Treaty and its Protocol and shall submit its proposals to the Executive Committee, which shall transmit them to all the other States Parties. The Executive Committee shall immediately request the Commission to convene a meeting to examine the proposed amendments. The quorum required for such a meeting shall be all the members of the Commission. Any amendment shall be adopted by a consensus decision of the Commission.

2. Amendments adopted shall enter into force 30 days after the receipt by the Depositary State of the seventh instrument of acceptance from the States Parties.

Article 20
REVIEW

Ten years after this Treaty enters into force, a meeting of the Commission shall be convened for the purpose of reviewing the operation of this Treaty. A meeting of the Commission for the same purpose may also be convened at anytime thereafter if there is consensus among all its members.
Article 21
SETTLEMENT OF DISPUTES

Any dispute arising from the interpretation of the provisions of this Treaty shall be settled by peaceful means as may be agreed upon by the States Parties to the dispute. If within one month, the parties to the dispute are unable to achieve a peaceful settlement of the dispute by negotiation, mediation, enquiry or conciliation, any of the parties concerned shall, with the prior consent of the other parties concerned, refer the dispute to arbitration or to the International Court of Justice.

Article 22
DURATION AND WITHDRAWAL

1. This Treaty shall remain in force indefinitely.

2. In the event of a breach by any State Party of this Treaty essential to the achievement of the objectives of this Treaty, every other State Party shall have the right to withdraw from this Treaty.

3. Withdrawal under Paragraph 2 of Article 22, shall be effected by giving notice twelve months in advance to the members of the Commission.

IN WITNESS WHEREOF, the undersigned have signed this Treaty.

DONE at Bangkok, this fifteenth day of December, one thousand nine hundred and ninety-five, in one original in the English language.
FOR BRUNEI DARUSSALAM:

Haji Hassanal Bolkiah
Sultan of Brunei Darussalam

FOR THE KINGDOM OF CAMBODIA:

Samdech Krom Preah Norodom Ranariddh
First Prime Minister

Samdech Hun Sen
Second Prime Minister

FOR THE REPUBLIC OF INDONESIA:

Suharto
President

FOR THE LAO PEOPLE'S DEMOCRATIC REPUBLIC:

Khamtay Siphandone
Prime Minister
FOR MALAYSIA:

DR MAHATHIR BIN MOHAMAD
Prime Minister

FOR THE UNION OF MYANMAR:

SENIOR GENERAL THAN SHWE
Chairman of the State Law and Order Restoration Council
and Prime Minister

FOR THE REPUBLIC OF THE PHILIPPINES:

FIDEL V. RAMOS
President

FOR THE REPUBLIC OF SINGAPORE:

G OH CHOK TONG
Prime Minister
FOR THE KINGDOM OF THAILAND:

BANHARN SILPA-ARCHA
Prime Minister

FOR THE SOCIALIST REPUBLIC OF VIETNAM:

VO VAN KIET
Prime Minister
ANNEX

PROCEDURE FOR A FACT-FINDING MISSION

1. The State Party requesting a fact-finding mission as provided in Article 13, hereinafter referred to as the "requesting State", shall submit the request to the Executive Committee specifying the following:

(a) the doubts or concerns and the reasons for such doubts or concerns;

(b) the location in which the situation which gives rise to doubts has allegedly occurred;

(c) the relevant provisions of this Treaty about which doubts of compliance have arisen; and

(d) any other relevant information.

2. Upon receipt of a request for a fact-finding mission, the Executive Committee shall:

(a) immediately inform the State Party to which the fact-finding mission is requested to be sent, hereinafter referred to as the "receiving State", about the receipt of the request; and

(b) not later than 3 weeks after receiving the request, decide if the request complies with the provisions of Paragraph 1 and whether or not it is frivolous, abusive or clearly beyond the scope of this Treaty. Neither the requesting nor receiving State Party shall participate in such decisions.

3. In case the Executive Committee decides that the request does not comply with the provisions of Paragraph 1, or that it is frivolous, abusive or clearly beyond the scope of this Treaty, it shall take no further action on the request and inform the requesting State and the receiving State accordingly.
Article 4

Each State Party undertakes, by written notification to the Depositary State, to indicate its acceptance or otherwise of any alteration to its obligation under this Protocol that may be brought about by the entry into force of an amendment to the Treaty pursuant to Article 19 thereof.

Article 5

This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject-matter of this Protocol, have jeopardized its supreme national interests. It shall give notice of such withdrawal to the Depositary State twelve months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme national interests.

Article 6

This Protocol shall be subject to ratification.

Article 7

This Protocol shall enter into force for each State Party on the date of its deposit of its instrument of ratification with the Depositary State. The Depositary State shall inform the other States Parties to the Treaty and to this Protocol on the deposit of instruments of ratification.
IN WITNESS WHEREOF the undersigned, being duly authorized by their Governments, have signed this Protocol.

DONE at Bangkok this fifteenth day of December, one thousand nine hundred and ninety-five, in one original in the English language.
PROTOCOL TO
THE TREATY ON SOUTHEAST ASIA
NUCLEAR WEAPON-FREE ZONE

The States Parties to this Protocol,

DESIRING to contribute to efforts towards achieving general and complete disarmament of nuclear weapons, and thereby ensuring international peace and security, including in Southeast Asia;

NOTING the Treaty on the Southeast Asia Nuclear Weapon-Free Zone, signed at Bangkok on the fifteenth day of December, one thousand nine hundred and ninety-five;

HAVE AGREED as follows:

Article 1

Each State Party undertakes to respect the Treaty on the Southeast Asia Nuclear Weapon-Free Zone, hereinafter referred to as the "Treaty", and not to contribute to any act which constitutes a violation of the Treaty or its Protocol by States Parties to them.

Article 2

Each State Party undertakes not to use or threaten to use nuclear weapons against any State Party to the Treaty. It further undertakes not to use or threaten to use nuclear weapons within the Southeast Asia Nuclear Weapon-Free Zone.

Article 3

This Protocol shall be open for signature by the People's Republic of China, the French Republic, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America.
4. In the event that the Executive Committee decides that
the request complies with the provisions of Paragraph
1, and that it is not frivolous, abusive or clearly
beyond the scope of this Treaty, it shall immediately
forward the request for a fact-finding mission to the
receiving State, indicating, inter alia, the proposed
date for sending the mission. The proposed date shall
not be later than 3 weeks from the time the receiving
State receives the request for a fact-finding mission.
The Executive Committee shall also immediately set up
a fact-finding mission consisting of 3 inspectors from
the IAEA who are neither nationals of the requesting
nor receiving State.

5. The receiving State shall comply with the request for
a fact-finding mission referred to in Paragraph 4. It
shall cooperate with the Executive Committee in order
to facilitate the effective functioning of the
fact-finding mission, inter alia, by promptly providing
unimpeded access of the fact-finding mission to the
location in question. The receiving State shall accord
to the members of the fact-finding mission such
privileges and immunities as are necessary for them to
effectively exercise their functions, including
inviolability of all papers and documents and immunity
from arrest, detention and legal process for acts done
and words spoken for the purpose of the mission.

6. The receiving State shall have the right to take
measures to protect sensitive installations and to
prevent disclosures of confidential information and
data not related to this Treaty.

7. The fact-finding mission, in the discharge of its
functions, shall:

(a) respect the laws and regulations of the receiving
State;

(b) refrain from activities inconsistent with the
objectives and purposes of this Treaty;

(c) submit preliminary or interim reports to the
Executive Committee; and
(d) complete its task without undue delay and shall submit its final report to the Executive Committee within a reasonable time upon completion of its work.

8. The Executive Committee shall:

(a) consider the reports submitted by the fact-finding mission and reach a decision on whether or not there is a breach of this Treaty;

(b) immediately communicate its decision to the requesting State and the receiving State; and

(c) present a full report on its decision to the Commission.

9. In the event that the receiving State refuses to comply with the request for a fact-finding mission in accordance with Paragraph 4, the requesting State through the Executive Committee shall have the right to request for a meeting of the Commission. The Executive Committee shall immediately request the Commission to convene a meeting in accordance with Paragraph 3(e) of Article 9.