

# Revised Memorandum of Understanding on the Establishment of the ASEAN Foundation

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of Philippines, the Republic of Singapore, the Kingdom of Thailand, and the Socialist Republic of Viet Nam, Member States of the Association of Southeast Asian Nations (ASEAN);

Recalling the Bangkok Summit Declaration of 1995, which provides that ASEAN shall elevate Functional Cooperation to a higher plane to bring shared prosperity to all its members, and the agreement of the Heads of State/Government of ASEAN at the First Informal Summit Meeting in Jakarta on 30 November 1996 to develop ideas for the establishment of the ASEAN Foundation;

Recalling also the Framework for Elevating Functional Cooperation adopted by the 29th ASEAN Ministerial Meeting in Jakarta on 20 July 1996, which provides that the theme for Functional Cooperation shall be Shared Prosperity through Human Development, Technological Competitiveness and Social Cohesiveness;

Impelled by the need to preserve the sustainable future of ASEAN and by the desirability of the mutual benefits to be derived from the establishment of the ASEAN Foundation;

Have reached the following understanding:

## **ARTICLE 1**

### **Establishment and Membership**

1. There shall be established the ASEAN FOUNDATION, hereinafter referred to as "the Foundation".
2. Member States of ASEAN shall be members of the Foundation.

## **ARTICLE II**

### **Headquarters**

The headquarters of the Foundation shall be in the Republic of Indonesia, hereinafter referred to as "the Host Country", and shall be based in Jakarta.

## **ARTICLE III**

### **Legal Status, Privileges and Immunities**

1. The Foundation is a non-profit organization, and shall have legal personality.
2. The Foundation shall have the capacity, to:
  - a. enter into contracts;
  - b. acquire and dispose of movable and immovable property; and
  - c. sue and be sued.
3. The Host Country shall extend to the Foundation, the Executive Director and the Staff who hold diplomatic status such privileges and immunities as may be necessary for the performance of their duties and functions in accordance with the laws and regulations prevailing in the Host Country.

## **ARTICLE IV**

### **Objectives**

1. The Foundation shall promote greater awareness of ASEAN, and greater interaction among the peoples of ASEAN as well as their wider participation in ASEAN's activities inter alia through human resources development that will enable them to realize their full potential and capacity to contribute to progress of ASEAN Member States as productive and responsible members of society.
2. The Foundation shall also endeavour to contribute to the evolution of a development cooperation strategy that promotes mutual assistance, equitable economic development, and the alleviation of poverty.

## **ARTICLE V**

### **Activities**

The Foundation, to achieve its objectives, shall undertake the following activities:

1. organize and support activities to promote education, training (including in the areas of science and technology), health and cultural life;
2. provide assistance to uplift the social condition of the peoples in the ASEAN Member States;
3. provide fellowships to and support exchanges of ASEAN youths and students;
4. promote collaborative work among academics, professionals and scientists;
5. implement projects assigned by ASEAN Leaders or Ministers;
6. collaborate with the relevant ASEAN bodies;
7. organize its own projects; and
8. actively raise funds for the Foundation's activities.

## **ARTICLE VI**

### **Assistance**

Academic, cultural, economic, social and other relevant government institutions and bona fide non-governmental organizations of ASEAN member countries shall be eligible for assistance from the Foundation in conformity with its stated objectives.

## **ARTICLE VII**

### **Budget and Funding**

1. For the purpose of fulfilling its objectives and activities, the Foundation shall have a Fund.
2. Under this Fund, there shall be kept three accounts called the Endowment Account, the Operational Account and the Projects Account.
3. The Fund of the Foundation shall come from the contributions, including that of ASEAN Member States, private corporations and other foundations or individuals.

4. Contributions made to the Foundation shall be paid into any of the Endowment Account, Operational Account or the Projects Account, as specified by the donors. If unspecified by the donors, the contributions shall be paid into the Endowment Account.
5. The Endowment Account shall be invested to realise income for the Foundation. The Operational Account shall provide financing for day to day administrative costs of the Foundation. The Projects Account shall provide financing for approved projects. The allocation of the annual income from the Endowment Account to the Endowment, Operational and Projects Accounts shall be decided by the Board of Trustees.
6. The Accounts of the Foundation shall be maintained according to generally accepted international accounting practice.
7. The Foundation shall have the capacity to accept gifts, donations and contributions from other ASEAN Member States, private corporations and/or individuals.

## **ARTICLE VIII**

### **Organization**

The organization of the Foundation shall consist of a Board of Trustees, Executive Director, a Council of Advisors and the Staff of the ASEAN Foundation Secretariat.

## **ARTICLE IX**

### **Board of Trustees**

1. The Board of Trustees, hereinafter referred to as "the Board", shall consist of:
  - a. a representative of each of the ASEAN Member States to be appointed by the respective governments;
  - b. the Secretary-General of ASEAN as ex-officio member; and
  - c. the Executive Director as ex-officio member.
2. Each member of the Board, except for the ex-officio members, shall be appointed for a term to be decided by the appointing government and shall be eligible for re-appointment.
3. Officers of the Board shall be elected based on the following procedures:
  - a. the Members of the Board, except for the ex-officio members, shall elect a Chairman from among themselves for a term of one year;

- b. the Members of the Board, except for the ex-officio members, shall elect two (2) Vice-Chairmen from among themselves each for a term of one year;
  - c. the election of the Chairman and Vice-Chairmen shall be by rotation, in alphabetical order; and
  - d. the ex-officio members of the Board are not eligible to be elected as Chairman or Vice-Chairman.
4. The Board shall;
  - a. formulate the guidelines and procedures for the award of scholarships/fellowships and other activities of the Foundation;
  - b. have the overall responsibility for the Fund of the Foundation and shall be responsible for the formulation of policy for the procurement and the utilization of Fund for the Foundation;
  - c. approve projects seeking support from the Fund of the Foundation;
  - d. approve the annual operational budget for the Foundation;
  - e. perform such other functions as may be necessary to carry out the objectives of the Foundation; and
  - f. meet at least once a year.
5. In discharging its functions under this Article, the Board shall:
  - a. consult the Council of Advisors established by Article XI of this Memorandum of Understanding; and
  - b. take into consideration any advice and recommendation rendered or made by the Council to it.
6. The Board shall report to the ASEAN Heads of Government through the ASEAN Ministerial Meeting and the ASEAN Standing Committee.

## **ARTICLE X**

### **Executive Director**

1. The Executive Director shall be a national of an ASEAN Member State and shall be appointed by the Board through open recruitment for a non-renewable term of three years.
2. The Executive Director in discharging his/her functions to serve ASEAN Member States, shall represent the ASEAN Foundation, not his/her country or any other institution.
3. The Executive Director shall:

- a. represent the Foundation in all administrative and operational matters, manage the activities of the Foundation and perform such other functions as may be assigned by the Board from time to time;
  - b. have authority to appoint such professional, secretarial and administrative staff as are necessary to achieve the Foundation's objectives; and
  - c. undertake activities to raise funds for the Foundation's activities, in accordance with the guidelines and procedures as established by the Board.
4. The Executive Director shall be responsible to the Board.

## **ARTICLE XI**

### **Council of Advisors**

1. The Council of Advisors, hereinafter referred to as "the Council", shall consist of:
  - a. a representative who is appointed by the government of each ASEAN Member State, hereinafter collectively referred to as "Representative";
  - b. the Secretary-General of ASEAN as ex-officio member; and
  - c. the Executive Director as ex-officio member.
2. Representatives shall serve for a term to be decided by the appointing government and shall be eligible for re-appointment.
3. The Council shall act as an advisory body to the Board. The Council shall advise the Board in setting its programme thrusts in accordance with ASEAN's overall objectives.

## **ARTICLE XII**

### **External Audit**

1. The Foundation's operations and its financial accounts shall be subject to yearly financial auditing.
2. As and when the Board deems fit, operational and management audit of the ASEAN Foundation shall also be undertaken.
3. The Board shall be vested with the authority to appoint the external auditor.
4. The external auditor shall submit his Report directly to the Board.

## **ARTICLE XIII**

### **Staff**

1. The staff shall be nationals of ASEAN Member States.
2. Subject to the provisions of this Memorandum of Understanding, the terms and conditions of employment of the members of the staff of the Foundation shall be set out in Staff Regulations issued by the Executive Director and approved by the Board.

## **ARTICLE XIV**

### **Relationship between the Foundation and the ASEAN Secretariat**

1. The Foundation and the ASEAN Secretariat shall play complementary roles to help achieve ASEAN's objectives in accordance with ASEAN's priorities.
2. The Foundation should maintain close collaboration and mutually supportive relationship with the ASEAN Secretariat and other ASEAN bodies.

## **ARTICLE XV**

### **Amendment**

Any ASEAN Member State may propose amendments to this Memorandum of Understanding. Such amendments, when approved by all ASEAN Member States, shall come into force on such date as may be agreed upon.

## **ARTICLE XVI**

### **Working Language**

The working language of the Foundation shall be English.

## **ARTICLE XVII**

### **Final Provisions**

1. This Memorandum of Understanding shall enter into force upon deposit of instruments of ratification or letters of acceptance by all signatory governments with the Secretary-General of ASEAN.
2. This Memorandum of Understanding shall be deposited with the Secretary-General of ASEAN, who shall promptly furnish a certified copy thereof to each ASEAN Member State.
3. Any differences arising in the interpretation of the provisions of this Memorandum of Understanding shall be settled through consultations among the ASEAN Member States.

## **ARTICLE XVIII**

### **Repeal and Savings Provisions**

1. Subject to clause 2 of this Article, the Memorandum of Understanding on the Establishment of the Foundation done in Kuala Lumpur, Malaysia, on the Fifteenth day of December 1997 is hereby repealed, hereinafter referred to as "the repealed Memorandum of Understanding".
2. When this Memorandum of Understanding enters into force, the reconstitution of the Foundation established by the repealed Memorandum of Understanding shall take effect and its objectives, organs and powers shall be as provided in this Memorandum. The legal personality possessed by and the assets, rights and liabilities of the ASEAN Foundation established by the repealed Memorandum of Understanding shall continue in the Foundation established by this Memorandum. Unless otherwise decided by the Board, all decisions taken and acts done pursuant to the repealed Memorandum of Understanding shall continue to be effective and be deemed to be in accordance with the relevant provisions of this Memorandum.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective government, have signed this Memorandum of Understanding.

Done in Bangkok, Thailand, this twenty fifth day of July in the year Two Thousand, in one original copy in the English language.



For the Government of Brunei Darussalam:



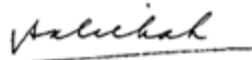
**MOHAMED BOLKIAH**  
Minister of Foreign Affairs

For the Government of the Kingdom of Cambodia:



**HOR NAMHONG**  
Senior Minister and  
Minister of Foreign Affairs and International Cooperation

For the Government of the Republic of Indonesia:



**ALWI SHIHAB**  
Minister for Foreign Affairs

For the Government of the Lao People's Democratic Republic:



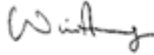
**SOMSAVAT LENGSAVAD**  
Deputy Prime Minister and Minister of Foreign Affairs

For the Government of Malaysia:



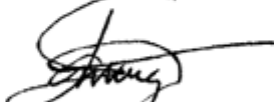
**SYED HAMID ALBAR**  
Minister of Foreign Affairs

For the Government of the Union Myanmar:



**WIN AUNG**  
Minister for Foreign Affairs

For the Government of the Republic of the Philippines:



**DOMINGO L. SIAZON, JR.**  
Secretary of Foreign Affairs

For the Government of the Republic of Singapore:



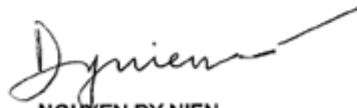
**S. JAYAKUMAR**  
Minister for Foreign Affairs

For the Government of the Kingdom of Thailand:



**SURIN PITSUWAN**  
Minister of Foreign Affairs

For the Government of the Socialist Republic of Viet Nam:



**NGUYEN DY NIEN**  
Minister for Foreign Affairs