

# 1979 AGREEMENT BETWEEN THE GOVERNMENT OF INDONESIA AND ASEAN RELATING TO THE PRIVILEGES AND IMMUNITIES OF THE ASEAN SECRETARIAT

*Adopted in Jakarta, Indonesia on 20 January 1979*

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WHEREAS the Governments of the ASEAN Member countries have recognized the need for a central administrative organ to provide for greater efficiency in the coordination of ASEAN organs and for more effective implementation of ASEAN projects and activities; and

WHEREAS to fulfill the above mentioned need the ASEAN Secretariat has been established having its seat in Jakarta Indonesia;

NOW therefore in implementation of Article 11 of the Agreement on the Establishment of the ASEAN Secretariat agree as follows:

## ARTICLE 1 DEFINITIONS

1. For the purpose of this Agreement the following expression shall have the meaning hereunder assigned to them:
  - (i) the "Government" means the Government of the Republic of Indonesia;
  - (ii) "Secretariat" means the ASEAN Secretariat;
  - (iii) "Secretariat-General" means the Secretary General of the ASEAN Secretariat or his authorized representative;
  - (iv) "appropriate Indonesia. authorities" means the officials of the Department of Foreign Affairs of the Republic of Indonesia or such other authorities which the Department of Foreign Affairs deems appropriate;
  - (v) "laws of Indonesia" includes legislative acts and decrees regulations or orders issued by or under authority of the Government or appropriate Indonesian authorities;
  - (vi) "premises of the Secretariat" means the building or parts of the buildings and the land ancillary thereto irrespective of ownership used for the purposes of the Secretariat;
  - (vii) "archives of the Secretariat" means the records and correspondence documents manuscripts still and moving pictures and films and sound recordings belonging to or held by the Secretariat;
  - (viii) "staff of the Secretariat" means all staff members of the Secretariat who in accordance with Article 4 of the Agreement on the Establishment of the ASEAN Secretariat are appointed by the Standing Committee upon nomination by each member country and whose names are communicated from time to time to the Indonesian authorities;

- (ix) "Property" means all property including funds assets and income belonging to the Secretariat;
- (x) "representatives of Governments" means all accredited members of delegation of ASEAN member countries to any ASEAN meeting.

## **ARTICLE 2**

### **JURIDICAL CAPACITY OF THE SECRETARIAT**

2. The Secretariat shall have the capacity:
  - (i) to conclude contracts;
  - (ii) to acquire and dispose of immovable and movable properties; and
  - (iii) to institute legal proceedings.

## **ARTICLE 3**

### **INVIOABILITY OF THE PREMISES AND THE ARCHIVES OF THE SECRETARIAT**

- (i) The premises of the Secretariat shall be inviolable and shall be under the control and authority of the Secretary-General as provided in the Agreement.
- (ii) The archives of the Secretariat belonging to or held by the Secretariat shall be inviolable.
- (iii) Officers or officials of the Government whether administrative judicial military or police shall not enter the premises of the Secretariat perform any official duties therein except with the consent of the Secretary-General.
- (iv) Without prejudice to the provisions of Article 8 the Secretariat shall not permit its premises to be used as a refuge for avoiding arrest under the laws of Indonesia or in any other manner incompatible with the purposes of the Secretariat as laid down in the Agreement on the Establishment of the ASEAN Secretariat.

## **ARTICLE 4**

### **PROTECTION OF THE PREMISES OF THE SECRETARIAT**

1. The appropriate Indonesian authorities shall take whatever action that may be necessary to assure that the Secretariat shall not be dispossessed of its premises except in the event that the ASEAN ceases to use the same.

2. The appropriate Indonesian authorities shall exercise due diligence to ensure that the tranquility of the premises of the Secretariat is not disturbed by unauthorized entry of persons or group of persons from outside or by disturbance in its vicinity and shall cause to be provided outside the boundaries of the premises of the Secretariat such police protection as is required for these purposes.
3. If so requested by the Secretary-General, the appropriate Indonesian authorities shall provide a sufficient number of police for the preservation of law and order on the premises of the Secretariat and for the removal there from of persons or group of persons as requested under the authority of the Secretary-General.

## **ARTICLE 5**

### **IMMUNITY AND EXEMPTION FROM TAXATION OF THE PROPERTY**

1. The property wherever located or by whosoever held shall enjoy Immunity from search, requisition, confiscation, expropriation and any other forms of interference whether by executive, administrative, judicial or legislative action except in so far in any particular case the Secretary-General shall have expressly waived its immunity.
2. The property shall be exempt:
  - (i) from any form of direct taxation. It is understood, however that the Secretariat will not claim exemption from taxes which are, in fact no more than charges for public services;
  - (ii) (ii)from customs duties and other levies and from prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Secretariat for its official use on, the understanding that articles imported under such exemptions shall not be transferred by the Secretariat within Indonesia except under conditions agreed upon with the Government and in accordance with the laws of Indonesia;
  - (iii) from customs duties and other levies and from prohibitions and restrictions in respect of importation and exportation of its publications.
3. While the Secretariat will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which forms part of the price to be paid, nevertheless when the Secretariat is making important purchases for official use of the property on which such duties and taxes have been charged or chargeable, the Government will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.
4. Without being subject to any financial controls, regulations or moratoria of any kind :
  - (i) The Secretariat may hold funds or currency of any kind and operate accounts in any currency;
  - (ii) (ii)The Secretariat shall be free to transfer its funds, securities or currency from one country to another or within Indonesia and to convert any currency held by it into any other currency.

5. The Secretariat shall, in exercising its privilege under paragraph 4 of this Article pay due regard to any representation made by the Government.

## **ARTICLE 6 COMMUNICATION**

1. The Secretariat shall enjoy for its official communications, treatment not less favourable than that accorded by the Government to foreign diplomatic missions and representative offices of international organizations in Indonesia.
2. No censorship shall be applied to official correspondence, and other official communications of the Secretariat.
3. The Secretariat shall have the right to despatch and receive official correspondence either by couriers or in sealed bags which shall have the same immunities and privileges as diplomatic couriers and bags.
4. The Government shall as far as feasible provide the Secretariat with sufficient facilities pertaining to operation of telephone and telex services on the premises of the Secretariat.
5. Whenever deemed necessary, and subject to approval by the Government, the Secretariat shall also be entitled to operate short wave sending and receiving radio broadcasting, including emergency link.

## **ARTICLE 7 ACCESS AND RESIDENCE**

1. The appropriate Indonesian authorities shall facilitate transit to and from the premises of the Secretariat of the following persons:
  - (i) Representative of Governments;
  - (ii) Secretary-General and Staff of the Secretariat their families, and other members of their house-hold;
  - (iii) other persons invited by the Secretariat on official business;
  - (iv) representatives of press, radio, film or other information agencies, who have been accredited to the Secretariat.
2. Visas which may be necessary for persons referred to in paragraph 1 of this Article shall be dealt with as speedily as possible and without charge. This, however, shall not obviate the requirement of reasonable evidence to establish that persons claiming the right granted under this paragraph fall within the categories described in paragraph 1 of this Article or of the application of quarantine and health regulations.

3. Subject to the provisions of Article 8,5 (i), (ii), (iii), laws of Indonesia regarding the residence of aliens shall be applied in accordance with the privileges referred to in paragraph 1 (i) (ii) (iii) of this Article. They shall not be applied in such a manner as to require any person to leave Indonesia on account of any activities performed by him in his official capacity.

## **ARTICLE 8**

### **PRIVILEGES AND IMMUNITIES OF THE SECRETARY GENERAL AND STAFF OF THE SECRETARIAT**

1. The Secretary-General and the staff of the Secretariat, whatever their nationality shall enjoy within and with respect to the territory of Indonesia:
  - (i) immunity from legal process in respect of acts including words spoken or written, performed by them in their official capacity and in the discharge of their duties;
  - (ii) immunity from seizure of their official baggage.
2. The Secretary-General and the staff of the Secretariat which do not have Indonesian nationality shall enjoy within and with respect to the territory of Indonesia the following privileges and immunities:
  - (i) exemption from taxation on the salary and emoluments paid to them by the Secretariat;
  - (ii) immunity, together with their spouses and relatives dependent on them, from immigration restriction and alien registration;
  - (iii) the same privileges in respect of exchange facilities as are accorded to the officials of comparable rank of diplomatic missions;
  - (iv) the same repatriation facilities, together with the spouses and relatives dependent on them, in time of international crisis as accorded to officials of comparable rank of diplomatic missions;
  - (v) immunity from personal arrest or detention.
  - (vi) immunity from seizure of their personal baggage;
  - (vii) freedom to maintain within Indonesia, or else-where, foreign securities and other movable and immovable property, and while employed by the Secretariat in Indonesia and at the time of termination of such employment, the right to take out of Indonesia fund in any foreign currency without restrictions or limitations, provided that the said officials can show good cause for their lawful possession of such fund;
  - (viii) the right to import free of duty and other levies, prohibition and restriction on imports, their furniture and effects within six months after first taking up their post in Indonesia the same regulations shall apply in the case of importation transfer and replacement of automobiles as are in force for the resident members of diplomatic missions of comparable rank.

3. (i) the Secretary-General shall be entitled to the appropriate diplomatic category and shall enjoy such other privileges and immunities as are accorded to diplomatic chiefs of mission not covered by paragraph 2 of this Article.  
(ii) the residence of the Secretary-General and the staff of the Secretariat shall enjoy the same inviolability and protection as the premises of the Secretariat.
4. Without prejudice to their privileges and immunities, it is the duty of the Secretary-General and the staff of the Secretariat to respect the laws of member countries and to avoid any interference in the internal affairs of the ASEAN countries.  
(i) should the Government consider that an abuse has occurred, the Secretary-General shall upon request, consult with the appropriate Indonesian authorities.
5. (i) the privileges and immunities accorded by this Article are granted in the interest of the Secretariat and not for the personal benefit of the individuals themselves. The Secretary General shall have the right and the duty to waive the immunity of any staff of the Secretariat in any case where, in his opinion such immunity would impede the course of justice and can be waived without prejudice to the interest of the Secretariat,  
(ii) the Secretary-General shall take every precaution to ensure that no abuse of a privilege or immunity conferred by this Agreement shall occur, and for this purpose shall establish such rules and regulations as he may deem necessary and expedient for staff of the Secretariat and persons performing missions for, or serving on missions of the Secretariat.  
(iii) the Secretariat and its staff shall cooperate at all times with the appropriate Indonesian authorities to facilitate the proper administration of justice, and prevent the occurrence of any abuse in connection with the privileges and immunities conferred by this Agreement.
6. (i) The appropriate Indonesian authorities shall provide the Secretary-General and the staff of the Secretariat with identity cards.

## **ARTICLE 9**

### **PUBLIC SERVICES AND DIVISION OF RESPONSIBILITIES CONCERNING INSTALLATION AND MAINTENANCE OF PREMISES OF THE SECRETARIAT.**

1. The appropriate Indonesian authorities will exercise to the extent requested by the Secretary-General the powers which they possess in this respect to ensure that the premises of the Secretariat shall be supplied on equitable terms with all the necessary public services. In case of any interruption or threatened interruption of any service, the appropriate Indonesian authorities will consider the needs of the Secretariat as being of equal importance with the similar needs of essential agencies of the Government, and will take steps accordingly to ensure that the work of the Secretariat is not jeopardized.

2. The Secretariat will be responsible for all charges arising out of maintenance, repairs and use of all public services as mentioned in paragraph 1, on the premises of the Secretariat.

## **ARTICLE 10 FINAL PROVISIONS**

1. This Agreement shall be signed and shall enter into force on the date of notification to the Secretary-General of its ratification by the Government.
2. Consultations with respect to amendments to this Agreement shall be entered into upon request of either party and any such amendment shall be by mutual consent.
3. This Agreement shall be interpreted in the light of each primary purpose to enable the Secretariat fully and efficiently to discharge its responsibilities and fulfill its objectives.
4. Wherever this Agreement imposes obligations on appropriate Indonesian authorities, the ultimate responsibility for the fulfillment of such obligations shall rest with the Government.
5. This Agreement shall cease to be in force six months after either of the Contracting Parties shall have given notice in writing to the other of its decision to terminate the Agreement.

In Witness Whereof, the respective Representatives have signed this Agreement in duplicate in the English language.

DONE in Jakarta, Indonesia this twentieth day of January one thousand nine hundred and seventy nine.

For the Association of South East Asian Nations

For the Government of the Republic of Indonesia

**Datuk Ali Bin Abdullah**

The Secretary General of the ASEAN Secretariat