

2005 AGREEMENT TO ESTABLISH AND IMPLEMENT THE ASEAN SINGLE WINDOW

Adopted in Kuala Lumpur, Malaysia on 9 December 2005

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2005 AGREEMENT TO ESTABLISH AND IMPLEMENT THE ASEAN SINGLE WINDOW

Adopted in Kuala Lumpur, Malaysia on 9 December 2005

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic (hereinafter referred to as "Lao PDR"), Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam, Member Countries of the Association of South East Asian Nations (hereinafter collectively referred to as "ASEAN" or "Member Countries" or individually as "Member Country"):

RECALLING the Declaration of ASEAN Concord II (Bali Concord II) of October 7 2003, pursuant to which ASEAN is working towards the realisation of an ASEAN Economic Community by 2020;

RECALLING that in moving towards the ASEAN Economic Community, ASEAN shall, inter alia, institute new mechanisms and measures to strengthen the implementation of its existing economic initiatives including the ASEAN Free Trade Area (AFTA);

RECOGNISING that the ASEAN Cooperation in Customs supports the implementation of AFTA, and the establishment of the ASEAN Economic Community through its trade facilitation measures;

RECALLING the decision of the Leaders for ASEAN to adopt the Single Window approach including the electronic processing of trade documents at national and regional level as one of the mechanisms to realise the ASEAN Economic Community;

RECALLING Article 8(f) of the ASEAN Framework Agreement for the Integration of Priority Sectors, that Member Countries shall develop the Single Window approach, including the electronic processing of trade documents at national and regional level by 31 December 2005;

RECALLING that ASEAN Customs Administrations are ultimate decision-makers for release and clearance of cargo at import and export points on the basis of communicated information from agencies of Member Countries;

RECALLING the leading role by ASEAN Customs Administrations in the international supply chain, and in trade facilitation initiatives;

NOTING international best practices and provisions of GATT 1994 and the International Convention on the Simplification and Harmonization of Customs Procedures as well as other internationally accepted legal instruments for trade facilitation as reference;

AGREEING that an effective and efficient arrangement to expedite customs release and clearance will promote trade facilitation, achieve better economic efficiency and effectiveness of ASEAN economies and further the establishment of the ASEAN Economic Community by the year 2020;

MINDFUL of the different levels of economic development and diverse cultural backgrounds of Member Countries;

MINDFUL of different systems and documentation requirements for clearance of goods in use in Member Countries; and

DESIRING to establish the legal framework for the establishment and the implementation of the ASEAN Single Window in Member Countries,

HAVE AGREED AS FOLLOWS:

PART I GENERAL PROVISIONS

ARTICLE 1

DEFINITION OF THE ASEAN SINGLE WINDOW AND THE NATIONAL SINGLE WINDOW

1. The ASEAN Single Window is the environment where National Single Windows of Member Countries operate and integrate.
2. The National Single Window is a system which enables:
 - a. a single submission of data and information;
 - b. a single and synchronous processing of data and information; and
 - c. a single decision-making for customs release and clearance. A single decision-making shall be uniformly interpreted as a single point of decision for the release of cargoes by the Customs on the basis of decisions, if required, taken by line ministries and agencies and communicated in a timely manner to the Customs.

ARTICLE 2

GENERAL DEFINITIONS

For the purposes of this Agreement:

1. “Customs Administration” means the government agency which is responsible for the administration of Customs law and related national legislation.
2. “Lead agency” means the government agency appointed by Member Countries to take the leading role in the establishment and the implementation of the ASEAN Single Window.
3. “Line ministries and agencies” means government agencies which are responsible for the administration and enforcement of trade laws and regulations as relevant to the release and clearance of cargo.

PART II OBJECTIVES AND PRINCIPLES

ARTICLE 3 OBJECTIVES

The objectives of this Agreement to Establish and Implement the ASEAN Single Window (hereinafter referred to as “this Agreement”) are:

- a. To provide a legal framework to establish and implement the ASEAN Single Window;
- b. To ensure the implementation of regional commitments by ASEAN to establish and implement the ASEAN Single Window;
- c. To strengthen the coordination and partnership among ASEAN Customs Administrations and relevant line ministries and agencies, and economic operators (importers, exporters, transport operators, express industries, customs brokers, forwarders, commercial banking entities and financial institutions, insurers, and those relevant to the international supply chain) to effectively and efficiently implement the ASEAN Single Window.

ARTICLE 4
PRINCIPLES OF THE IMPLEMENTATION OF THE ASEAN SINGLE WINDOW

Member Countries shall ensure that transactions, processes and decisions under their National Single Windows and the ASEAN Single Window are performed, carried out or made in a manner complying with the principles of:

1. consistency;
2. simplicity;
3. transparency; and
4. efficiency.

PART III
DEVELOPMENT OF THE ASEAN SINGLE WINDOW

ARTICLE 5
OBLIGATIONS OF MEMBER COUNTRIES

1. Member Countries shall develop and implement their National Single Windows in a timely manner for the establishment of the ASEAN Single Window. Brunei Darussalam, Indonesia, Malaysia, Philippines, Thailand and Singapore shall operationalise their National Single Windows by 2008, at the latest. Cambodia, Lao PDR, Myanmar, and Viet Nam shall operationalise their National Single Windows no later than 2012.
2. Member Countries shall ensure that their line ministries and agencies co-operate with, and provide necessary information to their Lead agency in accordance with their national laws in the development and implementation of their National Single Windows.
3. Member Countries shall make use of information and communication technology that are in line with relevant internationally accepted standards in the development and implementation of their National Single Windows.
4. Member Countries shall work in partnership with industries and businesses to support the establishment of their National Single Windows.

ARTICLE 6
TECHNICAL MATTERS OF THE ASEAN SINGLE WINDOW

Member Countries shall, by means of a Protocol to be agreed upon, adopt relevant internationally accepted standards, procedures, documents, technical details and formalities for the effective implementation of the ASEAN Single Window.

PART IV IMPLEMENTATION

ARTICLE 7 MONITORING MECHANISMS

1. The Ministers responsible for ASEAN economic integration, with the assistance of the Senior Economic Officials Meeting (SEOM) and the ASEAN Directors-General of Customs, shall regularly oversee, monitor, coordinate and review the implementation of this Agreement.
2. The ASEAN Secretariat shall:
 - a. provide support to the Ministers, the SEOM, the ASEAN Directors-General of Customs and relevant ASEAN bodies for overseeing, monitoring, coordinating and reviewing the implementation of this Agreement; and
 - b. regularly report to the SEOM and the ASEAN Directors-General of Customs and Leaders of agencies of regional economic integration on the progress in the implementation of this Agreement.

PART V OTHER PROVISIONS

ARTICLE 8 DISPUTE SETTLEMENT

The provisions of the ASEAN Protocol on Enhanced Dispute Settlement Mechanism, done at Vientiane, Lao PDR on the 29th day of November 2004, shall apply to disputes arising under this Agreement.

ARTICLE 9 FURTHER MEASURES

The Ministers responsible for ASEAN economic integration shall meet whenever necessary to review this Agreement for the purpose of considering further measures to improve the development and/or implementation of the ASEAN Single Window.

ARTICLE 10 FINAL PROVISIONS

1. The provisions of this Agreement may be modified through amendments to be mutually agreed upon in writing by all Member Countries.
2. This Agreement shall be deposited with the Secretary-General of ASEAN, who shall promptly furnish a certified copy thereof to each Member Country.

ARTICLE 11 ENTRY INTO FORCE

1. This Agreement shall enter into force upon signing.
2. Each Member Country shall, upon the completion of its national procedures of ratification of this Agreement, notify the ASEAN Secretariat in writing.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement to Establish and Implement the ASEAN Single Window.

DONE at Kuala Lumpur, Malaysia, on this Ninth Day of December in the Year Two Thousand and Five, in a single copy in the English language.

For the Government of Brunei Darussalam:

LIM JOCK SENG

Second Minister of Foreign Affairs and Trade

For the Royal Government of Cambodia:

CHAM PRASIDH

Senior Minister and Minister of Commerce

For the Government of the Republic of Indonesia:

MARI ELKA PANGESTU

Minister of Trade

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

SOULIVONG DARAVONG

Minister of Commerce

For the Government of Malaysia:

RAFIDAH AZIZ

Minister of International Trade and Industry

For the Government of the Union of Myanmar:

SOE THA

Minister of National Planning and Economic Development

For the Government of the Republic of the Philippines:

PETER B. FAVILA
Secretary of Trade and Industry

For the Government of the Republic of Singapore:

LIM HNG KIANG
Minister for Trade and Industry

For the Government of Thailand:

SOMKID JATUSRIPITAK
Deputy Prime Minister and Minister of Commerce

For the Government of the Socialist Republic of Viet Nam:

TRUONG DINH TUYEN
Minister of Trade