

**2011 AGREEMENT BETWEEN THE GOVERNMENTS OF THE
MEMBER STATES OF THE ASSOCIATION OF SOUTHEAST ASIAN
NATIONS AND THE REPUBLIC OF KOREA ON FOREST
COOPERATION (AFOCO)**

Signed in Bali, Indonesia on 18 November 2011

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2011 AGREEMENT BETWEEN THE GOVERNMENTS OF THE MEMBER STATES OF THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS AND THE REPUBLIC OF KOREA ON FOREST COOPERATION (AFOCO)

Signed in Bali, Indonesia on 18 November 2011

PREAMBLE

THE GOVERNMENTS OF BRUNEI DARUSSALAM, THE KINGDOM OF CAMBODIA, THE REPUBLIC OF INDONESIA, THE LAO PEOPLE'S DEMOCRATIC REPUBLIC, MALAYSIA, THE REPUBLIC OF THE UNION OF MYANMAR, THE REPUBLIC OF THE PHILIPPINES, THE REPUBLIC OF SINGAPORE, THE KINGDOM OF THAILAND AND THE SOCIALIST REPUBLIC OF VIET NAM, as MEMBER STATES OF THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS (hereinafter referred to as "the ASEAN Member States"), and THE GOVERNMENT OF THE REPUBLIC OF KOREA (hereinafter referred to as "the ROK") (hereinafter an ASEAN Member State or the ROK is referred to individually as the "Party" and collectively as the "Parties");

ACKNOWLEDGING the importance of all types of forests in their contribution to socio-economic development, environmental protection and biodiversity conservation at national, regional and global levels;

NOTING the forest-related decisions adopted at the United Nations Conference on Environment and Development in 1992, the World Summit on Sustainable Development in 2002, the United Nations Convention to Combat Desertification in States Experiencing Serious Drought and/or Desertification, Particularly in Africa, the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity;

RECALLING the proposals for action of the Intergovernmental Panel on Forests and the Intergovernmental Forum on Forests and the resolutions and decisions of the United Nations Forum on Forests as well as the Non-legally Binding Instrument on All Types of Forests;

NOTING the Green Growth initiatives in the ROK as well as the reforestation and forest rehabilitation achievements, the progress in the development of sustainable forest management practices and the improvement of forest governance in the region;

RECOGNIZING that states play a significant role in restoring and rehabilitating degraded lands, promoting sustainable forest management and combating desertification, and that progress in that respect depends on the implementation of national action programmes;

MINDFUL of forest health, changes in land use and people's concerns regarding a healthy environment and a sustainable supply of wood energy in the region;

TAKING INTO ACCOUNT the call by society for the better use of forests and non-timber forest resources, and the promotion of best forest practices, research and education;

CONSIDERING the demarcation, synergies and complementarities of existing cooperation among regional and international organizations related to forestry;

FURTHER CONSIDERING the urgent need for closer cooperation on forests between the ASEAN Member States and the ROK in contributing to the extension of forestlands, the advanced study of forests, forestry and forest rehabilitation and the strengthening of the capacities of states in coping with global climate change issues;

COGNIZANT of the contribution of the forestry sector to the implementation of the Plan of Action to Implement the Joint Declaration on Strategic Partnership for Peace and Prosperity adopted at the 13th ASEAN-ROK Summit in October 2010 in Ha Noi, Viet Nam;

ACKNOWLEDGING the existence of strong bonds between the ASEAN Member States and the ROK, accelerated by the Dialogue Partnership since 1989 and by the Comprehensive Partnership declared on 30 November 2004 in Vientiane, Lao People's Democratic Republic, with cooperation evolving from "donor-recipient" to "strategic partnership";

ADHERING to the principles of the ASEAN Charter as well as recognizing ASEAN consensus and centrality;

TAKING INTO ACCOUNT the Roadmap for an ASEAN Community (2009-2015) and supporting Blueprints that promote sustainable forest management; and

RECALLING the leaders' appreciation for the ROK's proposal to establish the Asian Forest Cooperation Organization at the ASEAN-ROK Commemorative Summit on 1-2 June 2009 in Jeju Island, ROK and their reiteration of this appreciation at the 12th ASEAN-ROK Summit on 24 October 2009 in Phuket, Thailand;

HAVE AGREED as follows:

ARTICLE I GENERAL PROVISIONS

1. The Agreement shall serve as a platform to foster cooperation in forestry and dialogue towards the establishment of Asian Forest Cooperation Organization (hereinafter referred to as "AFoCO").
2. The Agreement shall neither affect any existing agreements between the Parties, which shall prevail over the Agreement, nor restrain any Party from entering into other cooperation agreements on forest cooperation. In the event of conflict between provisions of the Agreement and provisions of other relevant treaties and international instruments, the latter shall prevail to the extent of such conflict.
3. The Agreement shall be implemented by the Parties by consensus and in accordance with their respective national laws and regulations and within the limits of their respective annual budgetary appropriations.

ARTICLE II OBJECTIVES

The Agreement shall have the following objectives:

- a) to facilitate forest cooperation, undertake projects and translate sound forest policies and proven technologies into action with a mission to rehabilitate degraded forest land and to

prevent deforestation and forest degradation in the context of sustainable forest management as well as under the broader scope of addressing the impact of climate change; and

- b) to provide a platform for dialogue between the ASEAN Member States and the ROK towards the establishment of AFoCO.

ARTICLE III

SCOPE AND AREAS OF COOPERATION

1. In order to achieve the objectives stated in Article II, the Agreement shall focus on action-oriented field activities while ensuring synergies and complementation of existing cooperation, regional and international organizations.
2. Areas of cooperation under the Agreement shall include the following:
 - a) promoting sustainable forest management;
 - b) addressing deforestation and forest degradation in the framework of the adaptation and mitigation of climate change, combating desertification, restoring and rehabilitating degraded land, promoting community-based forestry activities, and preventing forest disasters;
 - c) strengthening capacity-building, public awareness, and research and development in forestry sector, including through technology transfers and technical information sharing in the forestry sector, including, inter alia, wood based and forest products;
 - d) enhancing forest carbon stocks and supporting initiatives, including mitigation and adaptation of the impacts of climate change in forestry;
 - e) undertaking dialogue towards the establishment of AFoCO;
 - f) enhancing and mobilizing existing and future financial resources in the forestry sector; and
 - g) any other areas of forestry cooperation to be mutually agreed from time to time by the Parties.

ARTICLE IV

INSTITUTIONAL ARRANGEMENTS

1. The Parties shall establish a Governing Council and a Secretariat, solely for the purpose of meeting the objectives and the requirements of the Agreement.
2. The Governing Council (hereinafter referred to as the "Council") shall be the decision-making, coordinating, and implementing body of the Agreement. The Council shall comprise a senior official on forestry from each ASEAN Member State, and the ROK. A representative from the ASEAN Secretariat shall sit in the Council as a resource person on ASEAN policies and cooperation on forestry.
3. The Council shall meet at least once a year in plenary session and be co-chaired by a member from the ASEAN Member States and a member from ROK. Decisions of the Council shall be made on the basis of consensus among members of the Council.

4. The Council shall have the following functions and responsibilities:
 - a) adopt Rules of Procedure for the Council and the Secretariat;
 - b) approve a programme and budget for activities to be implemented under the Agreement;
 - c) promote and strengthen cooperation with other relevant organizations to ensure synergies and avoid duplication of efforts; and
 - d) undertake such other functions as are deemed necessary for the achievement of the objectives of the Agreement.
5. The Focal Agencies designated for the purposes of coordination; implementation of programmes and plans; and exchange of information among the ASEAN Member States and the ROK under the Agreement are set out in the ANNEX to the Agreement.
6. The Secretariat shall assist the Council in the coordination of, monitoring of, and reporting on all approved programmes, plans and activities under the work programs and/or plans with the relevant Focal Agencies set out in the ANNEX. The Secretariat shall be headed by an Executive Director, who shall be appointed by the Council. Employment of the Secretariat staff shall be the responsibility of the Executive Director, subject to general directions and guidance of the Council and the national laws and regulations of the host country. The ASEAN Secretariat shall also facilitate the work of the Secretariat on ASEAN policies and decisions on cooperation in forestry.
7. The office of the Secretariat shall be located in the ROK, unless the Council decides otherwise:-
8. The Council and the Secretariat shall continue to operate as long as the Agreement remains in force.

ARTICLE V FINANCIAL ARRANGEMENTS

1. Arrangements to cover expenses for the cooperative activities undertaken within the framework of the Agreement, including the Parties' respective voluntary in-kind and/or voluntary in-cash contributions, shall be mutually agreed upon by the Parties on a case-by-case basis.
2. The operating costs for implementation of the Agreement, inter alia, salary of staff, infrastructure and facilities, hosting council meetings, project review team, utilities and consumable, transportation and travel, daily subsistence allowances, publications, taxation, and miscellaneous expenses, shall be funded either by way of in kind and/or in-cash contributions based on the ratio of one-to- nine from the ASEAN Member States as a whole and the ROK, respectively. For the contribution of the ASEAN Member States, the basic obligation to contribute to the operation costs by each ASEAN Member States shall be up to one percent.

ARTICLE VI COOPERATION WITH OTHER STATES AND ENTITIES

1. Either Party may invite the participation of other States and entities in the joint programmes, projects and/or activities being carried out under this Agreement. In carrying out such joint programmes, projects and/or activities, the Parties shall ensure that such other States and entities shall comply with the provisions of this Agreement.
2. Assistance on a grant basis from other states and entities may be accepted by decision of the Council.

ARTICLE VII ASSESSMENT FOR THE IMPLEMENTATION OF THE AGREEMENT

1. The Parties shall assess the implementation of the Agreement and continue their efforts to promote and expand cooperative activities towards the establishment of AFoCO.
2. The procedure and terms of reference for the mutually agreed assessment shall be developed by the Council within three (3) months after the entry into force of the Agreement.
3. The assessment shall be made by the Parties within the last three months before the lapse of period of two (2) years under the Agreement. However, the assessment can be made earlier if it is deemed necessary by the Council. The assessment of the implementation of the Agreement shall be undertaken particularly on, but not limited to, the issues of (a) demarcation and duplication of the activities to be undertaken between other organizations and AFoCO; (b) financial sustainability; (c) success of the implementation of the Agreement; and (d) strength of the organizational arrangement.
4. If the assessment process cannot be completed within the initial two (2) - year period, an extension of the Agreement may be agreed upon by Parties in order to complete the assessment process.
5. Dialogue for the establishment of AFoCO shall commence soon after entry into force of the Agreement in anticipation of finalizing a separate arrangement for AFoCO within two (2) years from the entry into force of the Agreement.

ARTICLE VIII PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

1. The protection of intellectual property rights shall be enforced in conformity with the applicable respective national laws, rules and regulations of the Parties and with other international agreements binding on the Parties.
2. The use of the name, logo and/or official emblem of individual ASEAN Member States, ASEAN and the ROK on any publication, document and/or paper is prohibited without the prior written approval of the Council.
3. Notwithstanding anything in paragraph 1 above, the intellectual property rights in respect of any technological development, products or services development, carried out:

- a) jointly by the ASEAN Member States and the ROK or research results obtained through the joint activity effort of the ASEAN Member States and the ROK, shall be jointly owned by the ASEAN Member States and the ROK in accordance with the terms to be mutually agreed upon on a case-by-case basis; and
- b) solely and separately by the individual ASEAN Member States or the ROK or the research results obtained through the sole and separate effort of the individual ASEAN Member States or the ROK, shall be owned by the country concerned.

ARTICLE IX CONFIDENTIALITY

1. The Parties shall undertake to observe the confidentiality and secrecy of documents, information and/or other data received from or supplied to any ASEAN Member States or ROK during the period of the implementation of the Agreement or any other agreements made pursuant to the Agreement.
2. The Parties agree that the provisions of this Article shall continue to be binding between them notwithstanding the termination of the Agreement.

ARTICLE X SUSPENSION

ASEAN Member States and the ROK may for reasons of national security, national interest, public order or public health suspend temporarily, either in whole or in part, the implementation of the Agreement by notifying the other Parties, in accordance with the procedures referred to in Article XVI, of its intention to suspend it. Such suspension shall take effect for that Party on the date of that notification.

ARTICLE XI ENTRY INTO FORCE

1. The Agreement shall be subject to notification as set out in paragraph 2 below, in accordance with the respective laws of the individual ASEAN Member States and the ROK.
2. Upon the Signing of the Agreement by all ASEAN Member States and the ROK, the Agreement shall enter into force on the thirtieth (30) day after the date on which at least 6 ASEAN Member States and ROK have notified all the other Parties, in accordance with the procedures referred to in Article XVI, of the completion of their respective internal procedures necessary for the entry into force of the Agreement.
3. The Agreement shall remain in force until it is terminated following the provision under Article XIV of the Agreement.
4. The Agreement shall be in force for a period of two (2) years from the date of its entry into force and subject to further extension as referred to paragraph 4 of Article VII.

ARTICLE XII DEPOSITARY

For the ASEAN Member States, the Agreement shall be deposited with the Secretary-General of ASEAN, who shall promptly furnish a certified copy thereof, to each Member State. For the ROK, the Agreement shall be deposited with Minister of Foreign Affairs and Trade of the ROK.

ARTICLE XIII REVISION, MODIFICATION AND AMENDMENTS

1. Any Party may request in writing a revision, modification or amendment of any part of the Agreement.
2. Any revision, modification or amendment agreed to by the Parties shall be reduced in writing and shall form part of the Agreement.
3. Such revision, modification or amendment shall come into force on such date as may be determined by the Parties.
4. Any revision, modification or amendment shall not prejudice the rights and obligations arising from or based on the Agreement before or up to the date of such revision, modification and amendment.

ARTICLE XIV TERMINATION

1. All the ASEAN Member States may by consensus, and through its Country Coordinator for ASEAN-ROK Dialogue Relations, or the ROK may terminate the Agreement by giving written notification to the other side in accordance with the procedures referred to in Article XVI. Such termination shall take effect three (3) months after the date of such notification.
2. The termination of the Agreement shall not affect the implementation of any on-going projects, programmes and/or activities, which have been agreed upon before the date of termination of the Agreement.

ARTICLE XV SETTLEMENT OF DISPUTES

Any differences or disputes between the Parties concerning the interpretation, implementation and/or application of any of the provisions of the Agreement shall be settled amicably through mutual consultations and/or negotiations between the Parties through diplomatic channels, without reference to any third party or international tribunal.

ARTICLE XVI NOTIFICATION

Notification of completion of respective internal procedures necessary for the entry into force of the Agreement, suspension or termination under the Agreement shall be carried out as follows:

- a) For the ROK, notification shall be communicated in writing through diplomatic channels to the ASEAN Secretariat and such notification shall be considered as notification to all ASEAN Member States.
- b) For the ASEAN Member States, the respective State shall notify the ASEAN Secretariat in writing through diplomatic channels; and
- c) The ASEAN Secretariat shall on the same date of receiving the notification of the respective ASEAN Member State under paragraph b), notify the ROK and all other ASEAN Member States in writing through diplomatic channels; and such notification by the ASEAN Secretariat shall be considered as the notification to the other Parties.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed the Agreement.

Done in Bali, Indonesia on this Eighteenth day of November in the year Two Thousand and Eleven in two (2) original copies, in the English language.

For The Republic of Korea: **KIM, SUNG-HWAN**, Minister of Foreign Affairs and Trade

For Brunei Darussalam: **PEHIN DATO LIM JOCK SENG**, Minister of Foreign Affairs and Trade II

For the Kingdom of Cambodia: **HOR NAMHONG**, Deputy Prime Minister, Minister of Foreign Affairs and International Cooperation

For the Republic of Indonesia: **ZULKIFLI HASAN SE, MM**, Minister for Forestry

For the Lao People's Democratic Republic: **DR. THONGLOUN SISOULITH**, Deputy Prime Minister and Minister of Foreign Affairs

For Malaysia: **DATO' SRI ANIFAH BIN HAJI AMAN**, Minister of Foreign Affairs

For the Republic of the Union of Myanmar: **WUNNA MAUNG LWIN**, Minister for Foreign Affairs

For the Republic of the Philippines: **ALBERT F. DEL ROSARIO**, Secretary of Foreign Affairs

For the Republic of Singapore: **K SHANMUGAM**, Minister for Foreign Affairs

For the Kingdom of Thailand: **DR. SURAPONG TOVICHAKCHAIKUL**, Minister of Foreign Affairs

For the Socialist Republic of Viet Nam: **PHAM BINH MINH**, Minister of Foreign Affairs