

**2007 AGREEMENT ON MARITIME TRANSPORT BETWEEN THE
GOVERNMENTS OF THE MEMBER COUNTRIES OF ASSOCIATION
OF SOUTHEAST ASIAN NATIONS AND THE GOVERNMENT OF THE
PEOPLE’S REPUBLIC OF CHINA**

Signed in Singapore on 2 November 2007

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2007 AGREEMENT ON MARITIME TRANSPORT BETWEEN THE GOVERNMENTS OF THE MEMBER COUNTRIES OF ASSOCIATION OF SOUTHEAST ASIAN NATIONS AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

Signed in Singapore on 2 November 2007

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic ("Lao PDR"), Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand, the Socialist Republic of Viet Nam as Member Countries of the Association of Southeast Asian Nations (hereinafter referred to as "Member Countries of ASEAN" or collectively "a Contracting Party") on the one side, and the Government of the People's Republic of China (hereinafter referred to as "China" or "a Contracting Party") on the other; and both sides hereinafter referred to collectively as "Contracting Parties";

TAKING INTO ACCOUNT the Framework Agreement on the Comprehensive Economic Cooperation between ASEAN and China, signed on 4th November 2002 in Phnom Penh, Cambodia;

TAKING INTO ACCOUNT the Memorandum of Understanding between the Governments of the Member Countries of ASEAN and the Government of the People's Republic of China on Transport Cooperation signed on 27th November 2004 in Vientiane, Lao PDR;

TAKING INTO ACCOUNT the Plan of Action on Implementing the Joint Declaration on Strengthening ASEAN-China Strategic Partnership towards Peace for Prosperity signed on 29th November 2004 in Vientiane, Lao PDR;

TAKING INTO ACCOUNT the importance of the maritime relations existing between the Member Countries of ASEAN and China;

BELIEVING that cooperation in the international maritime transport field between the Contracting Parties will be beneficial for the development of the trade and economic relations between the Member Countries of ASEAN and China;

WILLING to further strengthen and consolidate the relations, on the basis of equality and mutual benefits in the field of international maritime transport;

RECOGNISING the importance of maritime transport in order to increase efficiencies in the transport chain;

WILLING to further cooperate and communicate with each other, eliminate barriers hindering maritime transport, and establish regional maritime transport framework system with the aim to promote maritime transport facilitation;

TAKING INTO ACCOUNT the existing bilateral maritime agreements between the Member Countries of ASEAN and China;

HAVE AGREED as follows:

ARTICLE 1

AIM

This Agreement is aimed at providing facilitation and cooperation in improving the conditions under which maritime cargo and passenger transport operations are carried out between the ports of the Contracting Parties, as well as between the ports of the Contracting Parties and the ports of third countries, for the benefit of economic operators of the Contracting Parties. The Contracting Parties shall refrain from any action that might be detrimental to the unrestricted participation of shipping companies of the Contracting Parties in maritime transport between the Contracting Parties as well as between the Contracting Parties and third countries.

ARTICLE 2

SCOPE

1. This Agreement applies to the international maritime cargo and passenger transport between the ports of the Member Countries of ASEAN and China.
2. This Agreement shall not apply to domestic maritime transport purely between the ports within any Member Country of ASEAN or between the ports of China.
3. This Agreement shall not affect the application of the bilateral agreements concluded between the Member Countries of ASEAN and China for issues falling outside the scope of this Agreement.
4. This Agreement shall not affect the right of vessels of third parties to engage in cargo and passenger transport between the ports of the Contracting Parties or between the ports of either Contracting Party and a third party.

ARTICLE 3

DEFINITION

For the purpose of this Agreement:

1. "vessel" means any merchant ship registered in accordance with the laws of a Member Country of ASEAN or China in the vessel registration office of either Contracting Party under the national flag of that Contracting Party and engaged in international maritime transport, including vessels flying the flag of a third country but owned or operated by a shipping company of a Member Country of ASEAN or China. However, this term shall not include warships and any other non-commercial ships.
2. "crew member" means the master or any person employed on board a vessel, in duties and services connected with the running of the vessel and whose name is included in the crew list and holds a valid identity document issued or recognised by the competent authorities of his/her country.
3. "ports" means seaports including roadsteads, in the territory of a Member Country of ASEAN or China which are approved and open to international shipping.
4. "shipping company" is an enterprise which meets all of the following conditions:

- a. being established in accordance with the laws, rules and regulations of a Member Country of ASEAN or China;
- b. having its registered office or head office in a Member Country of ASEAN or China;
- c. engaging in international shipping services with its own or operated vessels; and
- d. being an independent legal entity in accordance with the laws, rules and regulations of a Member Country of ASEAN or China.

ARTICLE 4 TREATMENT IN PORTS

Each Contracting Party shall grant the vessels of the other Contracting Party, their crew members, passengers and cargoes on board the treatment no less favorable than granted to vessels of a third country in regard to:

- a. the access to ports open to international maritime traffic;
- b. the stay in ports and departure therefrom;
- c. the use of port facilities for cargoes and passengers transport as well as regarding the access to any services and other facilities available in ports;
- d. the collection of fees and port charges.

ARTICLE 5 FACILITATION OF TRANSPORT

The Contracting Parties shall, within the limits of their respective laws, rules and regulations, take all appropriate measures to avoid any unnecessary delay as well as to expedite and simplify the administrative, customs, sanitary and other formalities in force in their ports.

ARTICLE 6 SHIP'S DOCUMENTS

1. Each Contracting Party shall recognise the certificates of registry/nationality and other ship's documents held by vessels of the other Contracting Party and issued by the competent authorities of the flag state.
2. Vessels of one Contracting Party holding valid tonnage certificates issued in compliance with the International Convention on Tonnage Measurement of Ships, 1969, as amended, and accepted by the other Contracting Party shall not be re-measured in the ports of the other Contracting Party. All the dues and charges based on the tonnage of vessels shall be calculated and collected in accordance with the above-mentioned certificates.

ARTICLE 7

ASHORE, ENTRY, DEPARTURE AND TRANSIT BY CREW MEMBERS

1. Either Contracting Party shall, in accordance with its laws, rules and regulations in force, recognise the identity documents of the crew members, issued or recognised by the competent authorities of the other Contracting Party.
2. Either Contracting Party shall allow, in accordance with its laws, rules and regulations in force, crew members of a vessel of the other Contracting Party, who hold the valid identity documents, as referred to in Article 3, to go ashore and to stay in the port town area during the stay of their vessel in any of its ports.
3. Either Contracting Party shall allow, in accordance with its laws, rules and regulations in force, crew members of the other Contracting Party, who hold a valid identity document, to enter, leave, or pass through its territory, by means of any traffic, on account of repatriation, joining a vessel or other reasons acceptable to its competent authorities.
4. Either Contracting Party, in accordance with its laws, rules and regulations in force, reserves the right to deny the entry into and stay within its territory of any crew members it may regard as undesirable.

ARTICLE 8

JURISDICTION ON BOARD VESSELS

1. Either Contracting Party shall not exercise criminal jurisdiction on board vessels of another Contracting Party passing through their territorial sea to arrest any person or to conduct any investigation in connection with any crime committed on board the vessels during their passage, save only in the following cases:
 - a. if the consequences of the crime extend to the Contracting Party;
 - b. if the crime is of a kind to disturb the peace of the Contracting Party or the good order of its territorial sea;
 - c. if the assistance of the local authorities has been requested by the master of the vessel or by a diplomatic agent or consular officer of the Contracting Party; or
 - d. if such measures are necessary for the suppression of illicit traffic in narcotic drugs or psychotropic substances.
2. The above provisions do not affect the right of the Contracting Party to take any steps authorised by its laws, rules and regulations for the purpose of an arrest or investigation on board vessels of another Contracting Party passing through the territorial sea after leaving internal waters.
3. In the cases provided for in paragraphs 1 and 2, the Contracting Party shall, if the master so requests, notify a diplomatic agent or consular officer of the other Contracting Party before taking any steps, and shall facilitate contact between such agent or officer and the vessel's crew. In cases of emergency, this notification may be communicated while the measures are being taken.

4. In considering whether or in what manner an arrest should be made, the local authorities shall have due regard to the interests of navigation.
5. Except as provided for in internationally adopted rules and principles: (a) governing the protection and preservation of the marine environment; or (b) with respect to violations of laws, rules and regulations adopted in relation to the specific legal regime, and the rights, jurisdiction and duties of the coastal and other states in the exclusive economic zones; the Contracting Party may not take any steps on board vessels of another Contracting Party passing through the territorial sea to arrest any person or to conduct any investigation in connection with any crime committed before the vessel entered the territorial sea, if the vessel, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

ARTICLE 9

PAYMENT AND REMITTANCE

1. Revenues of shipping companies of one Contracting Party derived from international maritime transport in the other Contracting Party may be settled in freely convertible or usable currencies, in accordance with the exchange regulations in force in the other Contracting Party.
2. The shipping companies of one Contracting Party shall have the right to use their income from the shipping services derived in the territory of the other Contracting Party towards shipping-related payments, in accordance with that other Contracting Party's laws, rules and regulations. Alternatively, the income may be transferred abroad in freely convertible or usable currencies, in accordance with the exchange regulations in force in that other Contracting Party.

ARTICLE 10

MARITIME COOPERATION

The Contracting Parties shall, with the aim of promoting the development of their maritime industry, subject to their respective laws, rules and regulations encourage their competent authorities, shipping companies, ports, relevant research institutions, colleges, universities and maritime education and training institutions to cooperate in, including but not limited to, the following fields:

- a. exchange views on issues related to their maritime transport activities;
- b. exchange information on legislation and regulations concerning maritime transport;
- c. promote efficiency of transport service for international sea trade by effective administration of the ports and fleets of the Contracting Parties;
- d. enhance maritime safety and marine environmental protection against pollution;
- e. promote maritime education and training, especially the training of seafarers and instructors;
- f. exchange personnel, and maritime technology;
- g. promote cooperation to enhance maritime security, including the implementation of the provisions of the International Ship and Port Facility Security (ISPS) Code.

ARTICLE 11

MUTUAL CONSULTATION

1. Aiming at close cooperation in the effective implementation of this Agreement, and upon the request of any Member Country of ASEAN or China, representatives from the Contracting Parties may meet to discuss proposals submitted by either Contracting Party at the date and place mutually agreed upon. Such consultative meetings shall be held not later than 60 (sixty) days as from the date of the relevant proposal received.
2. The Ministry of Communications of China and the ASEAN Secretariat shall assist in convening the proposed consultative meetings.

ARTICLE 12

SETTLEMENT OF DISPUTES

Any dispute or differences arising out of the interpretation or implementation or application of the provisions of this Agreement shall be settled amicably through consultation or negotiation between the Contracting Parties.

ARTICLE 13

CONFIDENTIALITY

Any confidential information, document or data received pursuant to this Agreement shall not be disclosed or distributed to any third party, except to the extent authorised in written form to do so by the Contracting Party providing the information, document or data.

ARTICLE 14

ENTRY INTO FORCE, DURATION AND AMENDMENT

1. After the completion of its internal legal procedures for the entry into force of this Agreement, each Member Country of ASEAN shall give written notification to the Secretary-General of ASEAN, who shall immediately notify China when all of the Member Countries of ASEAN have finished the said procedures.
2. After the completion of its internal legal procedures for the entry into force of this Agreement, China shall give written notification to the Secretary-General of ASEAN.
3. This Agreement shall enter into force upon the last written notification is received. The Secretary-General of ASEAN shall notify Member Countries of ASEAN of the entry into force of this Agreement.
4. This Agreement is concluded for a period of five years. It shall be tacitly renewed for successive periods of one year unless one of the Contracting Parties denounces it in writing six months before the date of expiry.
5. Each Contracting Party may request in writing any amendment of all or any part of this Agreement. Such amendment shall be mutually agreed upon in written form by the Contracting Parties and shall form an integral part of this Agreement. Such amendment shall enter into force immediately on such date as agreed upon in writing by the Contracting Parties.

ARTICLE 15

RELATION WITH EXISTING BILATERAL MARITIME TRANSPORT AGREEMENTS

If a provision in an existing bilateral agreement between an individual Member Country of ASEAN and China requires parties to extend to each other more favourable treatment than is required by the provisions of this Agreement, that provision shall prevail over this Agreement as between that individual Member Country of ASEAN and China. The provisions of this Agreement shall replace those of previous bilateral agreements concluded between Member Countries of ASEAN and China, if the latter provisions are either inconsistent with the former, save for the situation referred to in the preceding sentence, or identical to them.

ARTICLE 16

PROTECTION OF NATIONAL SECURITY AND PUBLIC HEALTH

The provisions of this Agreement shall not limit the rights of any Member Country of ASEAN and China to take measures for the protection of its security and public health or prevention of disease and pests in animals and plants.

IN WITNESS WHEREOF the undersigned, duly authorised by the respective Governments of the ASEAN Member Countries and the Government of the People's Republic of China, have signed this Agreement.

DONE at Singapore, this Second Day of November in the year Two Thousand and Seven, in two original copies in the English Language.

For Member Countries of ASEAN, this Agreement shall be deposited with the Secretary-General of ASEAN who shall promptly furnish a certified true copy to all Member Countries of ASEAN.

For the Government of Brunei Darussalam:
PEHIN DATO ABU BAKAR APONG
Minister of Communications

For the Royal Government of Cambodia:
SUN CHANTHOL
Minister of Public Works and Transport

For the Government of the Republic of Indonesia:
JUSMAN SYAFII DJAMAL
Minister for Transportation

For the Government of the Lao People's Democratic Republic:
SOMMAD PHOLSENA
Minister of Communication, Transport, Post and Construction

For the Government of Malaysia:
DATO' SRI CHAN KONG CHOY
Minister of Transport

For the Government of the Union of Myanmar:

MAJ. GEN. THEIN SWE

Minister of Transport

For the Government of the Republic of Philippines:

GEN. LEANDRO R. MENDOZA (Ret.)

Secretary of Transportation and Communications

For the Government of the Republic of Singapore:

RAYMOND LIM

Minister for Transport

For the Royal Thai Government:

ADMIRAL THIRA HAO-CHAROEN

Minister of Transport

For the Government of the Socialist Republic of Viet Nam

DR. TRAN DOAN THO

Vice Minister of Transport

For the Government of the People's Republic of China:

LI SHENGLIN

Minister of Communications