

2006 PROTOCOL TO ESTABLISH AND IMPLEMENT THE ASEAN SINGLE WINDOW

Adopted in Kuala Lumpur, Malaysia on 20 December 2006

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2006 PROTOCOL TO ESTABLISH AND IMPLEMENT THE ASEAN SINGLE WINDOW

Adopted in Kuala Lumpur, Malaysia on 20th December 2006

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 States of the Association of South East Asian Nations (hereinafter collectively referred to as "ASEAN" or "Member Countries" or individually as "Member Country"),

RECALLING that the adoption of the ASEAN Single Window approach, including the electronic processing of trade documents at national and regional levels, is one of the mechanisms to realise the ASEAN Economic Community by facilitating trade and investment under the Vientiane Action Programme (2004);

NOTING that as a concrete step towards the establishment and implementation of the ASEAN Single Window, the ASEAN Economic Ministers have signed the Agreement to Establish and Implement the ASEAN Single Window on 9 December 2005 in Kuala Lumpur, Malaysia (hereinafter referred to as the "ASW Agreement");

RECALLING that Article 6 of the ASW Agreement mandates Member Countries, by means of a protocol, to adopt relevant internationally accepted standards, procedures, documents, technical details and formalities for the effective implementation of the ASEAN Single Window;

AFFIRMING that the terms of this Protocol shall be based on the objectives, principles and obligations under the ASW Agreement,

HAVE AGREED AS FOLLOWS:

PART I GENERAL PROVISIONS AND OBJECTIVES

ARTICLE 1 GENERAL DEFINITION AND INTERPRETATION

1. For the purposes of this Protocol, the following terms shall be defined as follows:
 - a. The ASEAN Single Window (hereinafter "ASW") is the environment where National Single Windows of Member Countries operate and integrate.
 - b. The National Single Window (hereinafter "NSW") is a system which enables:
 - i. a single submission of data and information;
 - ii. a single and synchronous processing of data and information; and

- iii. a single decision-making for customs release and clearance of cargo. 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.
2. This Protocol shall be read and interpreted in accordance with the ASW Agreement. In the event of any inconsistency between this Protocol and the ASW Agreement, the provisions of the ASW Agreement shall take precedence.
3. The Technical Guide of ASW and NSWs Implementation is the compilation of relevant internationally accepted standards, procedures, documents, glossary, technical details and formalities for the effective implementation of the ASEAN Single Window, to be adopted as deemed appropriate by Member Countries. It constitutes the technical guidance of the implementation subject to regular reviews and updates in line with new technology and development as deemed necessary by Member Countries. The Technical Guide of ASW and NSWs Implementation (hereinafter the "ASW Technical Guide") appears as ANNEX 1.
4. The Action Plan of ASW Implementation is the schedule comprising activities required, as specified in ANNEX 2.

ARTICLE 2 OBJECTIVES

The objectives of this Protocol are:

- a) To provide a legal and technical framework to establish and implement the ASW and NSWs as regional commitments towards the establishment of an ASEAN Economic Community;
- b) To strengthen the coordination and partnership among Lead agencies/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 ASW;
- c) To encourage participation of economic operators to the implementation of the ASW and NSWs; and
- d) To provide technical, functional and operational guidance for the implementation of the ASW and NSWs in Member Countries as set forth in the ASW Agreement, taking into consideration the ASW Technical Guide.

PART II SCOPE AND COVERAGE

ARTICLE 3 SCOPE OF APPLICATION

Provisions under this Protocol shall apply for the establishment and implementation of the ASW and NSWs at regional and national levels, respectively.

ARTICLE 4
ASEAN SINGLE WINDOW MODEL

1. The conceptual ASW Model appears in the ASW Technical Guide.
2. The ASW shall operate in an open environment of required relationships and linkages between economic operators and governments, for a completion of a transaction, such as Government-to-Business, Business-to-Business, or Government-to-Government, and others of such nature, through a secure infrastructure.

ARTICLE 5
NATIONAL SINGLE WINDOWS

Member Countries shall develop and implement their NSWs based on international standards and best practices as established in international agreements and conventions concerning trade facilitation and modernisation of customs techniques and practices.

PART III
TECHNICAL ASPECTS OF THE ASEAN SINGLE WINDOW AND
NATIONAL SINGLE WINDOWS

ARTICLE 6
DOCUMENTS AND FORMALITIES

1. Documents and formalities that shall be used in the ASW system by Member Countries comprise, inter alia, the following:
 - a. ASEAN Customs Declaration Document as endorsed by ASEAN Directors-General of Customs, as in ANNEX 3;
 - b. Commercial and transport documents for the release and clearance of goods and commodities by Customs Administrations as stipulated in national laws and regulations of Member Countries, as appropriate;
 - c. Formalities and documents required by national laws and regulations for the release and clearance of goods and commodities by Customs Administrations as stipulated in national laws and regulations of Member Countries, as appropriate; and
 - d. Other formalities as stipulated by national laws and regulations and international conventions where relevant.
2. The format of documents and formalities for the purpose of NSW systems shall be determined by the respective national competent authorities in line with international standards.

**ARTICLE 7
DATA AND INFORMATION**

3. Data and information, including regulatory information, for the purpose of a single submission, of a single and synchronous processing and of a single decision making shall be submitted, collected and processed in an agreed format and transmitted through secured channels and in established communication and interface protocols as defined by Member Countries.
4. For the purpose of the ASW and NSWs, Member Countries shall, as deemed appropriate, align data and information parameters, for customs clearance and release, to the World Customs Organization (WCO) Data Model and relevant international standards.
5. Bilateral or regional arrangements among Member Countries for the exchange and sharing of data and information for the ASW shall be encouraged.
6. The access to, exchange, use, legal validity, and confidentiality of data and information in the framework of the ASW are subject to the national laws and regulations of the respective Member Countries.

**ARTICLE 8
APPLICATIONS OF INFORMATION AND COMMUNICATION TECHNOLOGY**

1. The NSWs shall make use of the appropriate technology with open architecture based on international standards and technical advancements in areas of information and communication technology and data processing.
2. The implementation of the NSWs shall make use of international standards of data and information, processing and management, such as the United Nation Electronic Data Interchange for Administration, Commerce and Transport (UN/EDIFACT), Extensible Mark-up Language (XML), American National Standard Institution X.12 (ANSI X12), RosettaNet or others relevant to the implementation of the NSWs.
3. The secure infrastructure for the ASW and NSWs shall follow international standards and best practices with features such as confidentiality, data integrity, authenticity and non-repudiation.

**ARTICLE 9
THE ASW TECHNICAL GUIDE**

Member Countries shall implement the ASW and NSWs based on the ASW Technical Guide, with the necessary modifications or updates as required by individual Member Countries for effective implementation.

**ARTICLE 10
PROTECTION OF INTELLECTUAL PROPERTY RIGHTS**

The protection of intellectual property rights of technological products and services being developed by Member Countries for the ASW shall be enforced in conformity with the respective national laws and regulations of the Member Countries and with international agreements to which the Member Countries are Contracting Parties.

ARTICLE 11
PARTNERSHIP IN THE ASW AND NSWs IMPLEMENTATION

Member Countries shall strengthen the partnership with the trading community and businesses in the implementation of the ASW and NSWs. Business-to-business initiatives as relevant to the ASW and NSWs shall be encouraged.

ARTICLE 12
MOBILISATION OF RESOURCES FOR IMPLEMENTATION

Member Countries shall mobilise resources for the establishment and implementation of their respective NSWs, as well as their respective components of the ASW.

PART IV
PROCESSES, ROLES AND FUNCTIONS

ARTICLE 13
CUSTOMS AND BUSINESS PROCESSES

Customs and business processes are established on the basis of international standards and best practices.

ARTICLE 14
ROLES AND FUNCTIONS OF LINE MINISTRIES AND AGENCIES

1. Member Countries shall determine the roles and functions of their respective Line Ministries and agencies for the effective implementation and operation of the ASW and NSWs. All Line Ministries and agencies of the respective Member Countries shall support and cooperate closely with their respective Lead agency as determined in the ASW Agreement.
2. The respective ASEAN Customs Administrations are ultimate decision-makers for release and clearance of cargo on the basis of timely communicated information, if required, from Line ministries and agencies of respective Member Countries.

ARTICLE 15
ACTION PLAN OF ASW IMPLEMENTATION

The implementation of the ASW and NSWs shall be in accordance with the Action Plan of ASW Implementation, which may be reviewed or revised as deemed appropriate.

PART V
OTHER PROVISIONS

ARTICLE 16
ANNEXES

Annexes to this Protocol are integral parts of this Protocol.

**ARTICLE 17
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 Protocol.

**ARTICLE 18
INSTITUTIONAL ARRANGEMENTS**

1. The Ministers responsible for ASEAN Economic Integration shall meet whenever necessary to review this Protocol for the purpose of considering further measures to improve the development and/or implementation of the ASW.
2. The Steering Committee of ASW implementation (ASW Steering Committee) shall be established by the Ministers responsible for ASEAN Economic Integration to monitor and coordinate the implementation of the ASW and NSWs. The ASW Steering Committee shall be led by a high level officer of an ASEAN Customs Administration or of a government agency as designated by the Ministers.
3. The ASEAN Secretariat shall provide technical and secretarial support to the ASW Steering Committee.

**ARTICLE 19
MUTUAL ASSISTANCE**

Mutual assistance among Member Countries shall be promoted for effective and efficient implementation of the ASW and NSWs.

**ARTICLE 20
FINAL PROVISIONS**

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

**ARTICLE 21
ENTRY INTO FORCE**

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

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

DONE on this Twentieth day of December in the Year 2006, in a single copy in the English language:

For the Government of Brunei Darussalam
PEHIN DATO PADUKA HAJI ABDUL RAHMAN BIN HAJI IBRAHIM
Minister of Finance II

For the Royal Government of Cambodia
KEAT CHHON
Senior Minister and Minister of Economy and Finance

For the Government of the Republic of Indonesia
SRI MULYANI INDRAMATI
Minister of Finance

For the Government of the Lao People's Democratic Republic
CHANSY PHOSIKHAM
Minister of Finance

For the Government of Malaysia
TAN SRI NOR MOHAMED YAKCOP
Minister of Finance II

For the Government of the Union of Myanmar
MAJOR-GENERAL HLA TUN
Minister of Finance and Revenue

For the Government of the Republic of the Philippines
MARGARITO B. TEVES
Secretary of Finance

For the Government of the Republic of Singapore
THARMAN SHANMUGARATNAM
Minister for Education and Second Minister for Finance

For the Government of the Kingdom of Thailand
THANONG BIDAYA
Minister of Finance

For the Government of the Socialist Republic of Viet Nam
VU VAN NINH
Minister of Finance