

1994 AGREEMENT ON THE ESTABLISHMENT OF A FUND FOR ASEAN

Adopted in Bangkok, Thailand on 23 July 1994

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The Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand,

BEING members of the Association of Southeast Asian Nations (hereinafter referred to as "ASEAN"),

DESIRING to accelerate and intensify the implementation of the aims and purposes of ASEAN as embodied in the ASEAN Declaration,

BEARING in mind the 1969 ASEAN Fund which was established to finance

ASEAN collaborative programmes, projects and activities,

REALIZING the necessity for a fund to finance projects to strengthen and enhance ASEAN cooperation,

AND RECOGNIZING the principle of self-reliance in the pursuit of projects which are vital and strategic to ASEAN interests in the face of increasing global competition.

DO HEREBY AGREE AS FOLLOWS:

ARTICLE 1 ESTABLISHMENT AND MEMBERSHIP

1. The Member Countries shall establish a Fund for ASEAN called the ASEAN Fund.
2. Members of ASEAN shall be entitled to membership in the Fund and shall become members upon signature of this Agreement or in the case of new members of ASEAN, upon deposit of their instrument of accession to this Agreement.

ARTICLE 2 THE ASEAN FUND

1. The ASEAN Fund (hereinafter referred to as "the Fund") shall initially consist of US\$ 6.0 million in equal contributions of US\$ 1.0 million from each Member Country. For purposes of this initial contribution, each Member Country shall transfer to the Fund, its contribution of US\$ 1.0 million held in its National Funds as part of its commitment under the 1969 Agreement for the Establishment of a Fund for ASEAN.
2. New members of ASEAN shall also initially contribute to the Fund, an amount equal to the contributions paid by each Member Country, upon deposit of their instrument of accession to this Agreement in accordance with Article 9.
3. Contributions made by each Member Country to the Fund shall be paid into an account under the name of "The ASEAN Fund". The Fund shall be under the custody of and administered by the ASEAN Secretariat.

4. The Fund shall have two accounts, namely, the Seed Fund Account and the Projects Fund Account. The Seed Fund Account shall initially consist of 80 percent (US\$ 4.8 million) of the total contribution of US\$6.0 million. The Projects Fund Account shall consist of the remaining 20 percent (US\$ 1.2 million).
5. The Seed Fund shall be invested to realize income for the Fund. The Projects Fund shall provide financing for approved projects. Unless otherwise agreed upon by Member Countries, at least half of the annual income from the Seed Fund shall be ploughed back to the Seed Fund; the balance shall accrue to the Projects Fund.
6. Contributions to the Fund shall be made in United States (US) Dollars.
7. The Fund may be increased from time to time as agreed upon by the ASEAN Foreign Ministers (hereinafter referred to as "the Foreign Ministers").

ARTICLE 3

INVESTMENT OF THE FUND

1. The portion of the Fund set aside as Seed Fund shall be treated as a capital investment and shall not be used for project financing. The investment of the Seed Fund shall be governed by the objective of maximizing income while at the same time ensuring safety and stability in the value of the Seed Fund.
2. The Seed Fund shall be managed by an Investment Manager(s) to be approved by the ASEAN Standing Committee (hereinafter referred to as "the ASC").

ARTICLE 4

UTILIZATION OF THE FUND

The utilization of the Fund shall be in accordance with the "Guidelines for the Utilization of the ASEAN Fund" (hereinafter referred to as "the Guidelines") contained in Annex A hereto.

ARTICLE 5

MANAGEMENT OF THE FUND

1. The ASC shall have overall responsibility for the Fund and shall approve projects seeking support from the Fund.
2. A Management Committee composed of finance and other officials from all Member Countries shall be constituted by the ASC to manage the Fund at the operational level.
3. The ASEAN Secretariat shall provide technical support to the Management Committee.

ARTICLE 6

MANAGEMENT, CONTROL, DISBURSEMENT AND ACCOUNTING

The management, control, disbursement, accounting and audit of the Fund shall be in accordance with the "Rules Governing Management, Disbursement, Accounting and Audit of the ASEAN Fund" (hereinafter referred to as "the Rules") contained in Annex B hereto.

ARTICLE 7 AMENDMENTS

The Member Countries may propose any amendment to the provisions of this Agreement or to the Guidelines and the Rules which shall only come into force upon signature by all the Member Countries, of such amendment.

ARTICLE 8 ENTRY INTO FORCE AND TERMINATION

1. This Agreement shall enter into force on the date of signature by all the Member Countries and shall remain in force until it is terminated by the decision of the Foreign Ministers.
2. The entry into force of this Agreement shall automatically constitute the termination of the Agreement for the Establishment of a Fund for ASEAN signed in Cameron Highlands on 17 December 1969, and the Protocol Amending the Agreement for the Establishment of a Fund for the Association of Southeast Asian Nations signed in Bangkok on 22 October 1982. However, this does not preclude the transfer of the National Funds from Member Countries in accordance with Article 2 (1).

ARTICLE 9 ACCESSION

Accession to this Agreement by a new member of ASEAN shall take effect from the date on which the instrument of accession is deposited with the Secretary-General of ASEAN.

ARTICLE 10 FINAL PROVISION

This Agreement shall be deposited with the Secretary-General of ASEAN who shall promptly furnish a certified copy thereof to each Member Country.

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

DONE in Bangkok, in a single copy in the English Language, this 23rd day of July 1994.

For the Government of Brunei Darussalam:

H.R.H PRINCE MOHAMED BOLKIAH

Minister of Foreign Affairs

For the Government of the Republic of Indonesia:

ALI ALATAS

Minister of Foreign Affairs

For the Government of Malaysia:

DATUK ABDULLAH BIN HAJI AHMAD BADAWI

Minister of Foreign Affairs

For the Government of the Republic of the Philippines:

ROBERTO R. ROMULO

Secretary of Foreign Affairs

For the Government of the Republic of Singapore:

PROF. S. JAYAKUMAR

Minister of Foreign Affairs

For the Government of the Kingdom of Thailand:

SQUADRON LEADER PRASONG SOONSIRI

Minister of Foreign Affairs

ANNEX A

GUIDELINES FOR THE UTILIZATION OF THE ASEAN FUND

I. PURPOSE OF THE ASEAN FUND

1. The Fund shall be used for the purpose of financing ASEAN collaborative projects (hereinafter referred to as "ASEAN approved projects") approved by the Foreign Ministers through the ASEAN Standing Committee (ASC).

II. ASEAN APPROVED PROJECTS

2. ASEAN approved projects are those which meet all of the following criteria:
 - a. the projects must promote ASEAN cooperation or the ASEAN perspective consistent with ASEAN Summit decisions;
 - b. the projects must be of a confidential or strategic nature. These include activities which may lead to the formulation of an ASEAN stand or position on issues of common interest to Member Countries, those which involve the acquisition or processing of strategic information, the acquisition of applied technologies, joint marketing studies or approaches, as well as promotional activities; and
 - c. the projects could not qualify for funding under Dialogue Partner facilities or could only be partially supported by Dialogue Partner facilities.
3. A project is considered an ASEAN project eligible for support under the Fund when:
 - a. it is participated in by all Member Countries; or
 - b. if not all Member Countries are participating, it must benefit the region as a whole, or have a regional impact on the majority of the Member Countries.

III. PROCEDURES FOR ACCESSING THE FUND

A. Project Proposal

1. Proposals for the Fund shall be submitted to the Chairman of the Management Committee (MC).
2. The project proposal shall be presented in the standard format, accompanied by a project brief, prescribed by the ASEAN Cooperation Unit (ACU) of the ASEAN Secretariat.
3. The proposed project budget shall present the details of annual expenditures broken down into the following categories: (1) administrative costs; (2) capital costs; and (3) operating costs.

B. Project Review and Appraisal

4. The ASEAN Secretariat, through its ACU, shall review the project proposals and submit its recommendations to the ASC. For purposes of its evaluation, the ACU shall use the criteria approved by ASC which shall be applicable to all ASEAN projects.

5. The project appraisal shall make a statement on project benefits to the ASEAN region (both direct and indirect), and shall assess the financing options (to include the Fund as well as other sources) for the project.

C. ASC Approval

6. The ASC shall approve the project seeking access to the Fund, taking into account the recommendations of the ACU and in consideration of the nature of activities eligible for support under the Fund.

D. MC Budget Consideration

7. Once a project has been approved by the ASC for support under the Fund, the MC shall review the funding requirements of the project. For purposes of the Fund, the budget approved by the ASC for a project shall be regarded as an indicative budget. The MC may streamline the budget or scale it down, provided that it cannot approve a funding commitment higher than the indicative budget approved by the ASC.
8. The MC shall consult closely with the project proponent(s) in the process of reviewing the financial requirements of the project.
9. The MC shall establish its own rules of procedure to ensure expeditious action on funding requests put forward before it.

E. Issuance of Funding Commitment

10. The MC's approval of funding commitment for a project shall be officially conveyed by a letter from the Chairman of the MC to the proponent, accompanied by the approved (signed) annualized budget, with copies to the ASEAN National Secretariats.
11. Upon receipt of the copy of the approved budget, the ASEAN National Secretariat of the country hosting the project shall take steps to obtain the names and validate the specimen signatures of the Project Manager and/or his representatives who are to be held accountable for the amounts disbursed under the Fund. The names and specimen signatures shall be submitted to the ASEAN Secretariat.

IV. ELIGIBLE EXPENDITURES

1. The Fund shall support projects with clearly defined set of objectives and outputs.
2. The items of expenditure in a project budget shall be classified into three (3) general categories as follows:
 - a. administrative costs: rent, utilities, office requirements, salaries of locally engaged personnel, insurance and taxes;
 - b. operational costs: project overhead costs, recruitment costs, salaries of professional staff engaged in the project, equipment and supplies; and
 - c. capital costs: land and building, and equipment costing more than US\$ 100.
3. The operational costs of the project shall be eligible expenditures under the Fund.
4. The capital and administrative costs shall be borne by the Host Government for the project.

5. Travelling, accommodation and other expenses of delegations attending regular meetings of duly established ASEAN bodies are not eligible expenditures under the Fund.
6. The MC shall formulate guidelines on the expenditure classification to take into account the particular characteristics of a project, as may be necessary and appropriate.

V. OWNERSHIP OF PROPERTY

1. The ownership of property acquired as a result of expenditures for financing capital costs shall be vested in the Host Government and/or the proponent of the project.
2. The ownership of property acquired as a result of expenditures for financing operational costs shall be vested in the ASEAN Secretariat, provided that in cases where such property is essential for the sustainability of benefits after project completion, the same can be donated to the project, through the Host Government, by the ASEAN Secretariat. The ASEAN Secretariat may redeploy property acquired under a project to other projects supported by the Fund under cost-effective arrangements, or it may sell such property when circumstances warrant. Any proceeds from the sale of property shall accrue to the Fund. The MC shall formulate guidelines for the use, disposition and sale of property acquired under the Fund.
3. The Host Government and/or the ASEAN Secretariat may not exercise their right to dispose of any property the ownership of which has been vested to them under V.1 and V.2 until after the completion of the project.
4. The ownership of intellectual property acquired as a result of the project shall be vested in the ASEAN Member Countries. The disposition and use of intellectual property rights shall be governed by guidelines to be determined by the ASC.

ANNEX B

RULES GOVERNING MANAGEMENT, DISBURSEMENT, ACCOUNTING AND AUDIT OF THE ASEAN FUND

I. MANAGEMENT OF THE ASEAN FUND

1. The ASEAN Standing Committee (ASC) shall have overall responsibility on policy matters relating to the Fund and shall approve projects eligible for funding from the Fund.
2. A Management Committee (MC) shall be established for the management of the Fund at the operational level. The MC shall comprise finance and other officials from all ASEAN Member Countries.
3. The MC shall be chaired by the Secretary-General of ASEAN or the Deputy Secretary-General.
4. The MC shall establish its own rules and procedures of its meetings and other matters relevant to its functions.
5. The ASEAN Secretariat shall provide technical support to the MC.

A. The Role of the ASEAN Standing Committee

1. The ASC shall have the following responsibilities:
 - a. ensure timely remittances of contributions to the Fund;

- b. establish Guidelines for the Utilization of the ASEAN Fund, review these Guidelines periodically, and adopt the necessary changes with the view to enhancing the effective utilization of the Fund;
- c. recommend to the ASEAN Foreign Ministers, any policy change in or restructuring of the Fund as may be necessary to make it more responsive to developments affecting ASEAN;
- d. approve projects seeking funding support from the ASEAN Fund, including their indicative budgets, based on the review and evaluation of these projects by the ASEAN Cooperation Unit (ACU) of the ASEAN Secretariat;
- e. review the regular reports submitted by the MC to be set up for purposes of managing the Fund; and
- f. consider and make decisions on the recommendations of the MC relating to the Fund, including the appointment of the Investment Manager(s) for the Fund.

B. The Role of the Secretary-General of ASEAN

1. The Secretary General of ASEAN shall exercise supervision over the ASEAN Secretariat in the administration of the Fund at the operational level. He shall have the following responsibilities:
 - a. ensure prudent and effective utilization of the Fund;
 - b. establish and implement a system of project review and evaluation of the Fund through the ACU;
 - c. establish and implement a system of accounts in the ASEAN Secretariat for keeping up-to-date and accurate records of the Fund and for servicing other requirements of Fund management;
 - d. submit quarterly reports to the ASC and annual reports to the ASEAN Foreign Ministers on the status of utilization of the Fund;
 - e. initiate the necessary recommendations to the ASC to ensure a more effective utilization of the Fund; and
 - f. to execute the appointment of the Investment Manager(s) to the Fund as approved by the ASC.

C. The Role of the Management Committee

1. The MC shall have the following responsibilities:
 - a. implement the Guidelines for the Utilization of the ASEAN Fund as approved by the ASC; relatedly, to recommend to the ASC revisions and/or adjustments on the Guidelines as it may deem necessary for purposes of promoting the effective utilization of the Fund;
 - b. determine the proportion of income that should be ploughed back to the Seed Fund and that which should accrue to the Projects Fund;

- c. establish budget parameters (e.g. standard consultancy fees, per diems, etc.), to review the project budgets on these bases, and to determine the final budget allocation for the project. In the process of reviewing whether a candidate project is eligible for support under the Fund, the MC shall have the power to further streamline the project budgets based on the indicative budgets approved by the ASC. The MC makes the final determination on the level of financial support for a project to be drawn from the Fund which may be lower than the ASC-approved indicative budget, but in no case higher than this amount;
- d. make periodic consolidated cash flow projections based on estimates of the expenditure requirements of all activities/projects supported by the Fund, as well as income generated by the Fund;
- e. ensure timely releases of funds based on approved budgets and the progress of project implementation;
- f. install and implement a monitoring system for projects supported by the Fund;
- g. consolidate and finalize the annual financial statements and accounts of the Fund for presentation to the ASEAN Audit Committee and the ASC;
- h. establish investment guidelines for the Fund;
- i. evaluate applications received for the post of the Investment Manager(s), and select and recommend suitable candidates for the approval of the ASC; and
- j. evaluate and appraise the performance of the Investment Manager(s) at periodic intervals as determined by the ASC.

D. The Role of the Project Manager

1. Projects supported by the Fund shall be headed by a Project Manager to be designated by the MC. The Project Manager shall have the following responsibilities:
 - a. exercise overall responsibility for implementing the project supported by the Fund;
 - b. set up and maintain a separate account for purposes of the releases and disbursements made from the Fund;
 - c. keep a system of financial records based on guidelines prescribed by the MC and which could be examined by the ASEAN Audit Committee and the ASC;
 - d. prepare a work schedule of activities and financial requirements as a basis for the timely completion of project activities as well as the timely submission of requests for budget releases to the MC; and
 - e. prepare quarterly progress reports to the MC on the performance and financial status of project implementation.

II. DISBURSEMENT, ACCOUNTING, REPORTING AND AUDIT

A. Disbursement

1. On the basis of the approved budget, the MC, operating through the ASEAN Secretariat, shall make disbursements directly to the Project Manager or his authorized representative(s) as follows :
 - a. in the case of projects of short duration (i.e., seminars, workshops), a single disbursement may be made to the project; and
 - b. in the case of projects with longer duration, disbursements may be made on a quarterly basis subject to the provisions of paragraph 2 below.
2. Except for the initial disbursement, subsequent fund releases to the project shall be based on a report of expenditures and performance of the project submitted by the Project Manager on a quarterly basis. Subsequent releases to the project may be made if at least 70 percent of the preceding period's budget has been utilized.

B. Accounting

1. Contributions by Member Countries to the Fund shall be deposited in a separate account called "The ASEAN Fund". No amounts from the principal or proceeds of the Fund shall accrue to any other funds held by or under the custody of the ASEAN Secretariat.
2. The ASEAN Secretariat shall designate two accounts under the ASEAN Fund: the Seed Fund Account and the Projects Fund Account. The Seed Fund Account shall initially consist of 80 percent (US\$ 4.8 million) of the total contribution of US\$ 6.0 million. The Projects Fund Account shall consist of the remaining 20 percent (US\$ 1.2 million).
3. The financial year for purposes of accounting for the Fund shall commence on 1 June and shall end on 31 May.
4. The accounting code and procedures of the ASEAN Secretariat shall be used for the Fund.

C. Financial Reporting

1. The Secretary-General of ASEAN shall submit the following reports in respect of the ASEAN Fund :
 - a. a quarterly Report to the ASC (Status of Fund Utilization and Consolidated Project Reports); and
 - b. an annual Report to the ASEAN Foreign Ministers.
2. At the project level, the Project Manager shall submit quarterly reports of the actual expenditures of the project in accordance with the forms and procedures prescribed by the MC. They shall be responsible for keeping a system of financial records which may be subject to inspection at anytime by the MC or the ASEAN Audit Committee.

D. Audit

1. The Fund shall be subject to an annual audit by the ASEAN Audit Committee.

2. The ASEAN Audit Committee may also audit any project funded under the Fund as it may deem necessary.

III. PROCUREMENT OF GOODS AND SERVICES

1. The procurement of goods and services funded out of the Fund shall be in accordance with the Financial Rules of the ASEAN Secretariat as follows:
 - Tender for US\$10,000 and above
 - Quotations of canvas for less than US\$10,000 to US\$1,000
 - Open market purchase for amounts less than US\$1,000