

# 2024 ASEAN FOOD SAFETY REGULATORY FRAMEWORK AGREEMENT

*Signed in Nonthaburi, Thailand on 12 January 2024*

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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, Member States of the Association of Southeast Asian Nations (ASEAN) (hereinafter collectively referred to as "Member States" or singularly as "Member State");

**CONSIDERING** the vision to ensure food safety in ASEAN as included in the ASEAN Economic Community Blueprint 2025 and the ASEAN Socio-Cultural Community Blueprint 2025, adopted by the ASEAN Leaders on 22 November 2015;

**RECOGNISING** that ASEAN cooperation and integration include the area of food safety that cuts across agriculture, economic, and health sectors and the importance of having a comprehensive approach to integrating and expanding initiatives to implement the ASEAN Food Safety Policy (hereinafter referred to as "AFSP");

**NOTING** the AFSP and the ASEAN Food Safety Regulatory Framework (hereinafter referred to as "AFSRF") adopted in 2015 and 2016 respectively by the ASEAN Ministers on Agriculture and Forestry (hereinafter referred to as "AMAF"), ASEAN Economic Ministers (hereinafter referred to as "AEM"), and ASEAN Health Ministers Meeting (hereinafter referred to as "AHMM"); and

**DESIRING** to establish an agreement which provides for a coherent and integrated approach to ensure that food safety is implemented across the food chain and which builds upon the existing commitments in order to provide a structure to realise the free flow of safe food in the region,

**HAVE AGREED** as follows:

## ARTICLE 1 OBJECTIVE

The objective of this Agreement is to establish a comprehensive and integrated overall approach to food safety in Member States to achieve the following:

- (a) ensure protection of consumers' health; and
- (b) facilitate free flow of safe food within ASEAN by:
  - (i) enhancing the harmonisation of sanitary and phytosanitary measures and standards for food;
  - (ii) minimising technical barriers to intra-ASEAN trade in food; and
  - (iii) reducing discrepancies of national food control systems among Member States.

## ARTICLE 2 DEFINITIONS

For the purposes of this Agreement, the following definitions shall apply:

- (a) **Competent Authority** means the official government agency having jurisdiction;
- (b) **feed** means any single or multiple materials, whether processed, semi-processed, or raw, which are intended to be fed directly to food-producing animals;
- (c) **food business operator** means a natural or juridical person responsible for operating business at any step in the food chain;
- (d) **food safety** means providing assurance that food, according to its intended use, will not cause harm to the consumer when it is:
  - (i) prepared;
  - (ii) eaten; or
  - (iii) prepared and eaten;
- (e) **Protocol** means a document defining obligations and rights of the Member States with respect to the implementation of food safety measures, including associated arrangements, agreed upon and signed by the Member States;
- (f) **risk** means a function of the probability of an adverse health effect and the severity of that effect, consequential to a hazard in food;
- (g) **risk analysis** means a process consisting of three components:
  - (i) risk assessment;
  - (ii) risk management; and
  - (iii) risk communication;
- (h) **risk assessment** means a scientifically-based process consisting of the following steps:
  - (i) hazard identification;
  - (ii) hazard characterisation;
  - (iii) exposure assessment; and
  - (iv) risk characterisation;
- (i) **risk communication** means the interactive exchange of information and opinions throughout the risk analysis process concerning risk, risk-related factors, and risk perceptions, among risk

assessors, risk managers, consumers, industry, the academic community, and other interested parties, including the explanation of risk assessment findings and the basis of risk management decisions;

- (j) **risk management** means the process, distinct from risk assessment, of weighing policy alternatives, in consultation with all interested parties, considering risk assessment and other factors relevant for the health protection of consumers and promotion of fair trade practices, and, if needed, selecting appropriate prevention and control options; and
- (k) **traceability** means the ability to follow the movement of a food through specified stages of production, processing, and distribution.

### **ARTICLE 3** **SCOPE**

1. Each Member State shall develop and apply food safety measures relating to the protection of consumers' health and to facilitate the free flow of safe food within ASEAN based on the 10 Principles of AFSP.
2. Matters concerning food quality, organic food, animal welfare, sustainability, food security, environmental protection, or climate change, *inter alia*, which do not cause food to be injurious to health or unfit for human consumption, fall outside of the scope of this Agreement.

### **ARTICLE 4** **PRINCIPLES**

1. Each Member State shall develop and apply food safety measures relating to the protection of consumers' health and to facilitate the free flow of safe food within ASEAN based on the 10 Principles of AFSP.
2. ASEAN bodies having purview over agriculture, economic, and health sectors shall engage effectively to implement a coherent food safety control system in ASEAN.
3. This Agreement shall protect consumers' health through the inclusion of requirements that are aimed at the prevention of:
  - (a) unsafe food; and
  - (b) adulteration of food, fraudulent practice, or deceptive practice, that pose a threat to the safety of food.
4. Each Member State shall ensure that all food safety measures implemented under this Agreement are based on risk analysis, as appropriate. Such food safety risk assessment shall be based on the available scientific evidence and undertaken in an independent, objective, and transparent manner, and in accordance with Principle 3: Science-based, Independent Risk Assessment Process of the AFSP. The food safety risks should be communicated to other Member States to implement control measures within each territory.

5. In specific circumstances where, following an assessment of available information, and where the possibility of harmful effects on health is identified but scientific uncertainty persists, a Member State may implement provisional risk management measures necessary to ensure the continued protection of consumers' health, pending further scientific information for a more comprehensive risk assessment.
6. Measures adopted by a Member State on the basis of paragraph 5 shall be proportionate and no more restrictive to trade than is required to achieve the existing level of protection. The measures shall be reviewed within a reasonable period of time, depending on the nature of the risk to life or health identified and the type of scientific information needed to clarify the scientific uncertainty and to conduct a more comprehensive risk assessment. That Member State shall immediately notify other Member States of the provisional risk management measures adopted.
7. Each Member State shall seek to harmonise its standards, guidelines, requirements, and measures for food safety with those established by the Codex Alimentarius Commission (hereinafter referred to as the "CAC"), except as otherwise provided in the Agreement on the Application of Sanitary and Phytosanitary Measures (hereinafter referred to as the "SPS Agreement").
8. Food import and export requirements under this Agreement shall be consistent with the ASEAN Trade in Goods Agreement, the SPS Agreement, and the Agreement on Technical Barriers to Trade of the World Trade Organization.
9. Each Member State shall endeavour to actively participate in setting up international food standards, guidelines and recommendations, in particular those of the CAC.
10. ASEAN initiatives relating to food safety in existence prior to the entry into force of this Agreement shall be taken into consideration and their implementation shall be appropriately coordinated.

## **ARTICLE 5** **GENERAL PROVISIONS**

1. Each Member State shall put in place a food safety control system and implement such a system along the food chain, including for feed, in cases where it may have an impact on food safety.
2. **General Requirements for Food Safety**

Each Member State shall:

- (a) ensure that food safety measures are in place to ensure that food to be placed on the market is safe for human consumption;
- (b) ensure that any food safety measure is applied only to the extent necessary to protect consumers' health, is based on scientific principles, and is not maintained without sufficient scientific evidence. In cases where relevant scientific evidence is insufficient, a Member State may provisionally adopt food safety measures on the basis of available pertinent information, including from the relevant international organisations as well as from sanitary or phytosanitary measures applied by other Member States. In such circumstances, that Member State shall

seek to obtain the additional information necessary for a more objective assessment of risk and review the food safety measures accordingly within a reasonable period of time;

- (c) ensure that the relevant requirements of its laws and regulations related to food safety are fulfilled by food business operators at all stages of production, processing, and distribution;
- (d) maintain a system of official controls and other activities as appropriate to the circumstances, including public communication on food monitoring activities covering all stages of production, processing, and distribution;
- (e) prescribe the rules on measures and penalties applicable to infringements of its laws and regulations related to food safety. The measures and penalties provided for shall be effective, proportionate, and dissuasive;
- (f) give special consideration, without compromising food safety, to small and medium-sized enterprises to enable them to upgrade their food safety assurance systems that take into account their conditions; and
- (g) ensure that food exported or re-exported to the market of any other Member State complies with the relevant requirements of this Agreement.

### 3. **Labelling**

Each Member State shall ensure that its laws and regulations related to food labelling incorporate a provision that prohibits misleading and deceiving information to be made available about food safety through any medium.

### 4. **Traceability**

For the purpose of food safety compliance and to enable the withdrawal of unsafe food, each Member State shall ensure that its laws and regulations require food business operators to maintain traceability of food at any relevant stages of production, processing, and distribution.

### 5. **General Requirements for Feed Safety**

Each Member State shall ensure that measures are in place to ensure that feed shall not be fed to any food-producing animal if it has adverse effects on consumers' health or makes the food derived from food-producing animals unsafe for human consumption.

### 6. **Food Safety Emergency**

- (a) Where there is reasonable ground to suspect that a food or feed may present a risk to consumers' health, each Member State shall take appropriate steps to inform its general public, depending on the nature, seriousness, and extent of that risk. This information shall be shared with other Member States. The participation in the ASEAN Rapid Alert System for Food and Feed can ensure timely exchange of information of food safety between Member States.
- (b) Each Member State shall develop and implement appropriate measures to respond to food safety emergencies occurring in its territory.

## **ARTICLE 6**

### **RECOGNITION OF RESULTS OF INSPECTIONS, CERTIFICATIONS, AND SANITARY AND PHYTOSANITARY MEASURES**

Each Member State shall recognize the results of inspections, certifications, and sanitary and phytosanitary measures of other Member States as per the Protocols to this Agreement.

## **ARTICLE 7**

### **ASEAN FOOD SAFETY COORDINATING COMMITTEE**

1. The ASEAN Food Safety Coordinating Committee (hereinafter referred to as the “AFSCC”) shall be established under this Agreement.
2. The AFSCC shall have the following functions:
  - (a) planning, overseeing, and reviewing implementation of this Agreement;
  - (b) liaising with the relevant ASEAN bodies under the AMAF, AEM, and AHMM for the development of Protocols pursuant to Article 10 (Protocols to this Agreement) and the implementation of ASEAN initiatives relating to food safety;
  - (c) endorsing proposals of Protocols, identifying relevant ASEAN bodies to develop Protocols, and endorsing Protocols prior to submission to the Senior Officials Meeting of the ASEAN Ministers on Agriculture and Forestry (hereinafter referred to as the “SOM- AMAF”), the Senior Economic Officials Meeting (hereinafter referred to as the “SEOM”), or the Senior Officials Meeting on Health Development (hereinafter referred to as the “SOMHD”) for approval; and
  - (d) periodically reporting the progress on the implementation of this Agreement to the SOM- AMAF, SEOM, and SOMHD.

## **ARTICLE 8**

### **COMPETENT AUTHORITY FOR FOOD SAFETY**

1. Each Member State shall identify its Competent Authority for food safety and notify the ASEAN Secretariat accordingly .
2. A Member State having multiple Competent Authorities for food safety shall submit the names of all the Competent Authorities and clearly stipulate the assigned roles and responsibilities of each Competent Authority within the scope of this Agreement. The Member State with multiple Competent Authorities for food safety shall ensure that the Competent Authorities for food safety operate in a coordinated manner without duplication or gaps.
3. The Competent Authority for food safety of a Member State shall have the ability to enforce and take action through that Member State’s laws and regulations.

## **ARTICLE 9 CONTACT POINTS**

Each Member State shall designate a contact point for effective communication and cooperation under this Agreement and shall notify the ASEAN Secretariat of its designated contact point. The ASEAN Secretariat shall establish, update, and maintain the list of contact points for Member States in this Agreement.

## **ARTICLE 10 PROTOCOLS TO THIS AGREEMENT**

1. A plan for concluding a series of Protocols to implement this Agreement shall be formulated and updated periodically by the AFSCC.
2. A proposal to develop a Protocol may originate from the AFSCC or the SOM-AMAF, SEOM or SOMHD. With the relevant consultations and respective approvals of the SOM-AMAF, SEOM, or SOMHD, the AFSCC shall determine the Protocol to be developed and identify the responsible ASEAN bodies to develop the Protocol
3. The development of the Protocols shall be undertaken by the identified ASEAN bodies pursuant to paragraph 2. The Protocols shall be endorsed by the AFSCC and subsequently submitted to the SOM-AMAF, SEOM, or SOMHD for approval
4. The Protocols shall form an integral part of this Agreement upon their respective entries into force.
5. In order to allow for the necessary degree of flexibility and asymmetrical approach by the Member States, each Protocol may incorporate appropriate provisions regarding the condition and time frame for implementation by the Member States.

## **ARTICLE 11 CAPACITY BUILDING AND COOPERATION**

1. A Member State may identify capacity building programmes needed to strengthen its capacity to ensure its food safety control requirements comply with this Agreement. A Member State may request the AFSCC to coordinate with other Member States to develop capacity building programmes.
2. Member States are encouraged to cooperate in implementing capacity building programmes on agreed terms.

## **ARTICLE 12 TRANSPARENCY**

1. Each Member State shall ensure that its laws and regulations related to food safety are made available to other Member States.
2. Each Member State shall ensure that the development of its laws and regulations relating to food safety is undertaken in a transparent manner.

## **ARTICLE 13 CONFIDENTIALITY**

1. Each Member State shall maintain, to the extent permitted under its laws and regulations, the confidentiality of information exchanged under this Agreement. Any confidential information shall only be disclosed with the authorisation of the Member State providing such information.
2. Member States shall take all precautions reasonably necessary to protect information exchanged under this Agreement from unauthorised disclosure.

## **ARTICLE 14 DISPUTE SETTLEMENT**

The ASEAN Protocol on Enhanced Dispute Settlement Mechanism, signed on 29 November 2004 in Vientiane, Lao PDR, or its successor, shall apply in relation to disputes concerning the implementation, interpretation, or application of this Agreement.

## **ARTICLE 15 AMENDMENTS**

1. This Agreement may be amended in writing by the agreement of the Member States.
2. Any amendment shall not prejudice the rights and obligations of the Member States arising from or based on this Agreement prior and up to the date of such amendment.

## **ARTICLE 16 RIGHTS AND OBLIGATIONS UNDER EXISTING INTERNATIONAL AGREEMENTS OR CONVENTIONS**

This Agreement or any action taken pursuant thereto shall not affect the rights and obligations of any Member State under any existing international agreements or conventions to which it is also a party.

## **ARTICLE 17 DEPOSITORY**

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

## **ARTICLE 18 FINAL PROVISIONS**

1. This Agreement shall enter into force on the date of the deposit of the Instrument of Ratification, Approval, or Acceptance by the tenth Member State with the Secretary-General of ASEAN.
2. No reservations shall be made to this Agreement.

**IN WITNESS WHEREOF** the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

**DONE** at Nonthaburi, Thailand, this Twelfth Day of January in the Year Two Thousand and Twenty-Four, in a single original copy in the English language.