1998 Framework Agreement on THE   
ASEAN Investment Area

1.This Agreement shall cover all direct investments other than portfolio investments; and matters relating to investments covered by other ASEAN Agreements, such as the ASEAN Framework Agreement on Services.

2.The objectives of this Agreement are to establish a competitive ASEAN Investment Area with a more liberal and transparent investment environment amongst Member States in order to substantially increase the flow of investments into ASEAN from both ASEAN and non-ASEAN sources; jointly promote ASEAN as the most attractive investment area; strengthen and increase the competitiveness of ASEAN's economic sectors; progressively reduce or eliminate investment regulations and conditions which may impede investment flows and the operation of investment projects in ASEAN; and

3.The objectives of this Agreement are to ensure that the realisation of the above objectives would contribute towards free flow of investments by 2020.

4.The AIA shall be an area where there is a co-ordinated ASEAN investment co-operation programme that will generate increased investments from ASEAN and non-ASEAN sources; national treatment is extended to ASEAN investors by 2010, and to all investors by 2020, subject to the exceptions provided for under this Agreement; all industries are opened for investment to ASEAN investors by 2010 and to all investors by 2020, subject to the exceptions provided for under this Agreement; the business sector has a larger role in the co-operation efforts in relation to investments and related activities in ASEAN; and there is freer flow of capital, skilled labour and professionals, and technology amongst Member States.

5.To realise the objectives referred to in Article 3, the Member States shall ensure that measures and programmes are undertaken on a fair and mutually beneficial basis; undertake appropriate measures to ensure transparency and consistency in the application and interpretation of their investment laws, regulations and administrative procedures in order to create and maintain a predictable investment regime in ASEAN; begin the process of facilitation, promotion and liberalisation which would contribute continuously and significantly to achieving the objective of a more liberal and transparent investment environment; take appropriate measures to enhance the attractiveness of the investment environment of Member States for direct investment flows; and take such reasonable actions as may be available to them to ensure observance of the provisions of this Agreement by the regional and local governments and authorities within their territories.

6.Member States shall, for the implementation of the obligations under this Agreement, undertake the joint development and implementation of the following programmes co-operation and facilitation programme as specified in Schedule I; promotion and awareness programme as specified in Schedule II; and liberalisation programme as specified in Schedule III.

7.Member States shall submit Action Plans for the implementation of the programmes in paragraph 1 to the AIA Council established under Article 16 of this Agreement.

8.The Action Plans shall be reviewed every 2 years to ensure that the objectives of this Agreement are achieved.

9.Subject to the provisions of this Article, each Member State shall open immediately all its industries for investments by ASEAN Investors; accord immediately to ASEAN investors and their investments, in respect of all industries and measures affecting investment including but not limited to the admission, establishment, acquisition, expansion, management, operation and disposition of investments, treatment no less favourable than that it accords to its own like investors and investments ("national treatment").

10.Each Member State shall submit a Temporary Exclusion List and a Sensitive List, if any, within 6 months after the date of signing of this Agreement, of any industries or measures affecting investments (referred to in paragraph 1 above) with regard to which it is unable to open up or to accord national treatment to ASEAN investors. These lists shall form an annex to this Agreement. In the event that a Member State, for justifiable reasons, is unable to provide any list within the stipulated period, it may seek an extension from the AIA Council.

11.The Temporary Exclusion List shall be reviewed every 2 years and shall be progressively phased out by 2010 by all Member States except the Socialist Republic of Vietnam, the Lao People's Democratic Republic and the Union of Myanmar. The Socialist Republic of Vietnam shall progressively phase out the Temporary Exclusion List by 2013 and the Lao People's Democratic Republic and the Union of Myanmar shall progressively phase out their Temporary Exclusion Lists by 2015.

12.The Sensitive List shall be reviewed by 1 January 2003 and at such subsequent periodic intervals as may be decided by the AIA Council.

13.Subject to Articles 7 and 9 of this Agreement, each Member State shall accord immediately and unconditionally to investors and investments of another Member State, treatment no less favourable than that it accords to investors and investments of any other Member State with respect to all measures affecting investment including but not limited to the admission, establishment, acquisition, expansion, management, operation and disposition of investments.

14.In relation to investments falling within the scope of this Agreement, any preferential treatment granted under any existing or future agreements or arrangements to which a Member State is a party shall be extended on the most favoured nation basis to all other Member States.

15.The requirement in paragraph 2 shall not apply to existing agreements or arrangements notified by Member States to the AIACouncil within 6 months after the date of signing of this Agreement.

16.Nothing in paragraph 1 shall prevent any Member State from conferring special treatment or advantages to adjacent countries under growth triangles and other sub- regional arrangements between Member States.

17.Where a Member State is temporarily not ready to make concessions under Articles 7 of this Agreement, and another Member State has made concessions under the said Article, then the first mentioned Member State shall waive its rights to such concessions. However, if a Member State which grants such concessions is willing to forego the waiver, then the first mentioned Member State can still enjoy these concessions.

18.Having regard to the late entry into ASEAN of the Socialist Republic of Vietnam, the Lao People's Democratic Republic and the Union of Myanmar, the provisions of paragraph 1 of this Article shall only apply to the Socialist Republic of Vietnam for a period of 3 years, and the Lao People's Democratic Republic and the Union of Myanmar for a period of 5 years from the date this Agreement comes into force.

19.Any modification to Schedules I and II, and Action Plans thereof shall be subject to the approval of the Co-ordinating Committee on Investments (CCI) established under Article 16(4) of this Agreement.

20.Any modification to or withdrawal of any commitments in Schedule III and Action Plans thereof and the Annexes shall be subject to the consideration of the AIA Council in accordance with the provisions of the ASEAN Protocol on Notification Procedures

21.Each Member State shall make available to the AIA Council through publication or any other means, all relevant measures, laws, regulations and administrative guidelines which pertain to, or affect, the operation of this Agreement. This shall also apply to international agreements pertaining to or affecting investment to which a Member State is also a signatory.

22.Each Member State shall promptly and at least annually inform the AIA Council of the introduction of any new or any changes to existing laws, regulations or administrative guidelines which significantly affect investments or its commitments under this Agreement.

23.Nothing in this Agreement shall require any Member State to provide confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

24.Member States affirm their existing rights and obligations under the 1987 ASEAN Agreement for the Promotion and Protection of Investments and its 1996 Protocol. In the event that this Agreement provides for better or enhanced provisions over the said Agreement and its Protocol, then such provisions of this Agreement shall prevail.

25.This Agreement or any action taken under it shall not affect the rights and obligations of the Member States under existing agreements to which they are parties.

26.Nothing in this Agreement shall affect the rights of the Member States to enter into other agreements not contrary to the principles, objectives and terms of this Agreement.

27.If, as a result of the implementation of the liberalisation programme under this Agreement, a Member state suffers or is threatened with any serious injury and threat, the Member State may take emergency safeguard measures to the extent and for such period as may be necessary to prevent or to remedy such injury. The measures taken shall be provisional and without discrimination.

28.Where emergency safeguard measures are taken pursuant to this Article, notice of such measure shall be given to the AIA Council within 14 days from the date such measures are taken.

29.The AIA Council shall determine the definition of serious injury and threat of serious injury and the procedures of instituting emergency safeguards measures pursuant to this Article.

30.In the event of serious balance of payments and external financial difficulties or threat thereof, a Member State may adopt or maintain restrictions on investments on which it has undertaken specific commitments, including on payments or transfers for transactions related to such commitments. It is recognised that particular pressures on the balance of payments of a Member State in the process of economic development or economic transition may necessitate the use of restrictions to ensure, inter alia, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development or economic transition.

31.Where measures to safeguard balance of payments are taken pursuant to this Article notice of such measures shall be given to the AIA Council within 14 days from the date such measures are taken.

32.The measures referred to in paragraph (1) shall not discriminate among Member States; shall be consistent with the Articles of Agreement of the International Monetary Fund; shall avoid unnecessary damage to the commercial, economic and financial interests of any other Member State; shall not exceed those necessary to deal with the circumstances described in paragraph 1; and shall be temporary and be phased out progressively as the situation specified in paragraph 1 improves.

33.The Member States adopting the balance of payments measures shall commence consultations with the AIA Council and other Member States within 90 days from the date of notification in order to review the balance of payment measures adopted by it.

34.The AIA Council shall determine the rules applicable to the procedures under this Article.

35.The ASEAN Economic Ministers (AEM) shall establish an ASEAN Investment Area Council (in this Agreement referred to as "the AIA Council") comprising the Ministers responsible for investment and the Secretary-General of ASEAN. The ASEAN Heads of Investment Agencies shall participate in the AIA Council meetings.

36.Notwithstanding Article 21 of this Agreement, the AIA Council shall be established upon the signing of this Agreement.

37.The AIA Council shall supervise, co-ordinate and review the implementation of this Agreement and assist the AEM in all matters relating thereto.

38.In the performance of its functions, the AIA Council shall establish a Co-ordinating Committee on Investment (CCI) comprising senior officials responsible for investment and other senior officials from relevant government agencies.

39.The Co-ordinating Committee on Investment shall report to the AIA Council through the Senior Economic Officials Meeting (SEOM).

40.The ASEAN Secretariat shall be the secretariat to the AIA Council and the Co-ordinating Committee on Investment (CCI).

41.The Protocol on Dispute Settlement Mechanism for ASEAN shall apply in relation to any dispute arising from, or any differences between Member States concerning the interpretation or application of this Agreement or any arrangement arising therefrom.

42.If necessary, a specific dispute settlement mechanism may be established for the purpose of this Agreement which shall form an integral part of this Agreement.

43.Any amendments to this Agreement shall be made by consensus and shall become effective upon the deposit of instruments of ratification or acceptance by all signatory governments with the Secretary-General of ASEAN.

44.The Schedules, Action Plans, Annexes, and any other arrangements or agreements arising under this Agreement shall form an integral part of this Agreement.

45.New members of ASEAN shall accede to this Agreement on terms and conditions agreed between them and signatories to this Agreement and by depositing the instrument of accession with the Secretary-General of ASEAN.

46.This Agreement shall enter into force upon the deposit of instruments of ratification or acceptance by all signatory governments with the Secretary-General of ASEAN. The signatory governments undertake to deposit their instruments of ratification or acceptance within 6 months after the date of signing of this Agreement.

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