**1997 ASEAN AGREEMENT ON CUSTOMS**

1.The objectives of this Agreement are: to simplify and harmonise Customs valuation, tariff nomenclature and Customs procedures; to ensure consistency, transparency and fair application of Customs laws and regulations, procedures and other administrative guidelines within each ASEAN Member State; to ensure efficient administration and expeditious clearance of goods to facilitate intra-regional trade and investments; to explore other appropriate intra-ASEAN cooperation arrangements in the field of Customs, particularly in the prevention and repression of all forms of smuggling and other Customs frauds.

2. Member States will be guided by the following principles under this Agreement: Consistency. Member States will ensure the continuous consistent application of Customs laws and regulations, procedures, administrative guidelines and other rulings within each ASEAN Member State; Appeals. Member States will ensure the availability to traders of readily accessible means of review of Customs decisions in ASEAN; Simplicity. Member States will endeavour to ensure the simplification of Customs procedures and requirements within ASEAN; Transparency. Member States will make all laws, regulations, procedures and administrative notifications pertaining to Customs administration in their economies publicly available in a prompt, transparent and readily accessible manner; Efficiency. Member States will ensure the efficient and effective administration and expeditious clearance of goods to facilitate intra-ASEAN trade and investment; Mutual Assistance and Cooperation. Member States will endeavour their utmost cooperation and mutual assistance between Customs Authorities.

3.The provisions of this Agreement shall apply to all Member States and all goods traded within ASEAN in accordance with their national laws, rules and regulations.

4.Goods eligible for preferential concessions whether tariff or non-tariff under any ASEAN economic arrangement shall be subject to the Rules of Origin for the CEPT for AFTA.

5.The ASEAN Harmonised Tariff Nomenclature shall be based on the 6-digit Harmonised Commodity Description and Coding System (HS) of the WCO and the amendments thereto.

6.Member States shall, for tariff purposes, use a common tariff nomenclature at the 8-digit level. The ASEAN Harmonised Tariff Nomenclature beyond the 8-digit level may be used for statistical and other purposes.

7.Member States may amend the ASEAN Harmonised Tariff Nomenclature in accordance with Article 10 of this Agreement.

8.Member States shall not use Customs valuation for protective purposes or as a barrier to trade.

9.Member States shall implement the GATT Valuation Agreement, as per the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, on an accelerated schedule.

10.Member States shall adopt a common interpretation of the GATT Valuation Agreement and standardise the systems used to operationalise the Agreement.

11.Member States shall simplify and harmonise Customs procedures for the efficient and expeditious clearance of products traded in ASEAN.

12.Simplification and harmonisation of Customs procedures in ASEAN shall conform with the standards and recommended practices in the Kyoto Convention, as amended, under the auspices of the Customs Cooperation Council (CCC) or WCO.

13.Nothing shall prevent two or more Member States, desiring to facilitate trade, from granting privileges more than those stipulated in this Agreement. Member States are however, encouraged to extend these privileges to all the other Member States.

14.Member States shall periodically review ASEAN Customs procedures to further simplify and harmonise ASEAN Customs procedures in accordance with Article 10 of this Agreement.

15.Member States shall pursue other areas of Customs cooperation consistent with their respective national laws, rules and regulations and within the limits of the Customs Administration’s competence and available resources.

16.Member States shall be encouraged to exchange vital information on the prevention and repression of smuggling, trafficking of narcotics and psychotropic substances, and other Customs frauds. Subject to Paragraph 1 of this Article, ASEAN Customs authorities shall cooperate among themselves in the conduct of investigation relating to smuggling and other Customs frauds.

17.Member States should accommodate any request by other Member States for studies and visits by Customs personnel.

18.Member States shall exchange information on international Customs issues and endeavour to coordinate ASEAN positions thereon in international Customs fora.

19.Member States should explore other activities to further enhance Customs cooperation in the region.

20.Subject to national laws and regulations in each ASEAN Member State, any affected person shall have the right to appeal decisions taken by the Customs authorities of Member States.

21.Member States shall, at the written request of a Member State, enter into consultations with a view to seeking a prompt, equitable and mutually satisfactory solution, if that Member State considers that: an obligation under this Agreement has not been fulfilled, is not being fulfilled, or may not be fulfilled; or, any objective of this Agreement is not being achieved or may be frustrated.

22.Any differences between Member States concerning the interpretation or application of this Agreement shall, as far as possible, be settled amicably between the parties. If a settlement between the parties cannot be reached, the dispute shall be submitted to the ASEAN Directors-General of Customs for settlement. If any such differences cannot be settled, it shall be subjected to the Dispute Settlement Mechanism of ASEAN.

23.The ASEAN Directors-General of Customs, under the purview of the appropriate ASEAN Ministerial body, shall review, amend, supervise and monitor all aspects relating to the implementation of the Agreement.

24.The ASEAN Secretariat shall provide the support for supervising, coordinating and reviewing the implementation of the Agreement and assist the ASEAN Directors-General of Customs in all matters relating thereto.

25.Member States, pursuant to Article 6 of the Framework Agreement on Enhancing ASEAN Economic Cooperation (1992) recognise the importance of and encourage, among others, cooperation, consultations with the ASEAN private sector particularly on ways and means to further enhance intra-ASEAN trade facilitation.

26.The Meeting of the ASEAN Directors-General of Customs shall be the forum for such linkages with the private sector.

27.New Members of ASEAN shall accede to this Agreement on terms and conditions agreed between them and existing Members of ASEAN. Accession shall be through the signing and depositing of the instrument of accession to this Agreement with the Secretary-General of ASEAN, who shall promptly furnish each Member State a certified copy thereof.

28.By Agreement of all Member States, the provisions of this Agreement may be reviewed or amended.

29.Annexes may be introduced to this Agreement and shall form an integral part thereof. Any reference to this Agreement is deemed to include also a reference to the Annexes.

30.Member States shall undertake appropriate measures to fulfill the agreed obligations arising from this Agreement.

31.Member States shall make no reservations with respect to any of the provisions of this Agreement.

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

33.This Agreement shall enter into force upon the signing and deposit of instrument of ratification or acceptance by all signatory governments with the Secretary-General of ASEAN.