ASEAN AGREEMENT ON CUSTOMS

PREAMBLE

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic (Lao PDR), 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 referred to collectively as "Member States" or singularly as "Member State"),

RECALLING the Leaders' decision to establish the ASEAN Community, comprising three pillars, namely the ASEAN Political-Security Community (APSC), the ASEAN Economic Community (AEC) and the ASEAN Socio-Cultural Community (ASCC) as reflected in the Cha-am Hua Hin Declaration on the Roadmap for ASEAN Community (2009-2015) signed on 30 March 2009, and in the ASEAN Charter signed on 20 November 2007 in Singapore;

DETERMINED to realise the goals of establishing ASEAN as a single market and production base characterised by free flow of goods, services, investment, skilled labour and freer flow of capital envisaged in the ASEAN Charter and the Declaration on the ASEAN Economic Community Blueprint signed by the Leaders on 20 November 2007 in Singapore;

RECOGNISING the significant achievements and contribution of the existing ASEAN economic agreements and instruments in various areas in facilitating free flow of goods in the region, including the *ASEAN Trade in Goods Agreement* (2009), the *ASEAN Agreement on Customs* (1997), the *ASEAN Framework Agreement on Mutual Recognition*

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Arrangements (1998), the *e-ASEAN Framework Agreement* (2000), the *Protocol Governing the Implementation of the ASEAN Harmonised Tariff Nomenclature* (2003) and its amendments thereto, the *ASEAN Framework Agreement for the Integration of Priority Sectors* (2004), the *Agreement to Establish and Implement the ASEAN Single Window* (2005), and the *Protocol to Establish and Implement the ASEAN Single Window* (2006);

RECOGNISING the impetus of making use of e-Commerce and information and communication technology (ICT) to process trade and customs-related information for customs clearance and the release of goods and means of transport with a view to achieving economic competitiveness and optimisation of allocated resources by the customs authorities of Member States;

RECOGNISING the need for more streamlined and harmonised customs procedures to support the establishment of a single market and production base in ASEAN;

RECOGNISING that customs authorities play the roles of trade facilitator in support of the realisation of the AEC and of protector of the ASEAN Community in partnership with relevant governmental agencies;

DESIRING to establish a comprehensive legal framework on customs matters, which will enable the implementation of specific measures and activities to facilitate the free flow of goods and means of transport in the region and to protect the well-being of the ASEAN Community;

DESIRING also to minimise barriers and deepen economic linkages among Member States, lower business costs, increase trade, investment and economic efficiency, create a larger market with greater opportunities and larger economies of scale for the businesses of Member States and create and maintain a competitive investment area;

RECOGNISING the different stages of economic development between and among Member States and the need to address the development gaps and facilitate increasing participation of the Member States,

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especially Cambodia, Lao PDR, Myanmar and Viet Nam, in the AEC through the provision of flexibility, and technical and development co-operation;

ACKNOWLEDGING the important role and contribution of the business sector in enhancing trade and investment among Member States and the need to further promote and facilitate their participation through the various ASEAN business associations in the realisation of the AEC; and

RECOGNISING the role of regional customs arrangements as a catalyst for the modernisation of customs techniques and the provision of excellent public services to the ASEAN community, while assisting regional and global trade liberalisation and trade facilitation and as building blocks in the framework of the multilateral trading system,

HAVE AGREED AS FOLLOWS:

CHAPTER 1
GENERAL PROVISIONS

Article 1
Objectives

The objectives of this Agreement are to:

a. promote strategic partnership between the customs authorities of Member States for the realisation of the AEC and the protection of the ASEAN Community;

b. simplify, harmonise and modernise customs procedures, formalities and practices of customs control, administration of movement and flow of goods and means of transport for a single market and production base of the AEC based on international standards;

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c. facilitate the international transactions and the movement of goods and means of transport among Member States through a consistent and uniform determination of the customs value, origin and the tariff classification of goods;

d. provide a common framework regulating customs operations and intervention within the AEC;

e. expedite the clearance and release of goods and means of transport through effective customs procedures and formalities based on international conventions, agreements, standards and best practices while providing adequate customs control;

f. adopt international standards for the protection of the international supply chain, such as the *World Customs Organisation (WCO) SAFE Framework of Standards to Secure and Facilitate Global Trade (SAFE Framework)*;

g. ensure predictability, consistency and transparency in the application of customs laws of Member States with a view to enhancing continuously the informed compliance of customs laws; and

h. strengthen cooperation and mutual assistance between the customs authorities of Member States on customs and customs-related matters, including the prevention and repression of all forms of smuggling and customs fraud.

Article 2
Principles

Member States will be guided by the following principles:

a. Consistency: Member States shall ensure the continuous consistent application of customs laws and administrative procedures, within each Member State;

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b. Efficiency: Member States shall ensure the efficient and effective administration of customs regimes, procedures and practices in promoting free flow of goods and means of transport in ASEAN in optimal ways;

c. Simplicity: Member States shall ensure continuous simplification of customs procedures, formalities and practices based on related international conventions and best practices;

d. Transparency: Member States shall make relevant customs laws and administrative procedures, except internal operational guidelines, available and accessible to the public in a timely manner;

e. Consultation: Member States shall endeavour to conduct consultations with the private sector and other stakeholders in accordance with this Agreement;

f. Appeals: Member States shall ensure the availability of readily accessible means of review of customs decisions within a stipulated period;

g. Mutual Administrative Assistance and Cooperation: Member States shall endeavour to provide their utmost cooperation and mutual administrative assistance between their customs authorities.

Article 3
Scope of the Agreement

1. The provisions of this Agreement shall apply to goods being imported into, exported from, in transit through, or trans-shipped through the territories of Member States in accordance with their respective laws and regulations.

2. Nothing in this Agreement shall prevent a Member State from granting facilities greater than those provided for in the Agreement.

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Member States shall endeavour to grant such greater facilities as extensively as possible.

Article 4
Application

This Agreement shall apply uniformly throughout the territories of Member States.

Article 5
Definitions

For the purposes of this Agreement, unless the context otherwise requires:

a. **appeal** means the act by which a person, who is directly affected by a decision or omission of the customs authorities, and who considers himself or herself to be aggrieved, thereby seeks redress before a competent authority;

b. **audit-based control** means measures by which the customs authorities satisfy themselves as to the accuracy and authenticity of declarations through the examination of the relevant books, records, business systems and commercial data held by persons concerned;

c. **customs authorities** means the competent authorities that are responsible under the laws of a Member State for the administration of customs laws;

d. **clearance** means the accomplishment of the customs formalities necessary to allow goods to enter home use, to be exported or to be placed under another customs procedure;

e. **customs control** means measures applied by the customs authorities to ensure compliance with customs laws of Member States;

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f. **customs duties** means the duties laid down in the customs tariff to which goods are liable on entering or leaving the customs territory;

g. **customs formalities** means all the operations which must be carried out by the persons concerned and by the customs authorities in order to comply with the customs laws;

h. **customs laws** means the statutory and regulatory provisions relating to the importation, exportation, movement or storage of goods, the administration and enforcement of which are specifically charged to the customs authorities, and any regulations made by the customs authorities under their statutory powers;

i. **customs office** means the customs administrative unit competent for the performance of customs formalities, and the premises or other areas approved for that purpose by the competent authorities;

j. **customs procedures** means the treatment applied by the customs authorities of each Member State to goods, which are subject to customs laws;

k. **decision** means the individual act by which the customs authorities decide upon a matter relating to Customs laws;

l. **declarant** means any person who makes a Goods Declaration or in whose name such a declaration is made;

m. **drawback** means the amount of import duties and taxes repaid under the drawback procedure;

n. **examination of goods** means the physical inspection of goods by the customs authorities to satisfy themselves that the nature, origin, condition, quantity and value of the goods are in

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accordance with the particulars furnished in the Goods Declaration;

o. **Goods Declaration** means a statement made in the manner prescribed by the customs authorities, by which the persons concerned indicate the customs procedure to be applied to the goods and furnish the particulars which the customs authorities require for its application;

p. **means of transport** means road vehicles, railway rolling stocks, sea and inland waterways craft, and aircraft;

q. **mutual administrative assistance** means actions of the customs authorities of one Member State on behalf of or in collaboration with the customs authorities of another Member State for the proper application of customs laws;

r. **person** means both natural and legal persons, unless the context otherwise requires;

s. **release of goods** means the action by the customs authorities to permit goods undergoing clearance to be placed at the disposal of the persons concerned;

t. **repayment** means the refund, in whole or in part, of duties and taxes paid on goods;

u. **supporting documents** means the documents, in support of a Goods Declaration, which are necessary for the customs authorities of a Member State to permit control of the operation and to ensure that all requirements relating to the application of Customs laws have been complied with;

v. **temporary admission** means the customs procedure under which certain goods can be brought into a customs territory conditionally relieved totally or partially from payment of import duties and taxes; such goods must be imported for a specific purpose and

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must be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of them.

CHAPTER 2
CUSTOMS PROCEDURES AND FORMALITIES

Article 6
Customs Procedures

1. Member States shall ensure transparency of their customs procedures and practices, and their application in a consistent and predictable manner so as to facilitate trade and investment within the AEC.

2. To the extent possible, customs procedures and practices of Member States shall be consistent with the conventions, instruments, standards and recommended best practices of the WCO and other relevant international organisations.

3. Member States shall periodically review their customs procedures and practices with a view to further simplifying, harmonising, and modernising the procedures and practices in order to facilitate trade while securing compliance with their customs laws.

Article 7
Customs Controls

1. All goods, including means of transport, which enter or leave the customs territories of Member States, regardless of whether they are liable to duties and taxes, shall be subject to customs controls.

2. The customs authorities of a Member State shall carry out all of the controls they deem necessary to ensure the correct application and enforcement of customs laws and other laws governing the entry, exit,

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transit, trans-shipment, storage and end-use of goods, including postal traffic, in the territory of the Member State concerned.

3. Member States shall ensure that customs controls are limited to such extent as to ensure compliance with their respective customs laws.

4. Customs controls consist of, inter alia, control of the movement of goods; examination of goods; taking of samples; verification of declaration data and the authenticity of documents; examination of the accounts; books and records of economic operators; inspection of means of transport, luggage and other goods carried by or on persons; and carrying out of official enquiries.

5. In the application of customs controls, Member States shall use risk management and apply audit-based controls.

Article 8
Examination of Goods

1. When the customs authorities decide to examine goods declared, this examination shall take place as soon as possible after the Goods Declaration has been registered. Priority shall be given to the examination of live animals and perishable goods and to such other goods that the concerned customs authorities identified as urgently required.

2. The physical examination of goods shall include verification of the accuracy and completeness of information and compliance with customs laws, particularly as they relate to the nature, origin, condition, quantity and value of the goods.

Article 9
Goods Declaration

1. The content of the Goods Declaration shall be prescribed by the customs authorities of Member States.

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2. The basic content of the Goods Declaration shall contain the information parameters of the ASEAN Customs Declaration Document. The customs authorities of Member States may prescribe additional information parameters to be furnished in the Goods Declaration.

3. The paper format of the Goods Declaration shall conform to the UN-layout key and its amendments thereto.

4. For automated customs clearance processes, the format of the electronically lodged Goods Declaration shall be based, to the extent possible, on international standards for electronic information exchange as developed by the WCO and relevant international organisations.

Article 10
Lodging and Registering of the Goods Declaration

1. The lodging and registering of the Goods Declaration with the customs authorities shall be made through electronic means to the maximum extent possible.

2. Any person duly authorised by customs laws of Member States shall lodge the Goods Declaration with the content and format prescribed by the customs authorities concerned.

3. The customs authorities of Member States shall permit the lodging, registering, and checking of the Goods Declaration and its supporting documents at any customs office designated by the Member State concerned to the extent possible.

4. The customs authorities of Member States shall endeavour to allow the lodging and registering of the Goods Declaration and supporting documents prior to the arrival of goods.

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Article 11
Supporting Documents of the Goods Declaration for Customs Clearance and Release

1. The customs authorities of Member States shall require only those supporting documents they deem necessary to ensure compliance with their respective customs laws.

2. Member States shall stipulate the timing and modalities of presentation of supporting documents to customs authorities in their customs laws. Where certain documents cannot be lodged together with the Goods Declaration for reasons deemed valid by the customs authorities concerned, the customs authorities shall allow the lodgement of those documents within a specified period.

3. Member States shall permit the lodging of supporting documents by electronic means to the widest extent possible.

Article 12
Declaration to Customs Authorities

1. A Goods Declaration shall be lodged through electronic means to the widest extent possible. Where it is provided in its customs laws, the customs authorities of a Member State may accept a paper-based Goods Declaration, or a Goods Declaration made either orally or by any other means.

2. The customs authorities of a Member State may consider accepting commercial documents or data residing in traders' systems in lieu of a Goods Declaration to facilitate trade provided that the customs authorities have access to such information and the requirements for any necessary exchange of such information with customs offices are met.

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Article 13
Person Lodging a Goods Declaration

1. A Goods Declaration may be made by any person duly permitted by the customs laws of Member States who is able to present or make available all of the documents which are required to comply with the applicable customs laws. Where the acceptance of a Goods Declaration imposes particular obligations on a specific person, those obligations shall be fulfilled by that person or by his representative.

2. The declarant shall be established in the territory of the Member State in which the Goods Declaration is lodged. However, under special circumstances, the customs authorities may accept a declarant established outside the territory of the Member State concerned subject to its customs laws.

Article 14
Simplified Goods Declaration

1. The customs authorities of a Member State may authorise any person to have the goods placed under a customs procedure using a Simplified Goods Declaration which may omit certain particulars and supporting documents required for a Goods Declaration, subject to any conditions and requirements it may impose.

2. In the case of a Simplified Goods Declaration, the declarant shall, if required by the customs authorities of the Member State concerned, subsequently furnish such further particulars and supporting documents as are necessary to complete the Goods Declaration for the customs procedures concerned.

Article 15
Retention of Goods Declaration and Supporting Documents

Declarants shall be required to keep the Goods Declaration and its supporting documents and to present them to the customs authorities

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upon request. The period of retention of supporting documents shall be stipulated in the customs laws of Member States.

Article 16
Release of Goods

1. Where the conditions for placing the goods under the customs procedure concerned are fulfilled and provided that any restriction has been applied and the goods are not subject to any prohibition, the customs authorities concerned shall release the goods as soon as the particulars in the Goods Declaration have been verified or accepted.

2. Where the placing of goods under a customs procedure gives rise to customs duties and taxes, the release of the goods shall be conditional upon the payment of the amount of import or export duty corresponding to the customs duties and taxes or the provision of a security to cover that duty.

3. Where, pursuant to the provisions governing the customs procedure for which the goods are declared, the customs authorities concerned require the provision of a security, those goods shall not be released for the customs procedure in question until such security is provided.

Article 17
Customs Clearance

1. The customs authorities of a Member State may authorise a person to lodge at the customs office responsible for the place where the person is established, a Goods Declaration for goods which are presented at another customs office. In such cases, the duties and taxes shall be deemed to be incurred at the customs office at which the Goods Declaration is lodged.

2. The customs office at which the Goods Declaration is lodged shall carry out the formalities for the verification of the Goods Declaration, the

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recovery of the amount of import or export duty corresponding to any duties and other taxes and for granting release of the goods.

Article 18
Goods for Free Circulation

The release of goods for free circulation into the customs territory of a Member State shall entail the following:

(a) the collection of any import duties and taxes due;

(b) the collection, as appropriate, of fees and charges, as provided for under relevant provisions in force relating to the collection of those charges;

(c) the application of commercial policy measures and prohibitions and restrictions in so far as they do not have to be applied at an earlier stage; and

(d) the completion of all relevant formalities laid down in respect of the importation of the goods.

Article 19
Tariff Nomenclature

The tariff nomenclature used by Member States for the classification of goods shall be the ASEAN Harmonised Tariff Nomenclature (AHTN) and its amendments thereof, based on the latest versions of the Harmonised System of the WCO. The rates of customs duties and taxes shall be set out in official publications of Member States.

Article 20
Customs Valuation

1. Member States shall implement the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (WTO Valuation Agreement)*, on an accelerated schedule.

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2. Member States shall endeavour to adopt a common approach in the application of the WTO Valuation Agreement.

Article 21
De Minimis

Member States shall consider specifying a minimum value, and/or minimum quantity, and/or a minimum amount of customs duties and taxes, below which no customs duties and taxes will be collected.

Article 22
Determination of Origin of Goods

Member States shall designate the competent authorities responsible for determining the origin of goods for customs and other purposes.

Article 23
Customs Duties and Taxes

1. Member States shall specify in their customs laws the point in time of the incurrence of customs duties and taxes and the time limit for the payment of the amount of customs duties and taxes due.

2. Member States shall provide in their customs laws for payment of customs duties and taxes to be made in cash or by any other means with similar discharging effect.

3. Member States shall endeavour to allow deferred payment of customs duties and taxes. Where deferred payment is allowed, the conditions and requirements for the deferred payment shall be specified in the customs laws of the Member State concerned.

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Article 24
Security

1. The customs authorities of a Member State may require a security to be provided in order to secure payment of customs duties and taxes or the fulfilment of other obligations.

2. Where security is required, the amount of security to be provided shall be as low as possible. In respect of the payment of customs duties and taxes, the security shall not exceed the amount potentially chargeable.

3. The customs authorities of a Member State may decide not to require security when it is satisfied that an obligation to the customs authorities will be fulfilled.

4. Member States shall consider accepting a general security instead of a separate security in each instance, especially from the declarants who declare goods regularly at different customs offices of the Member State concerned.

5. Where security has been furnished, it shall be discharged as soon as possible after the customs authorities concerned are satisfied that the obligations under which the security was required have been duly fulfilled.

Article 25
Provision of Security

A security may be provided in one of the following forms, subject to the approval of the customs authorities concerned:

(a) by a cash deposit, or other bearer negotiable instruments;

(b) by an undertaking given by a guarantor; or

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(c) by another form of security which provides equivalent assurance.

Article 26
Repayment and Drawback

1. Decisions on claims for repayment shall be reached, and notified in writing to the persons concerned, without undue delay, and repayment of amounts overcharged shall be made as soon as possible after the verification of claims.

2. Drawback shall be paid as soon as possible after the verification of claims.

Article 27
Risk Management

1. Member States shall use risk management in customs controls to expedite customs clearance.

2. Each Member State shall adopt a compliance measurement strategy to support risk management.

Article 28
Post Clearance Audit

1. Member States shall apply post clearance audit with a view to promoting good compliance and facilitating customs clearance.

2. The customs authorities of a Member State may, after releasing the goods and in order to ascertain the accuracy of the particulars contained in the Goods Declaration, inspect any documents and data relating to the operations in respect of the goods in question. The customs authorities may also examine such goods and/or take samples when necessary.

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Article 29
Simplification of Customs Formalities and Controls

The customs authorities of Member States shall endeavour to simplify customs formalities and controls.

Article 30
ASEAN Customs Transit System

Member States shall implement the ASEAN Customs Transit System in accordance with the *ASEAN Framework Agreement on the Facilitation of Goods In Transit*.

Article 31
ASEAN Single Window

Member States shall implement their National Single Windows and the ASEAN Single Window in accordance with the *Agreement to Establish and Implement the ASEAN Single Window* and the *Protocol to Establish and Implement the ASEAN Single Window*.

Article 32
Temporary Admission

1. Member States shall facilitate movement of goods under temporary admission to the greatest extent possible.

2. The customs authorities of Member States shall specify the period within which goods placed under the temporary admission procedure must be re-exported or placed under a subsequent customs procedure.

3. Where, in exceptional circumstances, the goods cannot be re-exported or placed under a subsequent customs procedure within the specified period, the customs authorities concerned may, at the request of the holder of the authorisation, extend those periods for a reasonable duration.

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Article 33
ASEAN Cargo Processing Model

Member States shall use the ASEAN Cargo Processing Model and amendments thereof as a guideline to facilitate trade and investment.

Article 34
Advance Rulings

To the extent permitted by their respective laws, the customs authorities of Member States shall provide in writing advance rulings in accordance with the provisions stipulated in Article 62 of the *ASEAN Trade in Goods Agreement*.

Article 35
Authorised Economic Operators

1. Member States shall each promote the establishment of national authorised economic operators (AEO) programmes to enhance the security of the supply chain and facilitate trade based on the SAFE Framework.

2. The customs authorities of Member States shall endeavour to develop mechanisms of cooperation with a view to promoting mutual recognition of AEO status and customs controls.

Article 36
Express Consignments

Member States shall endeavour to put in place adequate measures and mechanisms to facilitate customs clearance of express consignments, including the pre-arrival lodging and processing of the Goods Declaration.

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CHAPTER 3
INFORMATION AND COMMUNICATION TECHNOLOGY

Article 37
Application of Information and Communication Technology by Customs

1. The customs authorities of Member States shall use ICT in customs operations to enhance customs controls and to facilitate trade.

2. Member States shall take into account the relevant standards and best practices recommended by international organisations when applying ICT.

3. Customs formalities carried out using ICT shall contain an electronic signature or other means of identification.

Article 38
Data and Information Parameters

The customs authorities of Member States shall, as they deem appropriate, align data and information parameters for customs clearance to international standards as agreed by Member States.

Article 39
Interoperability and Interconnectivity

Member States shall endeavour to work towards the interoperability and interconnectivity of their respective customs automated systems with a view to promoting exchange of information among their customs authorities.

Article 40
Information Sharing and Exchange

The customs authorities of Member States are encouraged to share and exchange information through interconnected systems for customs

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purposes through bilateral, multilateral or other arrangements where necessary, to the extent allowed by their respective laws and within the limits of their competence and available resources.

Article 41
Data and Information Security

The customs authorities of Member States shall put in place adequate measures related to the accessibility to, authenticity, integrity and privacy of information in the application of ICT, including in the course of exchanging data between customs authorities.

CHAPTER 4
CUSTOMS ENFORCEMENT AND MUTUAL ADMINISTRATIVE ASSISTANCE

Article 42
Protection of the ASEAN Community

The customs authorities of Member States shall endeavour to cooperate with each other and with relevant agencies for the protection of the ASEAN Community through concrete actions in combating customs fraud, offences and any transnational crime, which are within their competence and subject to their respective laws, including but not limited to illicit drugs trafficking, intellectual property rights (IPR) infringement, money laundering, terrorism, and human trafficking.

Article 43
Areas of Cooperation

The customs authorities of Member States shall endeavour to provide mutual administrative assistance to each other for the prevention, investigation and repression of offences in the following areas:

(a) customs offences;

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(b) illicit trafficking of drug, psychotropic substances and precursors;

(c) IPR infringements; and

(d) illicit trade in works of art, antiques and other cultural artefacts.

Article 44
Mechanisms of Cooperation

1. The customs authorities of Member States shall endeavour to cooperate with each other through exchange of information and intelligence or any other action as mutually agreed.

2. The customs authorities of each Member State shall establish a contact point for the purpose of providing mutual administrative assistance under this Chapter.

3. At the request of the customs authorities of a Member State, the requested customs authorities of another Member State shall endeavour to communicate information concerning the following:

(a) the authenticity and/or accuracy of documents produced in support of a Goods Declaration made to the requesting customs authorities;

(b) whether goods imported into the territory of a Member State have been lawfully exported from the territory of the other Member State;

(c) whether goods exported from the territory of a Member State have been lawfully imported into the territory of the other Member State and the customs procedure, if any, under which the goods were placed;

(d) persons suspected and/or convicted of customs offences;

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(e) enforcement techniques and tools proven to be effective;

(f) trends, means, methods or *modus operandi* of smuggling and committing customs offence and fraud;

(g) means of transport used in the commission of customs offences; and

(h) any other matters as mutually agreed.

Article 45
Limitation of the Scope of Activities under Mutual Administrative Assistance

1. The extent of assistance to be given by the customs authorities of a Member State under this Chapter shall be in accordance with the laws of the Member State and within the limits of the competence and available resources of the customs authorities.

2. If the assistance sought would infringe upon a Member State's sovereignty, security or other substantial national interests or prejudice the legitimate commercial interests of any enterprise, public or private, the customs authorities of the Member State may decline to provide that assistance or give it subject to certain conditions or requirements.

3. This Chapter only covers mutual administrative assistance between the customs authorities of Member States and is not intended to have an impact on any mutual legal assistance agreements or arrangements between Member States.

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CHAPTER 5
COOPERATION FOR A COORDINATED BORDER MANAGEMENT

Article 46
Partnership with Other Governmental Agencies for Coordinated Border Management

Each Member State shall strengthen the partnership of its customs authorities with the relevant agencies and competent authorities for coordinated border management, to the extent possible, and in accordance with the national laws of the Member State concerned.

Article 47
Joint and Coordinated Border Control

1. Where controls other than customs controls are to be performed by competent authorities other than the customs authorities, the customs authorities shall, in close cooperation with those authorities, endeavour to have those controls performed, wherever possible, at the same time and place as customs controls, with the customs authorities having the coordinating role in achieving it.

2. A Member State shall endeavour to establish joint or coordinated physical inspection between its customs authorities and relevant agencies and competent authorities with a view to expediting customs clearance and release to facilitate trade.

CHAPTER 6
PARTNERSHIP WITH CUSTOMS STAKEHOLDERS

Article 48
Availability of Information

1. The customs authorities of Member States shall provide to interested persons making a reasonable request, information relating to

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specific matters raised by interested persons pertaining to their customs laws and administrative procedures, except confidential information.

2. The customs authorities of Member States shall designate one or more enquiry points to address enquiries from interested persons concerning customs matters, and shall make available on the internet and/or in print form information concerning procedures for making such enquiries.

3. The customs authorities of Member States shall publish on the internet and or in print form all customs laws and administrative procedures, except confidential information.

Article 49
Consultations with Private Sector

1. The customs authorities of Member States shall strengthen the partnership with the private sector with a view to expediting customs clearance and release, and streamlining customs procedures.

2. The customs authorities of Member States shall endeavour to conduct periodic consultations with the private sector at the national and regional levels.

Article 50
Service Standards

The customs authorities of Member States shall endeavour to provide better service to the public and trading community through the development of service charters and service performance indicators.

Article 51
Cooperation with International Organisations and the International Customs Community

1. The customs authorities of Member States shall strengthen cooperation with international organisations and the international

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customs community for the modernisation of customs practices, procedures and narrowing of the development gap.

2. The customs authorities of Member States shall endeavour to exchange views with other customs authorities with a view to enhancing mutual understanding and promoting the interests of ASEAN.

CHAPTER 7
APPEALS

Article 52
Right of Review and Appeal

1. Each Member State shall ensure that any person, in its territory, being aggrieved by any decision of its customs authorities, has access to administrative review within the customs authorities that issued the decision subject to review, where applicable by the higher authority supervising the customs authority and/or judicial review of the determination taken at the final level of administrative review, in accordance with the Member State's law.

2. The decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing.

CHAPTER 8
IMPLEMENTATION AND INSTITUTIONAL ARRANGEMENTS

Article 53
Institutional Arrangements

1. The ASEAN Directors-General of Customs Meeting under the purview of the ASEAN Finance Ministers Meeting (AFMM), shall supervise, review and coordinate all aspects relating to the implementation of this Agreement. The ASEAN Directors-General of

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Customs Meeting may establish relevant working bodies to support them in the discharge of their responsibilities under this Agreement.

2. The ASEAN Directors-General of Customs Meeting shall conduct periodic evaluation of the progress of implementation of this Agreement based on the work plans under the relevant working bodies with a view to identifying appropriate measures to ensure the timely realisation of decisions. The report will be presented to the AFMM.

3. The ASEAN Secretariat shall:

(a) provide support to the AFMM, ASEAN Directors-General of Customs Meeting and relevant working bodies, as referred to in paragraph 1, in supervising, co-ordinating and reviewing the implementation of this Agreement as well as assistance in all related matters; and

(b) monitor and regularly report to the ASEAN Directors-General of Customs Meeting on the progress of the implementation of this Agreement.

Article 54
Decision-making

1. Decisions by the ASEAN Directors-General of Customs Meeting pertaining to the implementation of this Agreement shall be made after consultation and by consensus.

2. Decisions made by the ASEAN Directors-General of Customs Meeting shall be implemented in a uniform and timely manner.

Article 55
Consultation

Member States shall endeavour to consult each other at the level of the ASEAN Directors-General of Customs Meeting and, where appropriate, the relevant working bodies regarding customs issues, or any customs

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measure that may affect goods traded among Member States or impair the attainment of the objectives of this Agreement.

Article 56
Advisory and Consultative Mechanisms

The ASEAN Consultations to Solve Trade and Investment Issues (ACT) and the *ASEAN Compliance Monitoring Body (ACMB)* as contained in the *Declaration on ASEAN Concord II (Bali Concord II)* may be invoked to settle disputes that may arise from this Agreement. Any Member State who does not wish to avail of the ACT/ACMB may resort to the mechanism provided in the *ASEAN Protocol on Enhanced Dispute Settlement Mechanism.*

Article 57
Dispute Settlement

The *ASEAN Protocol on Enhanced Dispute Settlement Mechanism*, signed on 29 November 2004 in Vientiane, Lao PDR and amendments thereto, shall apply in relation to any dispute arising from, or any difference between Member States concerning, the interpretation or application of this Agreement.

CHAPTER 9
FINAL PROVISIONS

Article 58
Confidentiality

1. Nothing in this Agreement shall be construed to require any Member State to furnish or allow access to confidential information pursuant to this Agreement the disclosure of which it considers would:

(a) be contrary to the public interest as determined by its laws;

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(b) be contrary to any of its laws including but not limited to those protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions;

(c) impede law enforcement; or

(d) prejudice legitimate commercial interests, which may include the competitive position of particular enterprises, public or private.

2. Where a Member State provides information to another Member State in accordance with this Agreement and designates the information as confidential, the Member State receiving the information shall maintain the confidentiality of the information, use it only for the purposes specified by the Member State providing the information, and not disclose it without the specific written permission of the Member State providing the information.

3. This obligation shall be observed by Member States during the period of validity of this Agreement and after the expiry or termination of this Agreement, unless otherwise agreed by Member States concerned.

Article 59
Relation to Other ASEAN Agreements

In case of inconsistency between this Agreement and any ASEAN economic agreement as relevant to customs matters, this Agreement shall prevail.

Article 60
Amended or Successor International Agreements

If any international agreement or a provision therein referred to, or incorporated into, this Agreement, and such agreement or provision is amended, Member States shall consult on whether it is necessary to amend this Agreement, unless this Agreement provides otherwise.

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Article 61
Future Annexes and Instruments

Member States may collectively adopt annexes and instruments in the future pursuant to the provisions of this Agreement. Upon their respective entry into force, such annexes and instruments shall form part of this Agreement.

Article 62
Amendments

This Agreement and its annexes and instruments, if any, may be amended as mutually agreed upon in writing by the Member States.

Article 63
Entry into Force

1. This Agreement shall enter into force, after all Member States have notified or, where necessary, deposited instruments of ratifications with the Secretary General of ASEAN upon completion of their internal procedures, which shall not take more than 180 days after the signing of this Agreement.

2. The Secretary General of ASEAN shall promptly notify all Member States of the notifications or deposits of each instrument of ratification referred to in paragraph 1 of this Article".

3. Upon entry into force, this Agreement shall replace and supersede the ASEAN Agreement on Customs signed at Phuket, Thailand on 1 March 1997.

4. The annexes and protocols introduced to the ASEAN Agreement on Customs signed at Phuket, Thailand on 1 March 1997, and in force as of the date of signature of this Agreement, including the Protocol Governing the Implementation of the ASEAN Harmonised Tariff Nomenclature done at Makati, the Philippines on 7 August 2003 and any of the annexes and protocols to the said Protocol, are hereby introduced to this Agreement and shall form an integral part thereof and with equal effect. Any

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reference to this Agreement is deemed to include also a reference to these annexes and protocols.

Article 64
Reservations

No reservations shall be made with respect to any of the provisions of this Agreement.

Article 65
Depositary

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

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed the ASEAN Agreement on Customs.

DONE at Phnom Penh, this 30th day of March in the year 2012, in a single original copy in the English language.

For the Government of Brunei Darussalam,

PEHIN DATO ABD RAHMAN IBRAHIM
Minister of Finance II at the Prime Minister's Office

For the Government of the Kingdom of Cambodia,

KEAT CHHON
Deputy Prime Minister, Minister of Economy and Finance

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For the Government of the Republic of Indonesia,

AGUS D.W. MARTOWARDOJO
Minister of Finance

For the Government of the Lao People's Democratic Republic,

PHOUPHET KHAMPHOUNVONG
Minister of Finance

For the Government of Malaysia,

DATO' SERI AHMAD HUSNI MOHAMAD HANADZLAH
Minister of Finance II

For the Government of the Republic of the Union of Myanmar,

HLA TUN
Union Minister for Finance and Revenue

For the Government of the Republic of the Philippines,

CESAR V. PURISIMA
Secretary of Finance

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For the Government of the Republic of Singapore,

THARMAN SHANMUGARATNAM
Deputy Prime Minister and Minister for Finance and
Minister for Manpower

For the Government of the Kingdom of Thailand,

KITTIRATT NA-RANONG
Deputy Prime Minister and Minister of Finance

For the Government of the Socialist Republic of Viet Nam,

TRUONG CHI TRUNG
Vice Minister of Finance

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