MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENTS OF THE MEMBER STATES OF THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA ON MARITIME CONSULTATION MECHANISM

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic ("Lao PDR"), Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand, the Socialist Republic of Viet Nam as Member States of the Association of Southeast Asian Nations (ASEAN), and the Government of the People's Republic of China hereinafter referred to collectively as "**the Parties**" or individually as "**a Party**");

NOTING the Memorandum of Understanding between the Governments of the Member Countries of the Association of Southeast Asian Nations and the Government of the People's Republic of China on Transport Cooperation signed in 2004;

NOTING the Agreement on Maritime Transport between the Governments of the Member Countries of the Association of Southeast Asian Nations and the Government of the People's Republic of China (herein referred to as ACMTA) signed on 2 November 2007; and,

NOTING the proposal to set up a Consultation Mechanism between ASEAN Member States and China at the Second ASEAN and China Transport Ministers Meeting held in October 2003 in Yangon, Myanmar, to expand cooperation in the maritime sector, was welcomed by all the Parties.

HAVE AGREED AS FOLLOWS:

ARTICLE I
OBJECTIVE

The Parties agree to establish a maritime consultation mechanism between ASEAN and China in accordance with the terms of this Memorandum of Understanding to strengthen their friendly relationship and cooperation in the maritime sector.

ARTICLE II
AREAS OF COOPERATION

The Parties will, subject to the laws, rules, regulations and national policies from time to time in force, governing the subject matter in their respective countries, whilst respecting the territorial sovereignty and integrity of each country, endeavour to take necessary steps to encourage and promote technical cooperation in the following areas on the basis of equality, mutual respect and reciprocity:

1. Port State Control

Undertake closer regional cooperation on port state control through the following:

1.1. Provide each other with information on port state control;

1.2. Designate points of contact to facilitate communication and coordination on port state control matters; and

1.3. Establish a mechanism for port state control officers to exchange expertise and to share experience.

2. Marine Environmental Protection Against Pollution

2.1. Cooperate on oil and Hazardous and Noxious Substances (HNS) pollution prevention from ships and oil and HNS spill preparedness and response by:

2.1.1 Exchanging information and best practices; and

2.1.2 Undertaking capacity building activities.

2.2. Cooperate on ship's ballast water management by holding regional workshops, seminars or trainings, including exchange of information and best practices.

3. Maritime Transport Security

Exchangeof information and sharing of experience on the implementation of the IMO International Ship and Port Facility Security (ISPS) Code.

4. Aids to Navigation

4.1. Cooperate on aids to navigation within the framework of International Association of Lighthouse Authority (IALA) to enhance safety of navigation;

4.2. Promote the use of advanced aids to navigation systems, such as Differential Global Positioning System (DGPS) and Automatic Identification System (AIS);

4.3. Promote capacity building in the field of aids to navigation by holding technical seminars and workshops; and

4.4. Promote the use of Electronic Navigational Chart (ENC) and Electronic Chart Display and Information System (ECDIS).

5. Seafarers Training and Certification

5.1. Hold workshops on seafarers training, examination and certification, to upgrade the quality of seafarers in the region;

5.2. Strengthen the exchange on seafarer management policies and cooperation verification of authenticity of seafarers' certificates; and

5.3. Promote collaboration between maritime educational and training institutions through exchange of teaching staff and students.

6. Marine Casualties and Marine Incident Investigation

6.1. Share information on maritime safety management and expertise in marine casualties and marine incident investigations; and

6.2. Undertake capacity building activities.

ARTICLE III
DESIGNATED AUTHORITY

1. The designated authority responsible for the implementation of this Memorandum of Understanding for each Party is the relevant competent maritime authority of the respective Parties listed in the attached **ANNEX A**, whichever the case may be.

2. Each Party undertakes to provide information on any change or addition to its designated authority.

ARTICLE IV
IMPLEMENTATION

1. Aiming at a close cooperation in the effective implementation of this Memorandum of Understanding, meetings of the ASEAN-China Maritime Consultation Mechanism will be convened once a year in China.

2. Notwithstanding the ACMTA, all the issues of maritime safety and marine environmental protection shall be discussed at Meetings of the ASEAN-China Maritime Consultation Mechanism.

3. Senior officials of the designated authorities of ASEAN Member States and China shall participate in the annual Consultation Mechanism meetings. China Maritime Safety Administration (CHINA MSA) and the ASEAN Secretariat will jointly act as the Consultation Mechanism's technical secretariat.

4. Reports of outcomes of the ASEAN-China Maritime Consultation Mechanism meetings shall be submitted to the ASEAN and China Senior Transport Officials Meeting (STOM+China) / ASEAN and China Transport Ministers Meeting (ATM+China), for further action and/or guidance.

ARTICLE V
FINANCIAL ARRANGEMENTS

The financial arrangements to cover expenses for the cooperative activities undertaken within the framework of this Memorandum of Understanding shall be mutually agreed upon by the respective Parties on a case-by-case basis subject to the availability of funds.

ARTICLE VI
PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

1. The protection of intellectual property rights shall be enforced in conformity with the respective national laws, rules and regulations of the Parties and with other international agreements signed by and among the Parties.

2. The use of the name, logo and/or official emblem of any of the Parties on any publication, document and/or paper is permitted only upon prior written approval of the Parties concerned.

3. Notwithstanding anything in paragraph 1 above, the intellectual property rights in respect of any technological development, and any products and services development, carried out:

(a) jointly by the Parties or research results obtained through the joint activity effort of the Parties, shall be jointly owned by the Parties in accordance with the terms to be mutually agreed upon; and

(b) solely and separately by either Party or the research results obtained through the sole and separate effort of either Party, shall be solely owned by the Party concerned.

ARTICLE VII
CONFIDENTIALITY

Any confidential information, document or data received pursuant to this Memorandum of Understanding shall not be disclosed or distributed to any third party, except to the extent authorized in written form to do so by the Party providing the information, document or data.

ARTICLE VIII
SUSPENSION

Each Party reserves the right for reasons of national security, national interest, public order or public health to suspend temporarily, either in whole or in part, the implementation of this Memorandum of Understanding. Such suspension shall take effect immediately after written notification has been given to the other Party through diplomatic channels and will end as soon as the situation returns to normal. Such intention to uplift suspension shall be notified to the other Parties through the ASEAN Secretariat.

ARTICLE IX
REVISION, MODIFICATION AND AMENDMENT

1. Any Party may request in writing a revision, modification or amendment of all or any part of this Memorandum of Understanding.

2. Any revision, modification or amendment agreed by the Parties shall be reduced into writing and signed by the authorised signatories of the Parties. It shall form part of this Memorandum of Understanding.

3. Such revision, modification or amendment shall come into force on such date as may be determined by the Parties.

4. Any revision, modification or amendment shall not prejudice the rights and obligations arising from or based on this Memorandum of Understanding before or up to the date of such revision, modification or amendment.

ARTICLE X
SETTLEMENT OF DISPUTES

Any dispute or differences arising out of the interpretation or implementation or application of the provisions of this Memorandum of Understanding shall be settled amicably through consultation or negotiation between the Parties.

ARTICLE XI
ENTRY INTO FORCE, DURATION AND TERMINATION

1. This Memorandum of Understanding shall enter into force on the date of signing and shall remain in force for a period of five (5) years.

2. Thereafter, it shall be automatically extended for successive periods of five (5) years.

3. Notwithstanding anything in this Article, any Party may terminate this Memorandum of Understanding by notifying the other Party, through the ASEAN Secretariat, of its intention to terminate this Memorandum of Understanding by a notice in writing at least three (3) months to its intention to do so.

4. The termination of this Memorandum of Understanding shall not affect any project or activity already undertaken under this Memorandum of Understanding, which has not been completed, unless the Parties agree otherwise in writing.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments of ASEAN Member States and the Government of China, have signed this Memorandum of Understanding.

DONE at **Bandar Seri Begawan, Brunei Darussalam,** this **12th Day** of **November** in the Year **Two Thousand and Ten,** in two original copies in the English language.

For the Government of
Brunei Darussalam:

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DATO ALAIHUDDIN TAHA
Permanent Secretary
Ministry of Communications

For the Government of the
People's Republic of China:

.....
PENG ZHENGLIN
Vice Minister
Ministry of Transport

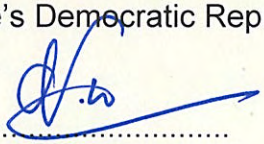
For the the Government of
Kingdom of Cambodia:

.....
LENG THUN YUTHEA
Under Secretary of State
Ministry of Public Works and
Transport

For the Government of the
Republic of Indonesia:

.....
SUNARYO
Director-General for Sea
Transportation
Ministry of Transportation

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



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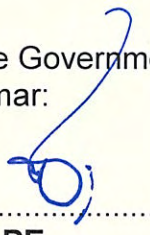
MATH SOUNMALA
Director General
Department of Planning and
Cooperation
Ministry of Public Works and
Transport

For the Government of Malaysia:

.....
DATO' LONG SEE WOOL
Secretary General
Ministry of Transport

For the Government of the Union of
Myanmar:



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WINN PE
Director General
Department of Transport

For the Government of the Republic
of the Philippines:

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JOSE P. DE JESUS
Secretary of Transportation and
Communications

For the Government of the Republic
of Singapore:

.....

CHOI SHING KWOK
Permanent Secretary
Ministry of Transport

For the Government of the Kingdom
of Thailand:

.....

TAWALYARAT ONSIRA
Director General
Marine Department
Ministry of Transport

For the Government of the Socialist
Republic of Viet Nam:

.....

PHAM THANH TUNG
Director General
International Cooperation
Department
Ministry of Transport

ANNEX A

LIST OF DESIGNATED AUTHORITIES

(a) Marine Department
Ministry of Communications
Serasa, Muara BT 1728
Brunei Darussalam

(b) Merchant Marine Department
General Department of Transport
Ministry of Public Works and Transport
St. 598, Chrang Chamres II, Russeykeo,
Phnom Penh, Cambodia

(c) Maritime Safety Administration of China (China MSA)
11 Jianguomennei Avenue
Beijing, China

(d) Directorate General of Sea Transportation
Ministry of Transportation
Jl. Medan Merdeka Barat no. 8
Gedung Karsa, Lantai 4
Jakarta Pusat 10110, Indonesia

(e) Department of Waterways
Ministry of Public Work and Transport
Lane Xang Avenue
Vientiane Capital, Lao PDR

(f) Maritime Division
Ministry of Transport
Level 6, Block D5, Complex D
Federal Government Administrative Centre
62616 PutraJaya, Malaysia

(g) Department of Marine Administration
Dawbon Dockyard Road
Ya Mon Nar 2nd Qr
Dawbon Township
Myanmar P.O. Box 194
Yangon, Myanmar

(h) Department of Transportation and Communications
Columbia Tower
Ortigas Avenue
Mandaluyong City, Philippines

(i) Shipping Division
Maritime and Port Authority of Singapore (MPA)
#21 PSA Building
460 Alexandra Road
Singapore 119963

(j) Marine Department
Ministry of Transport
1278 Yotha Road Sampanthawong
Bangkok 10100
Thailand

(k) Vietnam Maritime Administration (VINAMARINE)
No. 8 Pham Hung, Cau Giay
Ha Noi, Viet Nam