

No. 27495

**JAPAN, INDONESIA, MALAYSIA,
PHILIPPINES, SINGAPORE AND THAILAND**

**Agreement establishing the ASEAN Promotion Centre on
Trade, Investment and Tourism. Concluded at Tokyo on
22 December 1980**

Amendment of the above-mentioned Agreement

Authentic text: English.

*The Agreement and the certified statement were registered by Japan on
10 August 1990.*

**JAPON, INDONÉSIE, MALAISIE,
PHILIPPINES, SINGAPOUR ET THAÏLANDE**

**Accord portant création du Centre de promotion du com-
merce des investissements et du tourisme de l'ANASE.
Conclu à Tokyo le 22 décembre 1980**

Modification de l'Accord susmentionné

Texte authentique : anglais.

*L'Accord et la déclaration certifiée ont été enregistrés par le Japon le
10 août 1990.*

AGREEMENT¹ ESTABLISHING THE ASEAN PROMOTION CENTRE ON TRADE, INVESTMENT AND TOURISM

Japan and the member countries of the Association of South East Asian Nations (hereinafter referred to as the "ASEAN member countries") comprising the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand;

Recognising the vital importance of promoting an increase in exports, flow of investment and tourism in the economic development of the ASEAN member countries;

Convinced that cooperative efforts are necessary to achieve such objectives effectively and that such efforts contribute to the promotion of friendly relations between Japan and the ASEAN member countries;

Have agreed as follows:

Article I. ESTABLISHMENT

1. There shall be established a promotion centre on trade, investment and tourism known as the ASEAN Promotion Centre on Trade, Investment and Tourism (hereinafter referred to as "the Centre").
2. The Headquarters of the Centre shall be located in Tokyo.

Article II. PURPOSE

The purpose of the Centre is to promote exports from the ASEAN member countries to Japan, particularly semi-processed and manufactured products; to accelerate the inflow of investment from Japan to the ASEAN member countries including the transfer of skill and technology; and to vitalize tourist traffic from Japan to the ASEAN member countries through close cooperation between Japan and the ASEAN member countries.

¹ Came into force on 25 May 1981, the date on which Japan and all the ASEAN member countries had deposited instruments of ratification or acceptance, in accordance with article XXIII:

<i>State</i>	<i>Date of deposit of the instrument of ratification or acceptance (A)</i>
Indonesia.....	25 May 1981
Japan.....	25 May 1981 A
Malaysia.....	25 March 1981
Philippines.....	25 May 1981
Singapore.....	6 May 1981
Thailand.....	22 May 1981

Subsequently, on June 8, 1990, a Decision* by the Council of the Organization amended, in accordance with article XXI, the first paragraph of the Preamble by inserting the words "Brunei Darussalam" between the words "comprising" and "the Republic of Indonesia", so as to reflect its membership in ASEAN. Brunei Darussalam deposited its instrument of ratification of the above-mentioned Agreement as amended on the date indicated hereinafter, with effect from the date of the said deposit, in accordance with article XXIII:

<i>State</i>	<i>Date of deposit of the instrument of ratification</i>
Brunei Darussalam.....	8 June 1990

* See p. 61 of this volume.

Article III. ACTIVITIES

To achieve its purpose, the Centre shall undertake the following activities:

- (1) To introduce and publicize in Japan, products, industries and investment opportunities and tourism resources of the ASEAN member countries;
- (2) To manage the permanent ASEAN Trade, Investment and Tourism Exhibition Hall within the framework of the Centre;
- (3) To assist and advise, where appropriate, missions from and to the ASEAN member countries on trade, investment and tourism which will enhance the interest of the ASEAN member countries;
- (4) To serve as a channel for the meaningful exchange of information relevant to the enhancement of trade, investment and tourism of the ASEAN member countries including rules and regulations concerning market access, as well as to prepare and analyse data and information, and trends on markets;
- (5) To conduct researches and studies on trade, investment and tourism;
- (6) To provide Members and, as appropriate, related organizations and persons with information on trade, investment and tourism including those mentioned in subparagraph (4) above, as well as the results of researches and studies by the Centre;
- (7) To facilitate, whenever necessary, technical cooperation including transfer of technology related to trade, investment and tourism;
- (8) To maintain close cooperation in the fields of trade, investment and tourism with the Governments of the Members and relevant regional and international organizations; and
- (9) To undertake such other activities as may be deemed necessary to achieve the purpose of the Centre.

Article IV. MEMBERSHIP

Japan and the ASEAN member countries shall become Members of the Centre (referred to in this Agreement as "Member" or "Members") by becoming parties to this Agreement in accordance with Article XXII.

Article V. ORGANIZATION

The Centre shall have a Council, an Executive Board and a Secretariat.

Article VI. COUNCIL

1. The Council shall consist of Directors. Each Member shall appoint one Director who shall represent such Member on the Council.

2. The Council shall designate one of the Directors as Chairman. The Chairman shall hold office for a term of one year.

3. The Chairman and the Secretary General shall not be nationals of the same Member.

4. The Council shall be the supreme organ of the Centre and exercise, in addition to the powers and functions specified in other provisions of this Agreement, the powers and functions to:

- (1) Decide on the plan of operation and work programme concerning the operation of the Centre;
- (2) Approve the annual work programme and the annual budget of revenues and expenditures of the Centre within the framework of the plan of operation and work programme;
- (3) Approve the annual report on the operation of the Centre;
- (4) Appoint the Secretary General;
- (5) Assign special functions to the Chairman;
- (6) Determine the powers and functions to be entrusted to the Executive Board;
- (7) Approve the terms and conditions for appointment of the Secretary General;
- (8) Approve the acceptance of assistance referred to in Article X, paragraph 3;
- (9) Consider and adopt amendments to this Agreement in accordance with the provisions of Article XXI, paragraphs 1 and 2;
- (10) Decide on the disposal of the property and assets of the Centre in case of the dissolution of the Centre, and on any other matters connected with the dissolution;
- (11) Adopt its own rules of procedures; and
- (12) Decide on and/or approve other important matters concerning the Centre.

5. The Council shall hold an annual meeting and such other meetings as may be decided by the Council. The Council shall also hold a meeting whenever called by the Secretary General with the approval of the Chairman of the Council or at the request of a majority of the Directors.

6. All the decisions of the Council shall be made by consensus.

Article VII. EXECUTIVE BOARD

1. The Executive Board shall consist of representatives appointed by Members. Each Member shall appoint one representative.

2. The Executive Board shall elect its own Chairman.

3. In order to ensure an effective operation of the Centre, the Executive Board shall supervise the activities of the Secretariat so that the decisions of the Council are effectively implemented and shall exercise, in addition to the powers and functions specified in other provisions of this Agreement, such powers and functions as may be entrusted to it by the Council. The Executive Board may advise the Secretary General as it may deem necessary.

4. The Executive Board shall report to the Council.

5. The Executive Board shall meet regularly or at any time as may be necessary.

6. The Executive Board may establish, when necessary, *ad hoc* committees on matters in various fields which fall within the purview of its powers and functions.

7. All the decisions of the Executive Board shall be made by consensus.

Article VIII. SECRETARIAT

1. The Secretariat shall consist of a Secretary General and such staff as the Centre may require, who shall be nationals of Members.

2. The Secretary General shall represent the Centre as its chief executive and shall be responsible to the Council and the Executive Board.

3. The term of office of the Secretary General shall be three years and he may be reappointed. He shall, however, cease to hold office when the Council so decides.

4. The Secretary General shall, in addition to exercising the powers assigned to him expressly by this Agreement, execute the annual work programme and the annual budget and implement the decisions of the Council, under the supervision and advice of the Executive Board.

5. The Secretary General shall prepare, *inter alia*, the draft annual work programme, the annual budget estimates and the annual report, and present them for approval to the annual meeting of the Council.

6. The senior staff of the Secretariat shall be appointed by the Council on the recommendation of the Executive Board. The nomination for the senior staff shall be made by the Secretary General. Other personnel of the Secretariat shall be appointed by the Secretary General.

7. The terms and conditions of employment of the members of the senior staff and other personnel shall be set out in staff regulations approved by the Council.

Article IX. OFFICIAL LANGUAGE

The official language of the Centre shall be English.

Article X. FINANCE

1. Members shall contribute to the Centre, in accordance with the respective national laws and regulations, an agreed amount of money necessary for the operation of the Centre.

2. Except for the rent of the permanent ASEAN Trade, Investment and Tourism Exhibition Hall, which shall be [borne] by Japan, the annual budget of the Centre shall be met in the following proportion: Japan: 90 per cent, the ASEAN member countries: 10 per cent.

3. The Centre may, with the approval of the Council, accept assistance on a grant basis from non-Member countries and organizations.

Article XI. JURIDICAL PERSONALITY

The Centre shall possess juridical personality. It shall have the capacity:

- (1) To contract;
- (2) To acquire and dispose of movable and immovable property; and
- (3) To institute legal proceedings.

Article XII. PRIVILEGES AND IMMUNITIES

1. The Centre and the persons related to the activities of the Centre shall enjoy, in the territory of the country where the Headquarters of the Centre is located

(hereinafter referred to as “the Host Country”), privileges and immunities in accordance with the provisions of Article XIII to XIX.

2. (1) For the furtherance of the purpose of this Agreement, the Centre may conclude, with one or more Members other than the Host Country, agreements on privileges and immunities which shall be approved by the Council.

(2) Pending the conclusion of such agreements, Members shall grant, to the extent consistent with the respective national laws and regulations, such privileges and immunities as may be necessary for the proper operation of the Centre.

*Article XIII. PRIVILEGES AND IMMUNITIES ON PROPERTY,
FUNDS AND ASSETS*

1. The Centre, its property and assets shall enjoy immunity from proceedings in the courts except in so far as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall imply waiver of immunity in respect of the execution of judgement.

The provisions of this paragraph shall not apply in case of civil proceedings related to disputes arising out of contracts and out of damage caused by a vehicle.

2. The archives of the Centre and in general all official papers and documents belonging to it or held by it shall be inviolable. The private papers of the officials of the Secretariat shall be held in a place entirely separate from the place where the official papers and documents are held.

3. Without being restricted by financial controls, regulations or moratoria of any kind,

- (1) The Centre may hold funds or currency of any kind and operate accounts in any currency;
- (2) The Centre may freely transfer its funds or currency from or to the Host Country, or within the territory of the Host Country, and convert any currency held by it into any other currency.

4. In exercising the right as provided for in paragraph 3 above, the Centre shall comply with the formalities laid down in national laws of the Host Country and shall pay due regard to any representations made by the Host Country in so far as it is considered that effect can be given to such representations without detriment to the interests of the Centre.

5. The Centre, its assets, income and other property shall be:

- (1) Exempt from all direct taxes except those which are, in fact, no more than charges for public utility services;
- (2) Exempt from customs duties and from prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Centre for its official use; it is understood, however, that articles imported under such exemption shall not be sold in the Host Country except under conditions agreed upon with the Host Country;
- (3) Exempt from customs duties and prohibitions and restrictions on imports and exports in respect of the publications imported or exported by the Centre for its official use.

6. While the Centre will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the Centre is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, the Host Country shall, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

*Article XIV. DUTY-FREE ENTRY AND OTHER FACILITIES
TO PRODUCTS FOR PROMOTION*

The Host Country shall, in accordance with its relevant laws and regulations, give duty free entry and every facility and assistance in the import of goods and materials of the ASEAN member countries for promotional display and, where appropriate, for subsequent distribution of such goods and materials as free samples. The Host Country shall also, in accordance with its relevant laws and regulations, give every facility and assistance in the subsequent sales of such goods and materials.

Article XV. FACILITIES IN RESPECT OF COMMUNICATIONS

In respect of its official communications, the Centre shall, in the territory of the Host Country and in so far as may be compatible with any international conventions, regulations and arrangements to which the Host Country is a party, enjoy treatment not less favourable than that accorded by the Host Country to any other international organization, in the matter of priorities, rates and taxes for post and telecommunications.

*Article XVI. PRIVILEGES AND IMMUNITIES OF THE OFFICIALS
OF THE SECRETARIAT*

1. The officials of the Secretariat shall:
 - (1) Be exempt from taxation on the salaries and emoluments paid to them by the Centre;
 - (2) Be immune, together with their spouses and relatives dependent on them, from immigration restrictions, alien registration and national service obligations;
 - (3) Have the right to import free of duty furniture and effects for the use of themselves and their families at the time of first taking up their post at the Centre;
 - (4) Be accorded in respect of exchange facilities treatment not less favourable than that accorded to officials of comparable rank of any other international organizations.
2. The Host Country may not apply the provisions of paragraph 1 of this Article to officials who are nationals of or ordinarily resident in the Host Country.
3. Privileges and immunities are accorded to officials in the interests of the Centre only and not for their personal benefit. Consequently, the Executive Board, upon the recommendation by the Secretary General, has the right and duty to waive the immunity of any official in any case where, in its opinion, the immunity would impede realisation of justice and can be waived without prejudice to the interests of the Centre. The Council of the Centre has the right and duty to waive the immunity accorded to the Secretary General.

4. The officials of the Secretariat to which the provisions of this Article shall apply shall be the Secretary General, senior officials and other officials categories of which shall be determined by the Council. The Secretary General shall notify the Members of the names and addresses of those officials.

Article XVII. ENTRY FACILITIES

1. The Host Country shall facilitate the entry of the following persons into its territory where they are visiting on their official missions:

- (1) Directors and representatives of the other Members participating in the meetings prescribed in Articles VI and VII together with their spouses;
- (2) The Secretary General and other officials of the Secretariat together with their spouses and relatives dependent on them;
- (3) Other persons invited by the Centre.

2. The provisions of paragraph 1 above [do] not mean that the entrants mentioned in that paragraph are exempted from complying with national laws of the Host Country relating to entry matters.

Article XVIII. ABUSE OF PRIVILEGES

1. The Centre shall cooperate at all times with the appropriate authorities of the Host Country to prevent the occurrence of any abuse in connection with the privileges, immunities and facilities conferred by this Agreement.

2. If the Host Country considers that there has been an abuse of a privilege or immunity conferred by this Agreement, consultations shall be held between the Host Country and the Centre to determine whether any such abuse has occurred and, if so, to ensure that no repetition of such abuse occurs.

Article XIX. SETTLEMENT OF DISPUTES

The Centre shall make provisions for appropriate modes of settlement of:

- (1) Disputes of a private law character to which the Centre is a party other than those referred to in Article XIII, paragraph 1; and
- (2) Disputes involving any official of the Secretariat who enjoys immunity under the provisions of this Agreement, if immunity has not been waived in accordance with Article XVI, paragraph 3.

Article XX. WITHDRAWAL

1. Any Member may at any time withdraw from this Agreement by giving notice in writing to that effect to the Depository Authorities.

2. Upon receiving such a notice, the Depository Authorities shall inform the Members thereof.

3. The Member shall cease to be a party to this Agreement at the end of the fiscal year of the Centre in which such notification is made. Such withdrawal shall not affect the financial obligations of that Member outstanding at the time when its withdrawal takes effect.

Article XXI. AMENDMENTS

1. Any Member may propose amendments to this Agreement. A proposed amendment shall be communicated to the Secretary General who shall communicate it to the other Members at least six months in advance of the consideration by the Council.

2. Amendments to this Agreement shall come into force upon the adoption by the Council. However, the amendments involving following matters shall require subsequent acceptance by all Members before they come into force:

- (1) Fundamental alteration in the purpose or the functions of the Centre;
- (2) Change relating to the right to withdraw from this Agreement;
- (3) Introduction of new obligations for Members;
- (4) Change in the provisions regarding privileges and immunities of the Centre and the persons related to the activities of the Centre; and
- (5) Other matters determined by the Council as important.

3. Acceptance by the Members of amendments to this Agreement shall be effected by the deposit of instruments of acceptance with the Depository Authorities.

Article XXII. SIGNATURE, RATIFICATION AND ACCEPTANCE

1. This Agreement shall be open for signature by Japan and the ASEAN member countries. It shall be subject to ratification or acceptance by the Signatories.

2. Instruments of ratification and acceptance shall be deposited with the Government of Japan and the ASEAN Secretariat, which are hereby designated as Depository Authorities.

Article XIII. ENTRY INTO FORCE

This Agreement shall enter into force on the date on which Japan and all the ASEAN member countries have deposited instruments of ratification or acceptance.

Article XXIV. DURATION

This Agreement shall remain in force for five years, and thereafter may be extended for additional fixed periods by decision of the Council.

Article XXV. DEPOSIT

This Agreement shall be deposited with the Depository Authorities which shall send certified copies thereof to Japan and the ASEAN member countries.

IN WITNESS WHEREOF the undersigned representatives being duly authorized thereto, have signed the present Agreement.

DONE at Tokyo, in duplicate, in the English language, this twenty-second day of December, one thousand nine hundred and eighty.

For the Republic of Indonesia:

[SURYOHADIPROJO]¹

For Japan:

[MASAYOSHI ITO]

For Malaysia:

[JAMALUDDIN]

For the Republic of the Philippines:

[CARLOS J. VALDES]

For the Republic of Singapore:

[WEE KIM WEE]

For the Kingdom of Thailand:

[WICHIAN WATANAKUM]

For Brunei Darussalam:

[IDRISS]

¹ Names of signatories appearing between brackets were not legible and have been supplied by the Government of Japan.

AMENDMENT OF THE AGREEMENT ESTABLISHING THE ASEAN PROMOTION CENTRE ON TRADE, INVESTMENT AND TOURISM

DECISION

THE AMENDMENT OF THE AGREEMENT ESTABLISHING THE ASEAN PROMOTION CENTRE ON TRADE, INVESTMENT AND TOURISM (*Accession of Brunei Darussalam as a New Member*)

The Council,

Having considered the amendment of the Agreement Establishing the ASEAN Promotion Centre on Trade, Investment and Tourism (hereinafter referred to as “the Agreement”) proposed and communicated to all member countries in accordance with Article XXI of the Agreement,

1. Adopts on the date of June 8, 1990 the amendment to the Agreement to reflect the membership of Brunei Darussalam,¹ the text of which is given as follows:

“In the first paragraph of the preamble of the Agreement, the words “Brunei Darussalam,” [are] inserted between the words “comprising” and “the Republic of Indonesia”.

2. Resolves that the amendment shall immediately come into force upon the adoption by the Council because no subsequent acceptance by member countries is required under Article XXI of the Agreement.

¹ See footnote 1 on p. 52 of this volume.