

ASEAN Mutual Recognition Arrangement on Engineering Services Kuala Lumpur, 9 December 2005

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, Lao People's Democratic Republic, Malaysia, 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 Countries of the Association of South East Asian Nations (hereinafter collectively referred to as "ASEAN" or "ASEAN Member Countries" or singularly as "ASEAN Member Country");

RECOGNISING the objectives of the ASEAN Framework Agreement on Services (hereinafter referred to as "AFAS"), which are to enhance cooperation in services amongst ASEAN Member Countries in order to improve the efficiency and competitiveness, diversify production capacity and supply and distribution of services of their services suppliers within and outside ASEAN; to eliminate substantially restrictions to trade in services amongst ASEAN Member Countries; and to liberalise trade in services by expanding the depth and scope of liberalisation beyond those undertaken by ASEAN Member Countries under the General Agreement on Trade in Services (hereinafter referred to as "GATS") with the aim of realising free trade in services;

NOTING that Article V of AFAS provides that ASEAN Member Countries may recognise the education or experience obtained, requirements met, and license or certification granted in other ASEAN Member Countries, for the purpose of licensing or certification of service suppliers;

NOTING the decision of the Bali Concord II adopted at the Ninth ASEAN Summit held in 2003 calling for completion of Mutual Recognition Arrangements (hereinafter referred to as "MRAs" or singularly as "MRA") for qualifications in major professional services by 2008 to facilitate free movement of professionals/skilled labour/talents in ASEAN; and

DESIRING to provide a generic model MRA for Engineering Services in strengthening professional capabilities by promoting the flow of relevant information and exchanging expertise, experiences and best practices suited to specific needs of ASEAN Member Countries;

HAVE AGREED on this ASEAN Mutual Recognition Arrangement on Engineering Services (hereinafter referred to as "this Arrangement") as follows:

ARTICLE 1 OBJECTIVES

The objectives of this Arrangement are:

- 1.1 To facilitate mobility of engineering services professionals; and
- 1.2 To exchange information in order to promote adoption of best practices on standards and qualifications.

ARTICLE 2 DEFINITIONS

In this Arrangement, unless the context otherwise requires:

- 2.1 **Accreditation** refers to quality assurance of graduate engineers by national professional bodies.
- 2.2 **Assessment** or **Evaluation** refers to particular processes for reporting or comparison of achievement against criteria, standards, or a benchmark.
- 2.3 **Benchmark** refers to an agreed level by which others can be measured.
- 2.4 **Certification** refers to the issuance of a certificate or license to those who have met specified requirements for registration.

2.5 **Country of Origin** refers to the country where the Professional Engineer has an existing license to practise engineering.

2.6 **Criteria** or **Standards** refers to a specification of qualities required to be met.

2.7 **Engineering Services** refers to the activities covered under Central Product Classification (hereinafter referred to as “CPC”) Code 8672 of the Provisional CPC of the United Nations.

2.8 **Graduate Engineer** refers to a natural person who holds the nationality of an ASEAN Member Country and has satisfactorily completed a higher education engineering program that is assessed as meeting required criteria in a discipline of engineering determined by a recognised professional engineering body or state authority.

2.9 **Host Country** refers to the country where the ASEAN Chartered Professional Engineer (ACPE) applies to work, not in independent practice, but in collaboration with the local Professional Engineer, where appropriate, to practise Engineering.

2.10 **Professional Engineer** (also known as Practitioner) refers to a natural person who holds the nationality of an ASEAN Member Country and is assessed by a Professional Regulatory Authority (PRA) of any participating ASEAN Member Country as being technically, morally, and legally qualified to undertake independent professional engineering practice and is registered and licensed for such practice by the Authority. ASEAN Member Countries may have different nomenclatures and requirements for this term.

2.11 **Professional Regulatory Authority (PRA)** refers to the designated government body or its authorised agency in charge of regulating the practice of engineering services as listed in **APPENDIX I**. Any amendment to this list can be made administratively by the ASEAN Member Country concerned and notified by the Secretary-General of ASEAN to all ASEAN Member Countries. ASEAN Member Countries may have different nomenclatures for this term.

2.12 **Recognition** refers to acceptance by an authority of demonstration of compliance with requirements.

2.13 **Registered Foreign Professional Engineer (RFPE)** refers to an ASEAN Chartered Professional Engineer (ACPE) who has successfully applied to and is authorised by the Professional Regulatory Authority (PRA) of a Host Country to work, not in independent practice, but in collaboration with one or more Professional Engineer of the Host Country.

2.14 **Registration** refers to the process of placing on a Register those who meet specified requirements within a jurisdiction.

2.15 Words in the singular include the plural.

ARTICLE 3 RECOGNITION, QUALIFICATIONS, AND ELIGIBILITY

3.1 Qualifications to Become an ASEAN Chartered Professional Engineer (ACPE)

A Professional Engineer who possesses the following qualifications:

3.1.1 completed an accredited engineering degree recognised by the professional engineering accreditation body whether in the Country of Origin or Host Country or assessed and recognised as having the equivalent of such a degree;

3.1.2 possess a current and valid professional registration or licensing certificate to practice engineering in the Country of Origin issued either by the Professional Regulatory Authority (PRA) of the ASEAN Member Countries and in accordance with its policy on registration/licensing/certification of the practice of engineering or the Monitoring Committee pursuant to Article 4.2.2 and item 1.2 of **Appendix II** of this Arrangement;

3.1.3 acquired practical and diversified experience of not less than seven (7) years after graduation, at least two (2) years of which shall be in responsible charge of significant engineering work as stipulated in **Appendix IV, D - Example IV**;

3.1.4 in compliance with Continuing Professional Development (CPD) policy of the Country of Origin at a satisfactory level; and

3.1.5 obtained certification from the Professional Regulatory Authority (PRA) of the Country of Origin with no record of serious violation on technical, professional or ethical standards, local and international, for the practice of engineering is eligible to apply to the ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC) to be registered as an ASEAN Chartered Professional Engineer (ACPE) under the ASEAN Chartered Professional Engineers Register (ACPER).

3.2 ASEAN Chartered Professional Engineer (ACPE)

A Professional Engineer who possesses the above qualifications and complies with the Guidelines on Criteria and Procedures as per **Appendix II** and satisfies the Assessment Statement as per **Appendix III**, may, upon acceptance and payment of fees, be emplaced on the ASEAN Chartered Professional Engineers Register (ACPER) and accorded the title of ASEAN Chartered Professional Engineer (ACPE). An ASEAN Chartered Professional Engineer (ACPE) shall practise engineering only in the specific discipline or disciplines in which he/she has been adjudged to be competent under this Arrangement.

3.3 Eligibility of an ASEAN Chartered Professional Engineer (ACPE) to Practise in a Host Country

3.3.1 An ASEAN Chartered Professional Engineer (ACPE) shall be eligible to apply to the Professional Regulatory Authority (PRA) of a Host Country to be registered as a Registered Foreign Professional Engineer (RFPE). The applicant shall submit with his application a sworn undertaking to:

(a) be bound by local and international codes of professional conduct in accordance with the policy on ethics and conduct established and enforced by the Country of Origin;

(b) be bound by prevailing laws and regulations of the Host Country; and

(c) work in collaboration with local Professional Engineers in the Host Country subject to domestic laws and regulations of the Host Country governing the practice of engineering thereto.

3.3.2 Upon approval, the successful ASEAN Chartered Professional Engineer (ACPE) applicant shall, subject to domestic laws and regulations and where applicable, not making submissions to statutory authorities of the Host Country, be permitted to work as a Registered Foreign Professional Engineer (RFPE), not in independent practice, but in collaboration with designated Professional Engineers in the Host Country, within such area of his own competency as may be recognised and approved by the Professional Regulatory Authority (PRA) of the Host Country.

ARTICLE 4

PROFESSIONAL REGULATORY AUTHORITY, MONITORING COMMITTEE AND ASEAN CHARTERED PROFESSIONAL ENGINEER COORDINATING COMMITTEE

4.1 Professional Regulatory Authority (PRA)

The Professional Regulatory Authority (PRA) of each participating ASEAN Member Country shall be responsible for the following:

4.1.1 Consider applications from and authorise the ASEAN Chartered Professional Engineers (ACPEs) to work as Registered Foreign Professional Engineers (RFPEs), not in independent practice, but in collaboration with designated local Professional Engineers in the Host Country subject to the domestic laws and regulations and where applicable, not making submissions to statutory authorities of the Host Country as provided for by this Arrangement;

4.1.2 Monitor and assess the professional practice of the Registered Foreign Professional Engineers (RFPEs) and to ensure compliance with this Arrangement;

4.1.3 Report to relevant local and international bodies developments in the implementation of this Arrangement;

4.1.4 Maintain high standards of professional and ethical practice in engineering;

4.1.5 Notify the ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC) Secretariat (set up under Article 4.3.5) promptly in writing when a Registered Foreign Professional Engineer (RFPE) has contravened this Arrangement, or when a Professional Engineer who is also an ASEAN Chartered Professional Engineer (ACPE) is no longer qualified to undertake independent professional engineering practice in the Country of Origin, has not complied with Continuing Professional Development (CPD) policy of the Country of Origin at a satisfactory level, or has seriously violated technical, professional or ethical standards either in the Country of Origin or in the Host Country whereby such violations have led to deregistration or suspension from practice;

4.1.6 Prepare rules and regulations to enable the implementation of this Arrangement; and

4.1.7 Exchange information regarding laws, practices and prevailing developments in the practice of engineering within the region with the view to harmonisation in accordance with regional and/or international standards.

4.2 Monitoring Committee (MC)

4.2.1 A Monitoring Committee (MC) shall be established in and by each participating ASEAN Member Country to develop, process and maintain an ASEAN Chartered Professional Engineers Register (ACPER) in the Country of Origin.

4.2.2 The Monitoring Committee (MC) shall be recognised as competent by, and may exercise some functions on behalf of, the authorities responsible for the registration and licensing of professional engineers in the country concerned.

4.2.3 The Monitoring Committee (MC) shall also be recognised as an authorised body and shall be able to certify the qualification and experience of individual professional engineers directly or by reference to other competent bodies.

4.2.4 The specific responsibilities of the Monitoring Committee (MC) for the development and maintenance of the ASEAN Chartered Professional Engineers Register (ACPER) are given in the ensuing Articles 4.2.5 and 4.2.6 below and in **Appendices II, III and IV** to this Arrangement.

4.2.5 The Monitoring Committee (MC) of each participating ASEAN Member Countries seeking authorisation to initiate a Register for the purpose of the ASEAN Chartered Professional Engineers Register (ACPER) shall prepare a statement setting out the criteria and procedures for assessing compliance with the qualifications set out at Article 3.1 for Professional Engineer applicants. The statement shall be reviewed by the ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC). Guidelines on criteria and procedures and examples are set out in **Appendices II, III and IV**.

4.2.6 Each authorised Monitoring Committee (MC) shall further undertake to:

4.2.6.1 Ensure that all practitioners registered as ASEAN Chartered Professional Engineers (ACPEs) by the ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC) Secretariat comply fully with the requirements specified in this Arrangement, and that a substantial majority of these practitioners have demonstrated their compliance through the primary procedures and criteria as shown in **Appendices II, III and IV**;

4.2.6.2 Ensure that practitioners applying for registration as ASEAN Chartered Professional Engineers (ACPEs) are required to provide evidence that they have complied with the Continuing Professional Development (CPD) of the Country of Origin at a satisfactory level;

4.2.6.3 Ensure that practitioners registered by the ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC) Secretariat as ASEAN Chartered Professional Engineers (ACPEs) apply from time to time for renewal of their registration, and in so doing, provide evidence that they have complied with the Continuing Professional Development policy of the Country of Origin at a satisfactory level;

4.2.6.4 Ensure the implementation and execution of the changes agreed under Article 6.3 as directed by the ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC); and

4.2.6.5 Where Article 4.1.5 is applicable, withdraw and deregister the said ASEAN Chartered Professional Engineer (ACPE) from the ASEAN Chartered Professional Engineers Register (ACPER).

4.3 ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC)

4.3.1 The ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC) shall be established and shall have the authority to confer and withdraw the title of ASEAN Chartered Professional Engineer (ACPE). This authority may be delegated in writing from time to time by the ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC) to the authorised Monitoring Committee (MC) in each participating ASEAN Member Country. Members of the ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC) shall comprise of one appointed representative from each Monitoring Committee (MC) of the participating ASEAN Member Countries.

4.3.2 The functions of the ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC) shall include:

4.3.2.1 Facilitating the development and maintenance of authoritative and reliable Registers of ASEAN Chartered Professional Engineers (ACPER);

4.3.2.2 Promoting the acceptance of ASEAN Chartered Professional Engineers (ACPEs) in each participating ASEAN Member Country as possessing general technical and professional competence that is substantially equivalent to that of professional engineers registered or licensed in the Country of Origin;

4.3.2.3 Developing, monitoring, maintaining and promoting mutually acceptable standards and criteria for facilitating practice by ASEAN Chartered Professional Engineers (ACPEs) throughout the participating ASEAN Member Country;

4.3.2.4 Seeking to gain a greater understanding of existing barriers to such practice and to develop and promote strategies to help governments and licensing authorities reduce those barriers and manage their processes in an effective and non-discriminatory manner;

4.3.2.5 Through the mechanisms available within ASEAN, encouraging the relevant governments and licensing authorities to adopt and implement streamlined procedures for granting rights to practice to ASEAN Chartered Professional Engineers (ACPEs);

4.3.2.6 Identifying and encouraging the implementation of best practice for the preparation and assessment of engineers intending to practise at the professional level; and

4.3.2.7 Continuing mutual monitoring and information exchange by whatever means that are considered most appropriate, including but not limited to:

(a) regular communication and sharing of information concerning assessment procedures, criteria, systems, manuals, publications and lists of recognised practitioners;

(b) informing all Professional Regulatory Authorities (PRAs) when it has been notified that an ASEAN Chartered Professional Engineer (ACPE) is no longer qualified to undertake independent professional engineering practice in the Country of Origin, has not complied with the Continuing Professional Development (CPD) policy of the Country of Origin at a satisfactory level, or has seriously violated technical, professional or ethical standards either in the Country of Origin or the Host Country, whereby such violations have led to deregistration or suspension from practice or withdrawal from the ASEAN Chartered Professional Engineers Register (ACPER);

(c) verifying the operation of the procedures of participating ASEAN Member Countries; and

(d) observing the open meetings of any Professional Regulatory Authorities (PRAs) and/or commissions responsible for implementing key aspects of these procedures and relevant open meetings of the governing bodies of the participating ASEAN Member Countries.

4.3.3 The ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC) may, whenever it deems appropriate, invite the non-participating ASEAN Member Countries to attend as observers to its meetings.

4.3.4 The ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC) shall report its progress of work to ASEAN Coordinating Committee on Services (CCS).

4.3.5 The administration of the ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC) shall be facilitated by a Secretariat. The establishment and funding of the Secretariat shall be decided by the ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC).

4.3.6 General Meetings of the ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC) shall be held at least once in each two year period to deal with applications by Monitoring Committees seeking authorisation to initiate Registers and/or authorisation to review the Guidelines on Criteria and Procedures (**Appendix II**), Assessment Statement (**Appendix III**), **Appendix IV** and other related guidelines, procedures and documentation, and recommend any amendments to all the Professional Regulatory Authorities (PRAs).

ARTICLE 5 MUTUAL EXEMPTION

5.1. The participating ASEAN Member Countries recognise that any arrangement, which would confer exemption from further assessment by the Professional Regulatory Authority (PRA) that control the right to practise in each country, could be concluded only with the involvement and consent of the Professional Regulatory Authority (PRA) and the relevant government agencies;

5.2 The participating ASEAN Member Countries note that licensing or registering authorities have statutory responsibility for protecting the health, safety, environment, and welfare of the community within their jurisdictions, and may require Professional Engineers seeking the right to independent practice to submit themselves to some form of supplemental assessment;

5.3 The participating ASEAN Member Countries consider that the objectives of such assessment should be to provide the relevant authorities with a sufficient degree of confidence that the Professional Engineers concerned:

5.3.1 understand the general principles behind applicable codes of practice and laws;

5.3.2 have demonstrated a capacity to apply such principles safely and efficiently; and

5.3.3 are familiar with other special requirements operating within the Host Country.

ARTICLE 6 AMENDMENTS

6.1 Any ASEAN Member Country may request in writing any amendment to all or any part of this Arrangement.

6.2 Unless otherwise provided by this Arrangement, the provisions of this Arrangement may only be modified through amendments mutually agreed upon in writing by the Governments of all ASEAN Member Countries. Any such amendment agreed to shall be reduced in writing and shall form part of this Arrangement and shall come into force on such date as may be determined by all the ASEAN Member Countries.

6.3 Notwithstanding Article 6.2 above, the provisions in **Appendices II, III and IV** and other related guidelines, procedures and documentation may be modified through amendments mutually agreed upon in writing by all the Professional Regulatory Authorities of the participating ASEAN Member Countries, provided that the amendments shall not contradict or modify any of the provisions in the main text of this Arrangement. All approved changes shall be implemented by the ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC).

6.4 Any amendment agreed to under Article 6.3 shall be reduced in writing and shall form part of this Arrangement and shall come into force on such date as may be determined by the participating ASEAN Member Countries.

6.5 Any amendment shall not prejudice the rights and obligations arising from or based on this Arrangement prior or up to the date of such amendment.

6.6 In the event that any provision in Articles 1 to 8 is inconsistent with any provision in **Appendices II to IV**, the provision in Articles 1 to 8 shall take precedence.

**ARTICLE 7
DISPUTE SETTLEMENT**

The provisions of the ASEAN Protocol on Enhanced Dispute Settlement Mechanism, done at Vientiane, Lao PDR on the 29 November 2004, shall apply to disputes concerning the interpretation, implementation, and/or application of any of the provisions under this Arrangement.

**ARTICLE 8
FINAL PROVISIONS**

8.1 The terms and definitions and other provisions of the GATS and AFAS shall be referred to and shall apply to matters arising under this Arrangement for which no specific provision has been made herein.

8.2 This Arrangement shall enter into force on the date of signature by all ASEAN Member Countries.

8.3 After this Arrangement enters into force pursuant to Article 8.2, any ASEAN Member Country which wishes to participate in this Arrangement (referred to in this Arrangement as a "participating ASEAN Member Country") shall notify the ASEAN Secretary-General in writing of its effective date of participation, and the ASEAN Secretary-General shall thereafter notify the rest of the ASEAN Member Countries of the same.

8.4 Any participating ASEAN Member Country wishing to cease participation in this Arrangement shall notify the ASEAN Secretary-General in writing at least twelve months prior to the date of its effective date of non-participation, and the ASEAN Secretary-General shall thereafter notify the rest of the ASEAN Member Countries of the same.

8.5 This Arrangement shall be deposited with the ASEAN Secretary-General, who shall promptly furnish a certified copy thereof to each ASEAN Member Country.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective governments, have signed this ASEAN Mutual Recognition Arrangement on Engineering Services.

DONE at Kuala Lumpur, Malaysia, this Ninth Day of December in the Year Two Thousand and Five, in a single copy in the English Language.