

MEMORANDUM OF UNDERSTANDING

between

THE EUROPEAN COMMUNITY

and

THE SECRETARIAT OF THE
ASSOCIATION OF SOUTH-EAST ASIAN NATIONS

*EU-ASEAN Regional Economic Co-operation Programme
On standards, quality and conformity assessment*

MEMORANDUM OF UNDERSTANDING

The Commission **of the European Communities**, hereinafter referred to as "THE COMMISSION", acting for and on behalf of the European Community, hereinafter referred to as "THE COMMUNITY"

of the one part, and

the Secretariat of the Association of the South-East Asian Nations, hereinafter referred to as "THE ASEAN SECRETARIAT", acting for and on behalf of the Association of the South-East Asian Nations, hereinafter referred to as "THE ASSOCIATION"

of the other part,

HAVE AGREED AS FOLLOWS ,

The Programme referred to in Article 1 below shall be executed and financed out of the budget resources of THE COMMUNITY in accordance with the provisions set out in this Memorandum. The technical, legal, and administrative framework within which the Programme referred to in Article 1 below shall be implemented is set out in the General Conditions annexed hereto, as supplemented by the terms of the Technical and Administrative Provisions, which apply specifically to the Programme and prevail over the General Conditions in the event of conflict. Any reference in the General Conditions to the Project is meant to be to the Programme. The leading implementing organisation in ASEAN will be the ASEAN Consultative Committee for Standards and Quality.

ARTICLE 1 - NATURE AND SUBJECT

As part of its 1996 economic co-operation, THE COMMUNITY shall contribute, by way of grant, towards the financing of the following Programme :

Programme Number : ALA/96/24

Title : EU - ASEAN **Regional Economic Co-operation Programme on standards, quality and** conformity assessment

hereinafter referred to as "THE PROGRAMME".

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The commitment of THE COMMUNITY is fixed at 5 564 000 ecu (five million five hundred and sixty four thousand ecu), hereinafter referred to as "THE EC GRANT".

ARTICLE 3 - COMMITMENT OF THE ASSOCIATION

The public and private parties from THE ASSOCIATION involved in THE PROGRAMME will contribute with their share of at least 20% of THE PROGRAMME'S budget, according to the financing principles stated in the Technical and Administrative Provisions, in annex II.

ARTICLE 4 - ADDRESSES

Correspondence relating to the performance of this Memorandum, stating the PROGRAMME'S number and title, shall be addressed to the following:

for THE COMMUNITY :

Commission of the European Communities,
Directorate-General for External Relations, DG IB
Rue de la Loi 200,
B - 1049 Brussels, Belgium.

Telex: 21877 COMEU B
Facsimile: (32.2) 296.72.41

for THE ASSOCIATION:

The ASEAN Secretariat
70 A. Jl. Sisingamangaraja
Kebayoran Baru
Jakarta 12110, Indonesia

Tel: (6221) 7262991/7243372
Fax: (6221) 7243504/7398234

ARTICLE 5 - NUMBER OF COPIES

This Memorandum is drawn up in the English language in triplicate, two for THE COMMISSION and one for THE ASEAN SECRETARIAT, the three texts being equally authentic.

ARTICLE 6 - ENTRY INTO FORCE

This Memorandum shall enter into force on the date that it has been signed by both parties. The Annexes shall be deemed an integral part of this Memorandum.

This commitment is subject to an expiry date, after which any balance of funds remaining available under THE EC GRANT shall be automatically cancelled. THE COMMISSION may however, depending on the circumstances, agree to an appropriate extension of this expiry date.

For the present Programme, the expiry date of THE EC GRANT is hereby set at 31 December 2002 (Thirty-first December Two thousand and Two).

Done at

(date) 7 -12- 1998

Done at

(date) 31/12/1998

Annexes : General Conditions (Annex I)
Technical and Administrative Provisions (Annex II)

ANNEX I

GENERAL CONDITIONS

FOR THE IMPLEMENTATION OF OPERATIONS OF ECONOMIC CO-OPERATION

TITLE I **FINANCING OF PROGRAMME**

Article 1 **COMMITMENT OF THE COMMUNITY**

The commitment of the European Community shall determine the limit within which commitment and execution of payments shall be carried out, within the framework of duly approved contracts and estimates.

Article 2 **COMMITMENT OF THE ASSOCIATION**

Where programme execution depends on implementation of an ASEAN Nation involved in THE PROGRAMME, hereinafter referred to as "THE PARTNER NATION" or THE ASEAN SECRETARIAT, the support of the EC, in accordance with the provisions laid down in Annex II, shall be conditional upon performance of the obligations incumbent on either partner.

TITLE II **CONTRACTS**

Article 3 Contracts under EC financing, for activities agreed in the programme as per Annex II, shall be drawn up, negotiated and concluded by THE COMMISSION.

TITLE III **EXECUTION OF CONTRACTS**

Article 4 **ESTABLISHMENT AND RIGHT OF INSTALLATION**

Natural and legal persons taking part in contracts shall benefit, under all equal conditions, from a provisional right of residence and installation if the nature of the contract so justifies.

Facilities of EU experts assigned to THE PROGRAMME will be similar to those that are normally granted by THE PARTNER NATION to co-operation experts of the most-favoured nation or international organisation.

Article 5 **IMPORT AND RE-EXPORT OF EQUIPMENT**

1. THE PARTNER NATION shall grant the permits necessary for the importation of professional equipment required to execute THE PROGRAMME.
2. THE PARTNER NATION shall further grant natural and legal persons who have executed works, supplies or service contract the permit required to re-export the said equipment.

Article 6 **TAX AND CUSTOMS ARRANGEMENTS**

1. Taxes, customs and import duties shall be excluded from the financing of THE COMMUNITY
2. In the context of the co-operation, THE PARTNER NATIONS shall apply, to contracts financed by THE COMMUNITY, tax and customs arrangements no less favourable than those applied to the most-favoured State or most-favoured international organisation.

TITLE IV **COLLABORATION BETWEEN THE COMMISSION AND THE ASEAN SECRETARIAT**

Article 7 **FOLLOW UP OF EXECUTION**

THE COMMUNITY shall have the right to send its own agents or duly authorised representatives to carry out any technical or financial mission or audit that it considered necessary to follow the execution of THE PROGRAMME financed with the EC contribution. The modality of implementation and reporting throughout the period of the programme execution and after completion thereof will follow the provisions laid down in Annex II.

TITLE V **GENERAL AND FINAL PROVISIONS**

Article 8 **CONCILIATION**

1. Any matter relating to the implementation or interpretation of this Agreement shall give rise to consultation between THE ASEAN SECRETARIAT and THE COMMISSION. This procedure may, if necessary, lead to this Agreement being amended.
2. If any obligation under the Agreement is not met, THE COMMISSION may suspend financing after consulting THE ASEAN SECRETARIAT.
3. THE ASEAN SECRETARIAT may decide to withdraw wholly or partly from THE PROGRAMME after consulting THE COMMISSION.
4. Any decision taken by THE COMMISSION to suspend financing or by THE ASEAN SECRETARIAT to withdraw totally or partly from the programme shall be notified to all Parties in writing.

Article 9 **ARBITRATION**

Any dispute between THE COMMISSION and THE ASEAN SECRETARIAT, arising from the implementation of this Agreement which is not settled by common accord by the Parties in due time, shall be settled by arbitration, in accordance with the Permanent Court of Arbitration's Optional Rules for Arbitration involving International Organisations and States (La Haye)

ANNEX II

TECHNICAL AND ADMINISTRATIVE PROVISIONS

Programme partners : **Programme's participants in
the ASEAN region and the European Community**

Programme Title : **EU - ASEAN Regional Economic Co-operation Programme on
standards, quality and conformity assessment**

Programme Number : ALA/96/24

Technical and Administrative Provisions

Title:	EU/ASEAN regional economic co-operation programme on standards, quality and conformity assessment.
Countries:	ASEAN region
Reference:	ALA/96/24
Total Cost :	6.827 MECU
EC Contribution:	5.564 MECU
Type of financing:	Joint co-financing
Budget Line	B7-301

I. SUMMARY

The programme is designed to enhance commercial exchanges between the EU and ASEAN, and to facilitate further economic co-operation, by the adoption of compatible structures, standards and conformity assessment procedures. The proposed regional programme aims at assisting in the development of an ASEAN market with free movement of goods and open to international trade.

The regional programme is complemented by bilateral EC/ASEAN national programmes, aiming at the strengthening of the quality infrastructure in particular of the less developed ASEAN countries and at encouraging the exchange of good quality practices between economic sectors of the EU and ASEAN, contributing to the development of long term relations.

II. BACKGROUND

The EC started implementation of its first co-operation with ASEAN in the field of standards and conformity assessment in 1989, with ISQAP, the Industrial Standards and Quality Assurance Programme.

At the end of the programme, June 1994, an independent evaluation took place. It stressed the importance of a continued co-operation with ASEAN in this field and the utility of underlining the economic interest of such a co-operation in the future. The evaluation recommended to target more balanced relations, which take into account the ASEAN as well as the EU interests and to build stable relations between the public and private sectors of both regions.

The design and content of this second EC/ASEAN programme takes into account these considerations as well as the needs expressed by the interested parties (public and private sectors) of each of the ASEAN countries and of the European Union, which have been consulted for its preparation.

III. OBJECTIVES

The general objective of the economic co-operation programme is to enhance commercial exchanges between the EU and ASEAN, through standardisation, conformity assessment procedures and quality structures and practices.

The programme will contribute to the achievement of economic goals of mutual interest. It will be aimed at :

- assisting in the development of ASEAN regional quality structures and policies, compatibles with the EU ones;
- strengthening of National quality organisations and practices compatible with the EU ones and with the regional approach, paving the way towards Memoranda of Understanding between EU and ASEAN organisations;
- promoting an extended dialogue between interested economic sectors of the EU and ASEAN on quality best practices;
- creating stable and long term relations between institutions and private sector organisations of the EU and ASEAN.

IV PROGRAMME DESCRIPTION

IV.1 LOCATION, BENEFICIARY AND SCHEDULE

The programme will operate in the ASEAN Member Countries that are Parties to the "Co-operation Agreement between Member Countries of ASEAN and the European Community" and in the European Union. The beneficiaries are the programme's participants and partners in these two regions. The programme is planned to be implemented over a period of five years.

IV.2 PROGRAMME CONTENT

The major aim of the regional component is to assist in the development of an ASEAN market with free movement of goods and open to international trade. The proposed co-operation programme takes into account the ACCSQ (ASEAN Consultative Committee on Standards and Quality) Work Programme set for the period 1995-2003.

It will encourage greater understanding of EC approaches to regulation, standards and conformity assessment through an extended dialogue with the EU appropriate organisations by :

- assisting in the possible development of a Regional approach to accreditation and certification;
- transferring knowledge and understanding on European Global Approach;
- providing technical support for developing coherent testing and certification infrastructures throughout the region;
- enhancing understanding and facilitating convergence of technical regulations and standards;
- providing information and support for promoting quality based on successful EC models.

These achievements will be accomplished through an integrated series of activities such as study visits, exchanges and symposia, technical assistance, attachments and training.

IV.3 PROGRAMME CRITERIA

The programme criteria have been discussed with ASEAN representatives, the ACCSQ in particular and agreed upon. Proposed first year activities will be established through an inception phase at the start of the programme and regularly updated. Activities then suggested for programme work plans, will be in agreement with the following criteria aimed at enhancing economic relations between the EU and ASEAN :

- Encourage compatibility between infrastructures and practices of ASEAN and the EU;
- Link economic criteria into the work plan: activities must facilitate trade growth, investment and joint-ventures;
- Cover any one or more of the following technical fields : regulation, standardisation, conformity assessment, metrology, accreditation, industrial quality management, training and education;
- Maintain coherence between regional and national programmes' aims and activities;
- Emphasise lasting structures and institutional links with corresponding EU/ASEAN organisations, encouraging activities leading to Memoranda of Understanding;
- Target activities with visible impact on the quality of the lives of ASEAN citizens or on their economic progress;
- Relate activities to broader international obligations of both sides for trade liberalisation, in particular the WTO and TBT code;
- Select activities with provision for bench marking.

IV.4 INFORMATION DISSEMINATION

Ensuring effective information flow to relevant parties - both authorities and businessmen in ASEAN and in the EU - will be critical to the success of this programme. The in-depth analyses of the legislative frameworks would be disseminated in a similar way. In addition to encouraging as wide a participation as possible in the activities of the programme through pre-event publicity, broad distribution of the results among these groups should create a multiplier effect. Ongoing information activities would also include :

- regular newsletter
- press releases and conferences.
- co-ordination, whenever necessary, with EU member States' similar activities.

V BUDGET AND FINANCING

V.1. ESTIMATION OF PROGRAMME COSTS (in thousand ECU)

Regional programme		4 615
study visits	1 640	
technical assistance	2 200	
training	525	
information	250	
Contingencies		148
TOTAL REGIONAL ACTIVITIES		4 763
 Total Programme Administration (regional and national complementary programmes)		2 000
Regional component	512	
National components	1 488	
Contingencies		64
TOTAL Programme Administration		2 064
 GRAND TOTAL		6827

V.2. FINANCING

In the framework of the EC/ASEAN economic co-operation, the necessary activities to achieve the programme goals will be financed on a cost sharing basis. The estimated cost of the technical assistance for the regional co-operation programme is of 4 763 000 ECU. In addition, programme implementation may require capital investment in facilities upgrading or new equipment, making up for total programme budget.

The EC contribution of maximum 3 864 000 ECU or maximum of 80 % of total programme budget, can finance EU experts needed for the technical assistance and training, as well as a small contribution for essential equipment that might be needed in the training components.

ASEAN counterparts, either public or private, will contribute with at least 20% of total programme budget. This contribution can finance ASEAN experts and local travelling, operating costs, organisation of seminars and contracting of local facilities. As well, any ASEAN investment necessary for upgrading quality related infrastructures to bring them up to international standards. Contributions from ASEAN to the programme can also be made in-kind.

For study visits and training of ASEAN participants in Europe, travelling costs between the EU and ASEAN, can be financed by ASEAN counterparts. Travelling in Europe, a contribution to subsistence costs in the form of a flat rate and possible fares for the utilisation of facilities as well as training, can be financed by the EC.

Total programme management and administration of the regional and national components, include the operation of the decision making, operational and advisory units and committees in the EU and in ASEAN, necessary for an efficient programme implementation. This means the Programme Management Committees, the Programme Secretariat Unit, the Programme Management Units and the Programme Advisory Committees. The estimated total cost is 2 064 000 ECU, to which the EC will contribute with a maximum of 1 700 000 ECU or 80% of total costs. The EC contribution can finance EU staffing for the programme management structure in Europe and in ASEAN.

VI IMPLEMENTATION ARRANGEMENTS

The programme management structure is composed of the Consultative Committees for Standards and Quality and the Programme Management Committee. The structure is supported by the Programme Secretariat Unit, located in Europe the Programme Management Unit, located in ASEAN.

The main components of the management structure are:

- Programme Management Committees. There will be one regional PMC meeting every year, which will have the overall responsibility for ensuring that the respective programme objectives are met and work-plans

approved. The PMC will be composed of a representation of the EC, the European Advisory Committee, the ASEAN Secretariat, ACCSQ and a representation of the government of the country hosting the meeting. The programme co-directors and implementing agencies will take part in the meetings. As observers, the meeting may be attended by other EU and ASEAN regional MSTQ and industrial organisations. The meeting will be chaired by an EC representative;

- Programme Secretariat Unit. Located in Europe will be entrusted to a EU organisation or consortium selected through tender and will be managed by a European co-director. The PSU will be mainly responsible for preparing, in consultation with the PMU, work plans and terms of reference of the assistance to be provided by the programme as well as delivering and/or contracting the appropriate EU expertise. It will liaise with the appropriate European organisations at the supranational, national and local levels so as to facilitate long term relations with the ASEAN counterparts. It will liaise with the various EU interested parties in the programme and will ensure that the principle of mutual interest is followed in the day to day operation;
- Programme Management Unit. Located in ASEAN and managed by an ASEAN co-director, will be supported by the EU co-director. It will mainly co-ordinate activities in ASEAN, monitoring progress on the field. It will liaise with the ASEAN consultative committees which channel the requests from the various interested parties in the programme. It will contract local experts and facilities.

The Community disbursements for the implementation of the programme activities will be executed after verification of the conformity of the expenses with the needs established in the work programme and in accordance with the availability of annual budgetary appropriations.

VII. PROCUREMENT PROCEDURES

An EU organisation or consortium in charge of administering programme implementation, will be selected through EC tendering procedure. European expertise made available for programme implementation shall be contracted according to standard EC procedure.

Any equipment or services financed with the EC contribution will be procured by international tender, prudent shopping or direct agreement in accordance to EC rules (see attached tables) and programme specific requirements.

Table 1

SERVICE CONTRACTS CONCLUDED EXTERNALLY FOR A NON-MEMBER COUNTRY

Value of contract (x) (in ecus)	$x < 12\,000$	$12\,000 < x < 70\,000$	$70\,000 < x < 137\,000$ **
Eligibility	Community, recipient country	Community, recipient country	Community, recipient country
Procedure	Direct agreement	Principle: negotiated procedure Variant: framework contract if duration less than 6 months	Principle: restricted invitation to tender with publication in local press Variant: framework contract if duration less than 6 months
Number of firms consulted or invited to tender	1 or more	Principle: minimum 3 Variant: framework contract if duration less than 6 months	Principle: shortlist minimum of 5 firms. Variant: <i>framework</i> contract if duration less than 6 months
Approval of invitation to tender file	Contracting authority *	Contracting authority with agreement of delegation	Principle: IB-E/2
Assessment of tenders	Contracting authority	Contract award committee with agreement of delegation, as observer	Contract award committee with participation of delegation, as observer
Award decision	Contracting authority	Contracting authority with agreement of delegation	Delegation if contract to go to lowest bidder. Otherwise: IB-E/2
Contract	Contract signed by contracting authority	Contract signed by contracting authority Variant: contract signed by IB-E/2	Principle: contract signed by contracting authority Variant: contract signed by IB-E/2

* Delegations, project management units or recipients.

** ECU 137 000 or more: contract concluded by headquarters (see Annex III).