

Amendment N° 2

to the

MEMORANDUM OF UNDERSTANDING

between

THE EUROPEAN COMMUNITY

and

**THE SECRETARIAT OF THE ASSOCIATION
OF THE SOUTH-EAST ASIAN NATIONS**

The following provisions of the Memorandum of Understanding ASEAN/B7-301/1B/ALA/96/24 "EC-ASEAN Regional Economic Co-operation Programme on Standards, Quality and Conformity Assessment" concluded between the Community and THE ASEAN SECRETARIAT on 31 December 1998 and addendum number 1 signed on 1 November 2000 are hereby replaced as follows:

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,

Whereas:

The present agreement "Memorandum of Understanding between the European Community and the Secretariat of the Association of the South-East Asian Nations" forms part of a series of agreements concluded within the framework of the EC-ASEAN Economic Co-operation Programme on Standards, Quality and Conformity Assessment Programme (Ref ALA 96/24) namely:

- Memorandum of Understanding between the European Community and the Ministry of Industry of the Kingdom of Thailand concluded on 14 August 1998;
- Memorandum of Understanding between the European Community and the Department of trade and Industry of the Republic of the Philippines concluded on 12 February 1998;
- Financing Agreement between the European Community and the Republic of Indonesia concluded on 28 November 2000;
- Financing Agreement between the European, Community and the Singapore Productivity and Standards Board concluded on 04 September 2001.

The programme referred to in Article 1 of the Agreement shall be executed and financed out of the budget resources of THE COMMUNITY in accordance with the provisions set out in the Memorandum of Understanding and subsequent addenda. 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 implementing Agency will be the Centre Européen de Normalisation.

Have agreed as follows:

Article 1 – Nature and subject

As part of its economic co-operation activities, the Community shall contribute, by way of grant, towards the financing of the EU-ASEAN Regional Economic Co-operation Programme on Standards, quality and conformity assessment through the framework of the following agreement:

Programme number: ALA/96/24

Title: EU-ASEAN Economic Co-operation Programme on Standards, quality and conformity assessment in which the ASEAN Secretariat participates with other countries in the region

hereinafter referred to as ‘the programme’.

Article 2-Commitment of the Community

The commitment of THE COMMUNITY in respect to the total EC-ASEAN Economic Co-operation Programme on Standards, Quality and Conformity Assessment, to be shared among the different beneficiaries including the Association, is fixed at €9.000.000 (nine million Euro) to be shared among the different beneficiary countries including , herein after referred to as “THE EC GRANT”.

Article 5-Entry into Force

Paragraph 3 is hereby replaced in its entirety by:

“For the present programme, the expiry date of the EC grant is hereby set at 31 December 2006 (Thirty-first of December two thousand and six). The implementation period shall not extend beyond 31 December 2005 (Thirty first of December two thousand and five).”

Article 6 - Condition precedent to entry into force

The present amendment will not enter into force unless all amendments to the agreements listed in the preamble have been amended and signed in a form substantially identical to the present amendment and its annex II. The Commission will notify the ASEAN Secretariat of the date of the entry into force of the amendment to this agreement which will be the same date for all amendments herein referred to.

Annex II: Technical and Administrative Provisions

Annex II: Technical and Administrative Provisions, which forms an integral part of this agreement, is replaced in its entirety as shown in the revised annex II attached to this Addendum.

All other terms and conditions of the Financing Agreement [and its previous Addenda] remain unchanged.

Technical and Administrative Provisions

Beneficiary: ASEAN Countries eligible under (EC) Regulation 443/92

Title: EC-ASEAN Economic Co-operation Programme on
Standards, Quality and Conformity Assessment

Project No: ALA/96/24

1 OBJECTIVES

1.1 Overall Objectives

The overall objective is to enhance EC ASEAN commercial exchanges.

1.2 Project Purpose

The specific objectives are:

- To assist in the development of an ASEAN regional dimension and strategy to setting technical regulations, standards, metrology, accreditation and conformity assessment principles and practices in line with WTO policies and compatible with those of the EU
- To strengthen national institutions by improving organisational structures and procedures in key organisations, transferring know-how and consolidating relations between the EU and ASEAN institutions
- To promote quality and increase collaboration in standardisation, testing and metrology, conformity assessment and certification between EU and ASEAN private sectors

The programme will focus on certain industrial sectors which, within the context of EC-ASEAN and EC-ASEM dialogues, have been identified as priority areas, namely:

- Electronic equipment including electromagnetic compatibility (EMC), telecommunication equipment
- Food testing and labelling, Hazard Analysis Critical Control Points (HACCP)
- Services (tourism, telecommunications, finance)

1.3 Main Results

The envisaged results of the programme are:

- The transfer of knowledge and understanding on the European approach, including the New and Global Approach
- Establishment of national information gathering and dissemination mechanisms in the Technical Barriers to Trade (TBT) field, including reference to the transparency provisions of the TBT Agreement
- Enhanced convergence of technical regulations
- Development or strengthening of quality, metrology and conformity assessment infrastructures at national and regional levels
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1.4 Location

The programme will be implemented in ASEAN countries

A Co-ordination unit will be established in the offices of ASEAN secretariat in Jakarta.

1.5 Logical Framework

The initial Logical Framework for the programme is annexed as Attachment 2. This may be updated or adapted in the Overall Work Plan (to which it will then be annexed) without necessitating an amendment to the Financing Agreement.

2. PROJECT DESCRIPTION

The EC-ASEAN Work Plan, approved by the Joint Co-operation Committee in Bangkok in May 1999, reaffirmed the commitment of both sides to move forward to a co-operation consistent with ASEAN priorities to enhance its regional integration.

At the Joint Co-operation Committee meeting in September 2001 agreement was reached on the relaunch of the EC-ASEAN co-operation programme. Emphasis was placed on actions and policy dialogue and in particular where the EU experience in economic integration was of special interest. The standards and quality programme was recognised in the discussion and reaffirmed in the Trade Related Technical Assistance (TRTA) needs of the region.

The programme will contribute to on-going integration within ASEAN through:

- Encouraging the development of an ASEAN regional dimension and strategy to setting standards, metrology, accreditation and conformity assessment principles and practices
- Fostering the free movement of goods in an ASEAN internal market in key sectors

Programme Beneficiaries

The main beneficiary will be the ASEAN member countries, eligible under (EC) Regulation 443/92, through:

- The strengthening of their compliance with international technical regulations and standards and the WTO TBT agreement,
- Improved regional integration in the area of technical regulations, standards and conformity assessment,
- The development of regional technical regulations and standards for ASEAN products in key sectors.

Sustainability

The sustainability of the programme is attained through the successful improvement of the existing infrastructures and their attaining international quality levels. The programme is further enhanced through the reinforcement and establishment of a regional quality organisation and a forum for continued dialogue.

2.1 Activities

Regional activities

- Contributing to the establishment of a regional approach to standards and conformity is one of the crucial factors for the establishment of an ASEAN internal market and would lead to an increased trade flow between the EU and ASEAN countries
- Strengthening of regional quality organisations particularly for standardisation, conformity assessment, accreditation and metrology, in complement to the work of the ACCSQ

National activities

- At the end of the programme each country should be capable of developing a national policy regarding technical regulation and the role of standards and conformity assessment and also be able to contribute actively to the development of regional policies in these areas

2.2 Inputs

- **Financial Resources** to carry out the Programme will amount to €9,000,000, all of which will be the EC contribution whilst ASEAN and their member countries will provide additional contribution in kind equivalent to €1,700,000
- **An EU Technical Assistance team** for design planning, monitoring and reporting on project components, and for the general management of the project. The team will consist of a Team Leader and a Financial and Administrative Officer of the entire period of the programme (36 months) based in CEN. One senior expert and one junior expert fulfilling the coordination functions shall be based in ASEAN Secretariat for the entire period of the project (36 months). A maximum of 336 person-months of unallocated short-term expertise are also foreseen for other specialists as required

2.3 Time schedule

The programme will be implemented over a period of 36 months, starting from the commencement date of the service contract for EC Technical Assistance with the executing agency (CEN)

Pursuant to article 36(2) of the Financial Regulation of 21 December 1977, all individual legal commitments to be made for the implementation of the Project will have to be concluded no later than 30 June 2004

2.4 Project Costs and Financing

The total cost of the Project is estimated at 10,700,000 Euro, of which the EC contribution is 9,000,000 Euro. The stakeholders will provide in-kind contributions to the counter-value of 1,700,000 Euro. The table below summarises the project budget:

Category Breakdown	EC	ASEAN + Participating countries	Total
<u>1. Services</u>	<u>8,700,000</u>		<u>8,700,000</u>
1.1 European TA	4,100,000		4,000,000
1.2 Training ¹	4,500,000		4,500,000
1.3 Monitoring, evaluation and auditing	100,000		100,000
<u>2. Information and visibility</u>	<u>100,000</u>	<u>100,000</u>	<u>200,000</u>
<u>3. Operating Costs</u>		<u>1,600,000</u>	<u>1,600,000</u>
3.1 Local personnel		300,000	300,000
3.2 Other costs (secretariat running costs, local transport, study visits to EU, communications, office supplies)		1,300,000	1,300,000
<u>4. Contingencies</u>	<u>200,000</u>		<u>200,000</u>
TOTAL	<u>9,000,000</u>	<u>1,700,000</u>	<u>10,700,000</u>

- Contingencies can only be used after written agreement of the Commission.
- The breakdown of the budget may be adjusted according to needs, subject to prior written agreement between the European Commission, on the one hand, ASEAN secretariat and those countries with a current valid signed memorandum of understanding, who have signed up for this programme

¹ This also includes travelling of ASEAN experts in ASEAN and Europe for training (travel costs and per diems).

- The Commission contribution shall be managed directly by the European Commission.
- The heading "Local personnel" covers ASEAN seconded support staff (e.g. secretaries, accountant, drivers, etc.).

2.5 Contributions Details

The ASEAN Secretariat and participating countries contributions will cover the provision of a Secretariat staff involved in the programme and the cost of facilities required for training seminars and workshops.

The ASEAN Secretariat and participating countries will cover all costs related to the participation of officials in meetings, workshops, travel costs for visits abroad² and other events as part of the normal functioning of the public services³.

The ASEAN Secretariat will cover all the salaries and all the operational costs related to the participation of their staff in the Project, as well as appropriate office facilities, including furniture, electricity and communication lines free of charge for EU experts.

In general, the ASEAN Secretariat and participating countries will cover any Project-related operating costs not included in the EC contribution.

In the cases where EC and the ASEAN Secretariat and participating countries are both providing financial contributions to the same activity category, the specific actions to be covered by each party will be clearly identified in the Annual Work plan and Budget concerned.

The ASEAN Secretariat and participating countries will be responsible for facilitating constructive and effective co-operation of the concerned Ministries and other public authorities.

No equipment is foreseen to be purchased by the project, as any procurement shall be conducted by ASEAN and those participating countries from their own resources outside the scope of this project

2.6 Reallocation of EC Funds

Any reallocation of the funding provisions within the Project budget, that might become necessary to take account of the relative progress and achievements of the different components, shall be proposed by the Executing Authority for the agreement of the Project Steering Committee (PSC) and the Commission in the annual revisions of the project Work Plan.

2.7 Implementation

The Executing Authority for the Project is The European Committee for Standardisation (CEN)

² Outside the ASEAN region, e.g., to the European Union.

³ For activities falling outside the scope of the normal functioning of the public services, financing from the EC contribution may be considered.

The ASEAN Consultative Committee on Standards and Quality (ACCSQ) shall perform the functional role of the PSC. ACCSQ will act as and be the main conduit for the channelling of requests from the national counterparts within ASEAN (who have a current valid memorandum of understanding) so as to ensure compatibility with the regional aspects of this programme. The PSC will review and approve the overall and annual work plans and all associated reports before these are submitted to the EC for approval. EC representatives will be invited to the PSC meeting as Observers with the right to speak. The European and ASEAN co-ordinators will constitute the Secretariat of the PSC.

The PSC will meet at least twice a year, or as often as deemed necessary for successful implementation, and will assist the Executing Authority in furthering their contacts with the participating countries. The PSC will review the reports, as well as the policy and strategic implications of Project Work Plans and budgets drafted by the Executing Authority before they are sent to the Commission for approval. The PSC will also assist in facilitating overall Project implementation.

Within the framework of the Overall and Annual Work Plans and disbursement schedules approved by the PSC and by the Commission, CEN will have operational autonomy to cover the technical, administrative, financial and human resources aspects related to the Project co-ordination, implementation and management. CEN will be responsible to the PSC and the Commission for delivering the Project results and for using resources made available to the Project, irrespective of their nature (human, technical or financial) or their origin.

CEN will, in particular, undertake the following tasks:

- prepare the Initial Plan of Activities (IPA), the Overall Work Plan and Budget (OWP), and the Annual Work Plans and Budgets (AWP) for the approval of the PSC and the Commission;
- ensure the management of the financial, personnel and administrative affairs;
- execute the activities as approved by the Executing Authority and by the Commission in accordance with EC procedures;
- assist and support the implementing staff and beneficiaries with technical and planning know-how
- ensure that Project activities are well co-ordinated and that necessary pre-conditions are met concerning post-project ownership, operation, maintenance and sustainability;
- prepare standardised six-monthly progress reports to monitor all technical, financial and administrative aspects on the utilisation and impact of all resources made available to the Project;
- prepare and attach to the final year AWP a proposed blueprint for the phasing out of Project activities and preparation for the post-project situation,
- Inform the Executing Authority and the Commission of any event that might jeopardise the success of the Project.

CEN will work under terms of reference agreed by both the ASEAN secretariat and the participating countries and the Commission.

2.8 Donor Co-ordination

In order to preserve the necessary coherence between the activities of the present Project and those activities undertaken by other donors in the sector, regular meetings will take place with all interested parties. These are to ensure an open exchange of information, to avoid overlapping of activities and/or financing and to incorporate the lessons learnt by these other actors into the work of the Project.

2.9 Planning and reporting

Work plans and reports to be submitted by CEN shall conform to the EC standard format and include at least:

- an Initial Plan of Activities (IPA), including activities to be undertaken in the inception phase, to be submitted within one month of arrival of the European experts recruited for the co-ordination role in Jakarta.
- the Overall Work Plan and Budget (OWP) as well as the first Annual Work Plan and Budget (AWP) to be submitted within three months of start date of the contract with CEN
- a Project Progress Monitoring Plan, including objectively verifiable indicators, to be submitted together with the OWP,
- successive Annual Work Plans and Budgets (AWP),
- six-monthly technical and financial progress reports,
- any special reports related to priority issues,
- A final Project completion report.

Any deviation in the AWP from the OWP has to be clearly presented and justified. If approved, it initiates automatically a procedure for the approval of a revised OWP prior to the approval of the AWP and its start up.

Except for the initial activities indicated in the approved IPA, expenditure can only take place in strict compliance with an approved AWP and in conformity with the OWP.

2.10 Monitoring and Evaluation

CEN shall be responsible for day-to-day technical and financial monitoring on a continuous process.

Independent consultants recruited directly by the Commission on specially established terms of reference will implement the external monitoring and evaluation. These evaluations shall be conducted at the end of the first and second year. A final evaluation shall take place within six months of the completion of the implementation period.

The Project shall, in accordance with EC procurement guidelines, appoint a reputable chartered accountant whose role shall include monitoring the Project's expenditure and annual auditing of the Project accounts for submission to the European Commission at the end of each financial year.

2.11 Financial Management

The EC disbursements to the Executing Authority for the implementation of the present Project 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.

- CEN shall establish for this sole purpose two appropriate interest bearing bank accounts, one in Belgium, one in Euro denominated as the 'Euro Savings Account' and one in Jakarta, denominated as the "Local Currency Account
- The Commission shall, on the basis of the agreed Overall and first year Work Plans and budgets, make a further advance of up to 80 % of the estimated expenditure of CEN for the operational aspects (The technical assistance costs disbursements are subject to the conditions of the service contract entered into between the EC and CEN) during the first year of implementation, decreased by the amounts already transferred;
- For the second and subsequent years of implementation, the outstanding advance of the preceding year shall be adjusted to reflect the agreed estimates of expenditure for the current year. This adjustment will be effected by providing a supplementary advance, or by decreasing subsequent payment instalments made in respect of the reimbursement request during that current year;
- Disbursement from the CEN accounts shall be in line with requirements of the Project and the agreed plan on implementation and estimates.
- All expenses of the Project covered by the EC grant will be supported by records such as bills, receipts and bank statements. Such documents as well as the book accounting and the inventory logbook shall be kept for at least five years from the last payment. The Project's bookkeeping will be in accordance with the double-entry system and shall include the registration of each receipt and each expense. The accounting results of these books must appear in a general book of the Project, including the interest accounting. Even if the national legislation does not foresee it, the Commission may request the application of minimum criteria of analytical accounting, according to the nature and the needs of the Project;
- CEN shall prepare expenditure reports on a regular basis, these reports shall be submitted for inspection to a qualified firm of auditors to be hired by the Project for this purpose. Once certified by the auditors as being in conformity with Project progress and the agreed Work Plan estimates, these reports shall be the basis of requests by the Executing Authority to the Commission for the transfer of additional funds.
- In case of urgency, duly justified by CEN, the Commission may be requested to make a temporary partial reimbursement on the basis of a non-audited request. Any such temporary reimbursement will be recovered from subsequent audited requests;
- Interest generated by the bank accounts will be accounted separately and utilisation will require prior written authorisation from the Commission;
- All funds in the Project accounts, including any interest generated thereon, shall remain the property of the Commission. Any unused balances remaining available on the termination of the Project shall revert to the Commission.

2.12 Procurement Procedures

Contracts for services, works and supplies may be awarded throughout the Project implementation period. The contracts for services, works and supplies shall be concluded in accordance with the contract award procedures laid down in the "Manual of Instructions for

contracts concluded for the purpose of Community co-operation with third countries" (adopted by the Commission on 10 November 1999).

2.13 Visibility

Public relations and awareness raising will be designed to increase the visibility, and thus the effectiveness, of the Project. They will also serve to give European Commission co-operation maximum visibility.

Particular attention will be given to the promotion of the Project at exhibitions, conferences and similar events, as well as in all public and official written material connected with the Project. All such activities shall be conducted in close collaboration with the Commission Delegation to each of the participating countries. All equipment and documentation connected with the Project shall carry the European Community flag.

3. SPECIAL CONDITIONS

- Equipment and vehicles shall be provided by ASEAN and the participating countries as part of their contribution
- ASEAN and the participating countries will appoint and assign, prior to Project commencement and at an appropriate professional level, the counterpart staff required for the implementation of the project. The ASEAN and the participating countries are also committed to maintaining line staff in their posts where the Project has invested training and other resources in them.
- ASEAN and the participating countries will invite the EC to take part in meetings with the Government and other international donors, which focus on the co-ordination of programmes being implemented in standards and quality certification.
- ASEAN and the participating countries will grant to the EU staff of the Project - and to their families - benefits, privileges and exemptions which are no less favourable than those granted to expatriates under other bilateral or multilateral agreements or arrangements for technical co-operation.
- No equipment is foreseen to be purchased by the project as any procurement shall be conducted by ASEAN and those participating countries from their own resources outside the scope of this project
- The Community contribution can only benefit those countries eligible under (EC) Regulation 443/92.

LOGICAL FRAMEWORK

	Intervention logic	Objectively verifiable indicators of achievement	Sources and means of verification	Assumptions
Overall Objectives	Enhance EU-ASEAN commercial exchanges	- Growth in Trade - Growth in investment - Fewer WTO complaints referring to TBT's	- EUROSTAT and official trade statistics of participating countries - WTO monitoring	- Continuity in world trade trends - Continued economic growth in ASEAN - Political and financial stability
Project Purpose	To encourage the adoption by ASEAN of EU/international compatible standards, conformity assessment procedures, quality structures and practices	Adoption of co-operation agreements between EU and ASEAN quality organisations at national and regional level	- Perception of EU-ASEAN business - Survey of EU and ASEAN standards organisation - Evaluation assessments	- Asian-Pacific stronger market appeal reducing interest and resources for EU-ASEAN co-operation - Effective programme promotion within EU and ASEAN
Expected results	Development of Regional quality structures and policies compatible with EU/International standards	- Regional ASEAN harmonised quality policies mirroring international and EU - Strengthening of the regional committees	- Survey of published regulations and standards - Statistics from quality and standards organisations	- ASEAN political will to proceed with regional quality structures, policies and practices - Lack of sufficient resources from partner organisations in EU and ASEAN
	- Strengthening of existing national quality organisations and practices for coherence with the regional approach - Extended dialogue between interested EU-ASEAN industrial and economic sectors on best practices - Creation of stable long term relations between institutions	- Compatible standards and assessment procedures - Quality practices based upon successful models - Production of new regulations and standards coherent with international and EU standards - Strengthening of existing conformity assessment institutions to attain internationally accepted levels	- Assessment by PMU - Monitoring of reports - Evaluation	- Capacity of some lesser developed ASEAN countries to absorb the TA - Poor dissemination of programme and results

	and private sector organisations	• Development of EU-ASEAN co-operation schemes between sectors • Twinning between EU-ASEAN economic and industrial sectors • Co-operation agreements between EU-ASEAN quality organisations, at sector and industry level		
Activities	• Visits and technical assistance at regional and national level in the fields of (1) quality promotion, (2) technical regulations and standards, (3) laboratory testing, metrology and calibration (4) product and quality systems certification (5) Conformity assessment and accreditation	Means: • Overall work plan • Detailed annual work plans • Regular reports of PSC • Regular reports of CEN	• Programme reporting and attainment of the objectives in the overall and yearly work plans • Regular quarterly reports • Reports of the PSC	• The development of the regional coherence is inhibited by lack of resources and will at national level