



**MEMORANDUM OF UNDERSTANDING BETWEEN
THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS
AND THE PEOPLE'S REPUBLIC OF CHINA
ON COOPERATION IN INFORMATION AND
COMMUNICATIONS TECHNOLOGY**

The Association of Southeast Asian Nations (ASEAN) as one "Party", (hereinafter referred to collectively as "ASEAN" or "ASEAN Member Countries", or individually as "ASEAN Member Country") and the People's Republic of China as the other "Party" (hereinafter referred to as "the Parties" or individually as "a Party");

RECALLING China's initiative to enhance Information and Communications Technology (ICT) cooperation and to facilitate the fulfillment of the e-ASEAN Initiative;

MINDFUL of the Manila Declaration 2002 signed in Manila at the ASEAN Telecommunication Ministerial Meeting (TELMIN) on 28 August 2002 and the e-ASEAN Framework Agreement signed by ASEAN Heads of Governments/States in Singapore, on 24 November 2000;

REALIZING the vast potential for cooperation between the Parties in the ICT sector;

RECOGNIZING that cooperation based on equity, friendship and mutual benefit meets the ICT development requirements of the Parties;

DESIRING to further promote the close and friendly relations between China and the ASEAN Member Countries in the ICT sector;

IN THE SPIRIT of building solid foundations for medium and long-term partnership in the ICT sector;

HAVE AGREED on the following understanding:

Article I

Objective

The Parties will enhance cooperation and exchanges in ICT in accordance with their respective domestic laws, regulations, policies, administrative guidelines and procedures in their respective territories.

Article II

Areas of Cooperation

The Parties have identified the following fields of common interest for mid-and long-term cooperation:

1. Human Resource Development

China will utilize its domestic training bases to provide training for personnel of ASEAN Member Countries. The Parties will cooperate in developing mutual recognition arrangements (MRAs) for ICT Skills Certification.

2. Information Infrastructure Development

China will actively assist and facilitate the construction and development of information infrastructure such as fixed/mobile communications networks, multimedia applications and Internet in ASEAN Member Countries.

3. Technology Development

The Parties will cooperate in ICT research and development projects that are mutually beneficial, including strengthening centers of excellence, transfer of technology and exchange of researchers.

4. ICT Application Development

The Parties will encourage their private sector enterprises to actively participate in the development of ICT application systems for governments and businesses.

5. Compatibility, Integrity, and Security of ICT Systems

The Parties will cooperate in fields that enhance the compatibility, integrity, and security of ICT systems, including mutual recognition arrangements (MRAs) of telecommunications equipment, harmonization and compatibility of data exchange standards, cyber crime prevention and data protection.

6. e-ASEAN Projects Implementation

The Parties will work towards accelerating the implementation of e-ASEAN work programmes, e-ASEAN pilot projects and the Initiative for ASEAN Integration in ICT sector projects that have been endorsed by ASEAN. The work programmes may include the ASEAN Information Infrastructure; e-Commerce, Capacity Building and e-Society; Facilitation and Liberalization of ICT Products, Services and Investments; and e-Government.

7. Exchange of Information

The Parties will cooperate to make available information and best practices on ICT-related laws, policies, regulations, administrative guidelines and procedures, and e-readiness assessment.

8. ASEAN-China ICT Seminar

The Parties will hold annually or as often as required an ASEAN-China Seminar on ICT.

9. Other Fields of Cooperation in ICT

The Parties will cooperate in other fields of ICT as mutually agreed.

Article III

Implementation

1. *The Parties agree to designate ASEAN Ministries of Information and Communications Technology and the Ministry of Information Industry of China as their respective contact agencies that are responsible for co-ordinating the identification, implementation and supervision of cooperation projects.*

2. *The Parties agree that project formulation, implementation, monitoring and evaluation will be carried out through the ASEAN Plus China cooperation mechanism.*

Article IV

Financial Arrangements

The activities mentioned in this Memorandum of Understanding shall be conducted subject to the availability of funds and personnel of the Parties.

Article V

Protection of Intellectual Property Rights

1. *The protection of intellectual property rights within the jurisdiction of each Party will be enforced in conformity with its domestic laws, regulations, administrative policies, guidelines and procedures and also with the International agreements to which both China and the individual ASEAN Member Country concerned are parties.*

2. *The usage of a Party's name, logo and/or official emblem on any publication, document and / or paper is prohibited without its prior written approval.*

3. *Notwithstanding anything contained in this Article, a Party shall own the intellectual property rights in respect of any*

technology, products and services development, which were solely and separately developed by that Party.

Article VI

Confidentiality

1. A Party shall not disclose or distribute to any third party any confidential information, document, data received from or supplied to each of the other Parties in the course of the implementation of this Memorandum of Understanding except to the extent as authorized in writing to do so by the Party giving or supplying the information, document or data, as the case may be.

2. In the event of termination of this Memorandum of Understanding, the Parties agree that the provisions of this Article shall continue to apply.

Article VII

Revision, Amendment and Modification

1. The Parties may revise, amend or modify all or part of the Memorandum of Understanding by mutual consent in writing. Such revision, amendment or modification, if mutually agreed upon, will come into force on such date as determined and shall not have retroactive effect.

2. Any revision, amendment or modification shall be done without prejudice to the rights and obligations arising from or based on this Memorandum of Understanding prior or up to the date of such revision, amendment or modification.

Article VIII

Suspension

Each Party reserves the right, for reasons of national security, public order or public health, to suspend temporarily, either in whole or

in part, the implementation of the Memorandum of Understanding, of which suspension shall be effective after notification has been given to the other Party through diplomatic channels.

Article IX

Settlement of Dispute

In the event of any dispute or difference arising out of the interpretation or implementation or application of the provisions of this Memorandum of Understanding, the Parties shall settle it amicably through consultation or negotiation through diplomatic channels without reference to any third party or any International tribunal.

Article X

Entry Into Force, Duration and Termination

1. This Memorandum of Understanding shall enter into force on the date of its signing and shall remain in force for a period of four (4) years unless either Party notifies the other Party in writing of its intention to terminate this Memorandum of Understanding. Thereafter, it may be extended for additional periods subject to availability of funds and agreement of the Parties, such agreement to be evidenced by way of exchange of letters.

2. The termination of this Memorandum of Understanding shall not affect the implementation of ongoing activities/programmes which have been agreed upon prior to the date of the termination of this Memorandum of Understanding.

3. For ASEAN, this Memorandum of Understanding shall be deposited with ASEAN Secretary General who shall promptly circulate certified copies thereof to all Members Countries of ASEAN.

IN WITNESS WHEREOF the undersigned, duly authorized thereto by the respective Governments of the ASEAN Member Countries and the People's Republic of China, have signed this Memorandum of Understanding.

SIGNED on the Eighth Day of October in the year Two Thousand and Three in Bali, Indonesia, in duplicate in the English language.

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