

ASEAN AGREEMENT ON TRANSBOUNDARY HAZE POLLUTION

The Parties to this Agreement,

REAFFIRMING the commitment to the aims and purposes of the Association of Southeast Asian Nations (ASEAN) as set forth in the Bangkok Declaration of 8 August 1967, in particular to promote regional co-operation in Southeast Asia in the spirit of equality and partnership and thereby contribute towards peace, progress and prosperity in the region,

RECALLING the Kuala Lumpur Accord on Environment and Development which was adopted by the ASEAN Ministers of Environment on 19 June 1990 which calls for, inter alia, efforts leading towards the harmonisation of transboundary pollution prevention and abatement practices,

RECALLING ALSO the adoption of the 1995 ASEAN Co-operation Plan on Transboundary Pollution, which specifically addressed transboundary atmospheric pollution and called for, inter alia, establishing procedures and mechanisms for co-operation among ASEAN Member States in the prevention and mitigation of land and/or forest fires and haze,

DETERMINED to give effect to the 1997 Regional Haze Action Plan and to the Hanoi Plan of Action which call for fully implementing the 1995 ASEAN Cooperation Plan on Transboundary Pollution, with particular emphasis on the Regional Haze Action Plan by the year 2001,

RECOGNISING the existence of possible adverse effects of transboundary haze pollution,

CONCERNED that a rise in the level of emissions of air pollutants within the region as forecast may increase such adverse effects,

RECOGNISING the need to study the root causes and the implications of the transboundary haze pollution and the need to seek solutions for the problems identified,

AFFIRMING their willingness to further strengthen international cooperation to develop national policies for preventing and monitoring transboundary haze pollution,

AFFIRMING ALSO their willingness to co-ordinate national action for preventing and monitoring transboundary haze pollution through exchange of information, consultation, research and monitoring,

DESIRING to undertake individual and joint action to assess the origin, causes, nature and extent of land and/or forest fires and the resulting haze, to prevent and control the sources of such land and/or forest fires and the resulting haze by applying environmentally sound policies, practices and technologies and to strengthen national and regional

capabilities and cooperation in assessment, prevention, mitigation and management of land and/or forest fires and the resulting haze,

CONVINCED that an essential means to achieve such collective action is the conclusion and effective implementation of an Agreement,

Have agreed as follows:

PART I. GENERAL PROVISIONS

ARTICLE 1 USE OF TERMS

For the purposes of this Agreement:

1."Assisting Party" means a State, international organisation, any other entity or person that offer and/or render assistance to a Requesting Party or a Receiving Party in the event of land and/or forest fires or haze pollution.

2."Competent authorities" means one or more entities designated and authorised by each Party to act on its behalf in the implementation of this Agreement.

3."Controlled burning" means any fire, combustion or smouldering that occurs in the open air, which is controlled by national laws, rules, regulations or guidelines and does not cause fire outbreaks and transboundary haze pollution.

4."Fire prone areas" means areas defined by the national authorities as areas where fires are most likely to occur or have a higher tendency to occur.

5."Focal point" means an entity designated and authorised by each Party to receive and transmit communications and data pursuant to the provisions of this Agreement.

6."Haze pollution" means smoke resulting from land and/or forest fire which causes deleterious effects of such a nature as to endanger human health, harm living resources and ecosystems and material property and impair or interfere with amenities and other legitimate uses of the environment.

7."Land and/or forest fires" means fires such as coal seam fires, peat fires, and plantation fires.

8."Member State" means a Member State of the Association of Southeast Asian Nations.

9."Open burning" means any fire, combustion or smouldering that occurs, in the open air.

10."Party" means a Member State of ASEAN that has consented to be bound by this Agreement and for which the Agreement is in force.

11. "Receiving Party" means a Party that accepts assistance offered by an Assisting Party or Parties in the event of land and/or forest fires or haze pollution.

12. "Requesting Party" means a Party that requests from another Party or Parties assistance in the event of land and/or forest fires or haze pollution.

13. "Transboundary haze pollution" means haze pollution whose physical origin is situated wholly or in part within the area under the national jurisdiction of one Member State and which is transported into the area under the jurisdiction of another Member State.

14. "Zero burning policy" means a policy that prohibits open burning but may allow some forms of controlled burning.

ARTICLE 2 OBJECTIVES

The objective of this Agreement is to prevent and monitor transboundary haze pollution as a result of land and/or forest fires which should be mitigated, through concerted national efforts and intensified regional and international co-operation. This should be pursued in the overall context of sustainable development and in accordance with the provisions of this Agreement.

ARTICLE 3 PRINCIPLES

The Parties shall be guided by the following principles in the implementation of this Agreement:

1. The Parties have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment and harm to human health of other States or of areas beyond the limits of national jurisdiction.

2. The Parties shall, in the spirit of solidarity and partnership and in accordance with their respective needs, capabilities and situations, strengthen co-operation and co-ordination to prevent and monitor transboundary haze pollution as a result of land and/or forest fires which should be mitigated.

3. The Parties should take precautionary measures to anticipate, prevent and monitor transboundary haze pollution as a result of land and/or forest fires which should be mitigated, to minimise its adverse effects. Where there are threats of serious or irreversible damage from transboundary haze pollution, even without scientific certainty, precautionary measures shall be taken by Parties concerned.

4. The Parties should manage and use their natural resources, including forest and land resources, in an ecologically sound and sustainable

manner.

5.The Parties, in addressing transboundary haze pollution, should involve, as appropriate, all stakeholders, including local communities, non-governmental organisations, farmers and private enterprises.

ARTICLE 4 GENERAL OBLIGATIONS

In pursuing the objective of this Agreement, the Parties shall:

1.Co-operate in developing and implementing measures to prevent and monitor transboundary haze pollution as a result of land and/or forest fires which should be mitigated, and to control sources of fires, including by the identification of fires, development of monitoring, assessment and early warning systems, exchange of information and technology, and the provision of mutual assistance.

2.When the transboundary haze pollution originates from within their territories, respond promptly to a request for relevant information or consultations sought by a State or States that are or may be affected by such transboundary haze pollution, with a view to minimising the consequences of the transboundary haze pollution.

3.Take legislative, administrative and/or other measures to implement their obligations under this Agreement.

PART II. MONITORING, ASSESSMENT, PREVENTION AND RESPONSE

ARTICLE 5 ASEAN CO-ORDINATING CENTRE FOR TRANSBOUNDARY HAZE POLLUTION CONTROL

1.The ASEAN Co-ordinating Centre for Transboundary Haze Pollution Control, hereinafter referred to as "the ASEAN Centre", is hereby established for the purposes of facilitating co-operation and co-ordination among the Parties in managing the impact of land and/or forest fires in particular haze pollution arising from such fires.

2.The ASEAN Centre shall work on the basis that the national authority will act first to put out the fires. When the national authority declares an emergency situation, it may make a request to the ASEAN Centre to provide assistance.

3.A Committee composed of representatives of the national authorities of the Parties shall oversee the operation of the ASEAN Centre.

4.The ASEAN Centre shall carry out the functions as set out in Annex and any other functions as directed by the Conference of the Parties.

ARTICLE 6 COMPETENT AUTHORITIES AND FOCAL POINTS

1.Each Party shall designate one or more Competent Authorities and a Focal Point that shall be authorised to act on its behalf in the

performance of the administrative functions required by this Agreement.

2. Each Party shall inform other Parties and the ASEAN Centre, of its Competent Authorities and Focal Point, and any subsequent changes in their designations.

3. The ASEAN Centre shall regularly and expeditiously provide to Parties and relevant international organisations the information referred to in paragraph 2 above.

ARTICLE 7 MONITORING

1. Each Party shall take appropriate measures to monitor:

- a. all fire prone areas,
- b. all land and/or forest fires,
- c. the environmental conditions conducive to such land and/or forest fires, and
- d. haze pollution arising from such land and/or forest fires.

2. Each Party shall designate one or more bodies to function as National Monitoring Centres, to undertake monitoring referred to in paragraph 1 above in accordance with their respective national procedures.

3. The Parties, in the event that there are fires, shall initiate immediate action to control or to put out the fires.

ARTICLE 8 ASSESSMENT

1. Each Party shall ensure that its National Monitoring Centre, at agreed regular intervals, communicates to the ASEAN Centre, directly or through its Focal Point, data obtained relating to fire prone areas, land and/or forest fires, the environmental conditions conducive to such land and/or forest fires, and haze pollution arising from such land and/or forest fires.

2. The ASEAN Centre shall receive, consolidate and analyse the data communicated by the respective National Monitoring Centres or Focal Points.

3. On the basis of analysis of the data received, the ASEAN Centre shall, where possible, provide to each Party, through its Focal Point, an assessment of risks to human health or the environment arising from land and/or forest fires and the resulting, transboundary haze pollution.

ARTICLE 9 PREVENTION

Each Party shall undertake measures to prevent and control activities related to land and/or forest fires that may lead to transboundary haze pollution, which include: