



**MEMORANDUM OF UNDERSTANDING
BETWEEN THE GOVERNMENTS OF
BRUNEI DARUSSALAM, INDONESIA, MALAYSIA AND THE PHILIPPINES
ON ESTABLISHING AND PROMOTING EFFICIENT AND
INTEGRATED SEA LINKAGES**

The Governments of Brunei Darussalam, Indonesia, Malaysia and the Philippines, hereinafter referred to individually as the "Participating Party" and collectively as "the Participating Parties", having subscribed to the establishment of Brunei Darussalam, Indonesia, Malaysia and the Philippines – East ASEAN Growth Area (BIMP-EAGA);

RECALLING the decision of the Third BIMP-EAGA Summit held at Cebu City in the Philippines on 12 January 2007 to implement measures towards promoting an efficient and integrated sea transportation system in BIMP-EAGA including designation and establishment of priority routes linking the focus areas as well as improving the maritime transport infrastructure facilities;

REITERATING the BIMP-EAGA Roadmap to Development 2006-2010 adopted at the Second BIMP-EAGA Summit at Kuala Lumpur in Malaysia on 11 December 2005 which calls for improving sea, air and land connectivity through provision of the policy environment and support initiatives to establish liberalized transport arrangements in BIMP-EAGA as well as expediting the development of integrated, multi-modal transport logistics services within the sub-region;

RECALLING the Vientiane Action Programme 2004-2010 adopted at the Tenth ASEAN Summit at Vientiane in Lao PDR on 29-30 November 2004 which resolves to gear up ASEAN transport as a critical logistics and services support sector through the implementation of the ASEAN Transport Action Plan for 2005-2010, focusing on cooperation activities towards facilitating seamless movement of peoples and goods;

RECALLING that the First BIMP-EAGA Transport Ministers Meeting held at Bandar Seri Begawan in Brunei Darussalam on 5 June 2006 agreed to address the issues of insufficient load factor and lack of common port tariffs in the development of sea transport linkages;

REAFFIRMING the commitment of the First BIMP-EAGA Transport Ministers Meeting to establish more sustainable priority routes across the focus areas in BIMP-EAGA and to intensify cooperation to realize the specified priority sea linkages routes and projects;

RECALLING the ASEAN Transport Action Plan 2005-2010 adopted by the Tenth ASEAN Transport Ministers Meeting at Phnom Penh in Cambodia on 23 November 2004 which calls for identification and designation of important maritime trade corridors or seaways for regional seaborne trade that are vital for the success of ASEAN Economic Community and promotion of effective and competitive intra-ASEAN shipping in those trade corridors/seaways through rationalization/synchronization of shipping services; expansion of shipping services linking the 47 designated regional ports and secondary ports; and greater cooperation within ASEAN sub-regions, through improved sea linkages and in near-coastal shipping;

NOTING that an efficient and integrated transport system is key to accelerate ASEAN economic integration and establishment of the ASEAN Economic Community by 2015;

Without prejudice to existing agreements, national laws, regulations and national policies the Participating Parties have hereby agreed to the following:

1. Designation of BIMP-EAGA Gateway Ports for Promotion and Facilitation of Intra-EAGA Maritime Trade and Movement of People

- 1.1 Participating Parties designate their respective BIMP-EAGA gateway ports for promotion and facilitation of intra-EAGA maritime trade and movement of people. The designated BIMP-EAGA Gateway Ports are listed in Schedule A.
- 1.2 Each Participating Party may designate its other domestic port(s) as additional BIMP-EAGA Gateway Ports from time to time. The Participating Party shall notify in writing to the transport authorities of the other Participating Parties on its new designation(s).

2. Measures to Enhance the Role of Designated BIMP-EAGA Gateway Ports

Participating Parties shall unilaterally or bilaterally or multilaterally undertake the following measures to further enhance the role of the Designated BIMP-EAGA Gateway Ports in promoting and facilitating intra-EAGA maritime trade and movement of people:

2.1 Information Sharing

- 2.1.1 Regularly updating each other on respective port facilities development and privatization projects; latest Customs, Immigration, Quarantine and Security (CIQS) facilities, procedures and requirements; and best practices in port management including human resource and operation at the BIMP-EAGA Transport, Infrastructure, ICT Development (TIICTD) Cluster Meeting and its associated meetings.

2.1.2 Exchanging of information and experience on port safety, security and environment protection at the TIICTD Cluster Meeting and its associated meetings.

2.2 Accession to International Conventions

Participating Parties shall be encouraged to become a party or make accession to international conventions laid down in the conventions of the International Maritime Organization (IMO).

2.3 Joint Studies

Conducting joint studies to identify shortfalls in port performance and capacity among the Designated BIMP-EAGA Gateway Ports and develop project priorities for bridging the performance and capacity gaps.

2.4 Database and Projection

2.4.1 Establishing a comprehensive database on intra and extra-EAGA maritime trade flows and passenger movement, inventory of the facilities available, shipping services, port tariffs and key performance indicators.

2.4.2 Developing a projection process and produce projection reports of future maritime trade flows and passengers movement within EAGA.

2.4.3 Disseminating the projection reports to public and private stakeholders for more informed policy and business decision making.

2.5 Port Tariff

Granting of port tariff incentive by the respective port authorities/operators to promote pioneering shipping services.

2.6 Customs, Immigration, Quarantine, and Security (CIQS)

Coordinating the establishment, upgrading and modernization of CIQS facilities in the BIMP-EAGA gateway ports.

2.7 Port Facilities and Services

Continuously upgrading port facilities and services especially cargo handling capability and capacity as well as other ancillary port services.

2.8 Sister Ports

Implementing sister port programmes to enhance business and trade relations as well as to promote greater understanding among the people within EAGA.

2.9 Joint Marketing

Conducting joint marketing and promotion activities within and outside EAGA.

3. Implementation of Priority and Pioneering Sea Linkages

3.1 Participating Parties shall implement joint measures to promote the commercial viability and sustainability of shipping services in the priority and pioneer routes as identified in Schedule B.

3.2 Participating Parties may, upon mutual consultation and agreement, jointly designate new priority or pioneer routes and introduce new services in these routes from time to time to further expand sea linkages in EAGA.

4. Joint Measures to Promote Sustainability of Shipping Services for Designated Priority and Pioneer Routes

Participating Parties shall jointly undertake the following measures to ensure the sustainability of the EAGA shipping services plying the Designated Priority and Pioneer Routes:

4.1 Facilitating the entry of shipping operators and potential investors.

4.2 Granting of temporary exclusive rights to pioneering shipping services until they reach a certain level of maturity provided that the temporary exclusive right shall not exceed a period of five years from the date of the granting of the temporary exclusive rights. The Participating Parties shall determine the implementation details of temporary exclusive rights under this Memorandum of Understanding, including but not limited to the frequency and capacity and special incentive of the transport operations in the Designated Priority and Pioneer Routes. Such mutual and reciprocal arrangement may be carried out on a bilateral basis between two Participating Parties or on a tri-lateral or multilateral basis between the Participating Parties.

4.3 Promoting the new and existing shipping services in close coordination with private sector.

- 4.4 Ensuring freight rates are as much as possible determined by market forces and/or mutual agreement by ship operators, but subject to antitrust restrictions, so as to avoid excessively high or low pricing.
- 4.5 Ensuring compliance of the minimum safety, security and environmental protection standards set by the International Maritime Organization (IMO).

These measures shall not apply to domestic trade, i.e., cargoes, passengers and vehicles which have their origin and destination within the same country.

5. Non-Convention Ships Operating in BIMP-EAGA

The Participating Parties shall exchange information on the principles, policies and best practices governing non-convention ships with a view to develop and formalize a mechanism that will enable mutual recognition and monitoring of the safety standards, security requirements, environmental protection and ship manning.

6. Relationship with Other Agreements

This Memorandum of Understanding shall be read in conjunction with the provisions of the existing bilateral maritime transport services agreement(s) or multilateral maritime transport services agreement(s) between the Participating Parties, and any amendments thereto. The provisions of this Memorandum of Understanding shall prevail over provisions of the earlier agreement(s) to the extent that the same subject matter is governed by it, except where it is agreed by the Participating Parties that a more liberal arrangements for the operation of maritime transport services are applicable.

7. Consultations

In the ASEAN spirit of solidarity and cooperation, the Participating Parties shall consult each other from time to time in ensuring the full implementation of this Memorandum of Understanding.

8. Review and Amendment

This Memorandum of Understanding may be reviewed by the Participating Parties as and when needed to ensure its effective implementation. A Participating Party may request in writing any amendment of all or any part of this Memorandum of Understanding. Such amendment shall be mutually agreed upon in written form by the Participating Parties and shall form an integral part of this Memorandum of Understanding. Such amendment shall enter into force on such date as agreed upon in writing by the Participating Parties.

9. Settlement of Disputes

Any dispute or differences arising out of the interpretation or implementation or application of the provisions of this Memorandum of Understanding shall be settled amicably through consultation or negotiation between the Participating Parties.

10. Entry into Force and Duration

This Memorandum of Understanding shall enter into force on the date of its signing and shall remain in force until terminated.

11. Withdrawal

Any Participating Party may withdraw from this Memorandum of Understanding by written notification to the other Participating Party(ies) at least six (6) months prior to such withdrawal. If a Participating Party withdraws, the Memorandum of Understanding shall remain in force for the remaining Participating Parties.

12. Termination

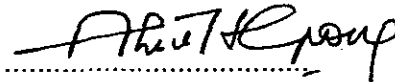
12.1 This Memorandum of Understanding shall remain in force until all of the Participating Parties agree to terminate it in writing.

12.2 The termination of this Memorandum of Understanding shall not affect the validity and duration of any on-going programs or activities until the completion of such programs or activities.

In witness whereof, the undersigned, being duly authorized to sign by their respective Governments, have signed this Memorandum of Understanding.

Done at Singapore, on 02 November 2007.

For the Government of Brunei Darussalam



PEHIN DATO ABU BAKAR APONG

Minister of Communications

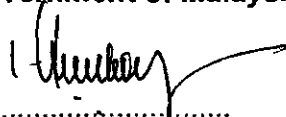
For the Government of Republic of Indonesia



MR. JUSMAN SYAFII DJAMAL

Minister for Transportation

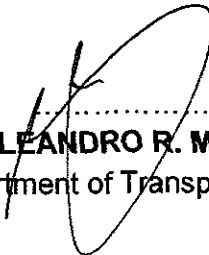
For the Government of Malaysia



DATO' SRI CHAN KONG CHOY

Minister of Transport

For the Government of the Philippines



GEN. LEANDRO R. MENDOZA (RET.)

Secretary of Department of Transportation and Communications

Schedule A
Designated BIMP-EAGA Gateway Ports

Country	Designated BIMP-EAGA Gateway Ports
Brunei Darussalam	Kuala Belait and Muara
Indonesia	Balikpapan, Banjarmasin, Bitung, Jayapura, Makassar, Nunukan, Pantoloan, Pare-Pare, Pontianak, Sorong, Tarakan and Ternate
Malaysia	Bintulu, Kuching, Kudat, Labuan, Lahad Datu, Menumbok, Miri, Sandakan, Sepanggar/Kota Kinabalu, Sibul, Tanjung Manis and Tawau
Philippines	Bongao, Brooke's Point, Cagayan de Oro, Davao, General Santos, Glan, Pagadian, Puluan and Zamboanga

Schedule B
Designated BIMP-EAGA Priority and Pioneer Routes

Designated Priority/Pioneer Route	Type of Services
Muara (Brunei Darussalam) – Menumbok (Malaysia)	Ro-Ro and passenger
Labuan (Malaysia) – Muara (Brunei Darussalam)	Ro-Ro and passenger
Brooke's Point (Philippines) – Kudat (Malaysia)	Break-bulk and containerized
Pontianak (Indonesia) – Kuching (Malaysia)	Break-bulk and containerized
Pontianak (Indonesia) – Kuching (Malaysia) – Bintulu (Malaysia)	Break-bulk and containerized
General Santos (Philippines) – Bitung (Indonesia) – Makassar (Indonesia)	Break-bulk, containerized and passenger
Makassar (Indonesia) – Bitung (Indonesia) – General Santos (Philippines) – Sepanggar /Kota Kinabalu (Malaysia) -Bintulu (Malaysia)	Break-bulk and containerized
Pare-Pare (Indonesia) – Tawau (Malaysia)	Break-bulk, containerized and passenger
Glan (Philippines) – Bitung (Indonesia)	Break-bulk and passenger
Bongao (Philippines) – Lahad Datu (Malaysia) – Tarakan (Indonesia)	Break-bulk
Zamboanga (Philippines) – Sandakan (Malaysia)	Break-bulk, containerized and passenger
Muara (Brunei Darussalam) – Labuan (Malaysia)- Zamboanga (Philippines)	Break-bulk and containerized
Zamboanga (Philippines) – Sepanggar/Kota Kinabalu (Malaysia) – Muara (Brunei Darussalam)	Break-bulk and containerized