

the ASEAN-China Centre shall be held in a place entirely separate from the place where the official papers and documents are held.

3. To facilitate its operation:

- (a) the Centre may hold funds or currency of any kind and operate accounts in any currency;
- (b) the Centre may freely transfer its funds or currency from or to China, or within the territory of China, and convert any currency held by it into any other currency.

4. In exercising the right as provided for in paragraph 3 above, the Centre shall comply with the formalities laid down in national laws of China and shall pay due regard to any representations made by China in so far as it is considered that effect can be given to such representations without detriment to the interest of the Centre.

5. The Centre, its assets, income and other property shall be:

- (a) exempt from all direct taxes except those which are, in fact, no more than charges for public utility services;
- (b) in accordance with relevant regulations of China, exempt from customs duties and from prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Centre for its official use; it is understood, however, that articles imported under such exemption shall not be sold in China except under conditions agreed upon with China;
- (c) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of the publications imported or exported by the Centre for its official use; it is understood, however, that publications imported under such exemption shall not be sold or used for other functions in China except under conditions agreed upon with China.

6. While the Centre will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the Centre is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, China shall, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE XIV

Duty-Free Entry and Other Facilities to Products for Promotion

China shall, in accordance with its relevant laws and regulations, give duty free entry in the import of goods and materials of the ASEAN Member States for promotional display and, where appropriate, for subsequent distribution of such goods and materials as free samples. China shall also, in accordance with its relevant laws and regulations, give facilities and assistance in the subsequent sales of such goods and materials.

ARTICLE XV

Facilities in respect of Communications

In respect of its official communications, the Centre shall, in the territory of China and in so far as may be compatible with any international conventions, regulations and arrangements to which China is a party, enjoy treatment not less favourable than that accorded by China to any other international organisation, in the matter of priorities, rates and taxes for postal service and telecommunication.

ARTICLE XVI **Privileges and Immunities of the Officials of the ACCS**

1. The officials of the ACCS shall:
 - (a) be exempt from taxation on the salaries and emoluments paid to them by the Centre;
 - (b) be immune, together with their spouses and legal dependents (18 years old and below) on them, from immigration restrictions, alien registration and national service obligations;
 - (c) have the right to import free of duty furniture and effects for the use of themselves and their families within half a year since they first take up their post at the Centre;
 - (d) be accorded in respect of exchange facilities treatment not less favourable than that accorded to officials of comparable rank of any other international organisations.

2. ~~The Chinese Government~~ China may not apply the provisions of paragraph 1 of this Article to officials who are nationals of or permanent resident in China.

3. Privileges and immunities are accorded to officials of the ACCS in the interest of the Centre only, and not for their personal benefit. Consequently, the Joint Executive Board upon the recommendation of the Secretary-General, has the right and duty to waive the immunity of any official in any case where, in its opinion, the immunity would impeded realisation of justice and can be waived without prejudice to the interests of the Centre. The Joint Council has the right and duty to waive the immunity accorded to the Secretary General.

4. The officials of the ACCS to which the provisions of this Article shall apply shall be the Secretary-General and other officials categories of which shall be determined by the Joint Council. The Secretary-General shall notify the Members of the names, title and addresses of those officials.

ARTICLE XVII **Entry Facilities**

1. China shall facilitate the entry of the following persons into its territory where they are visiting on their missions related to the Centre:
 - (a) representatives of the other Members participating in the Meetings prescribed in Articles VI and VII together with their spouses;

- (b) the officials of the ACCS together with their spouses and legal dependants (18 years old and below);
- (c) other persons invited by the Centre.

2. The provision of paragraph 1 above does not mean that the entrants mentioned in that paragraph are exempted from complying with national laws of China relating to entry formalities.

ARTICLE XVIII Abuse of Privileges

1. The Centre shall cooperate at all times with the appropriate authorities of China to prevent the occurrence of any abuse in connection with the privileges, immunities and facilities conferred by this Memorandum of Understanding.
2. If China considers that there has been an abuse of a privilege or immunity conferred by this Memorandum of Understanding, consultations shall be held between China and the Centre to determine whether any such abuse has occurred and, if so, to ensure that no repetition of such abuse occurs.

ARTICLE XIX Settlement of Disputes

1. The Centre shall make provisions for appropriate modes of settlement of:
 - (a) ~~disputes of a private law character~~ legal claims of a civil nature to which the Centre is a party other than those referred to in Article XIII, paragraph 1; and
 - (b) disputes involving any officials of the Centre who enjoys immunity under the provisions of this Memorandum of Understanding, if the immunity has not been waived in accordance with Article XVI, paragraph 3.
2. Any disputes or differences between the Parties arising out of the interpretation and/or implementation and/or application of any of the provisions of this Memorandum of Understanding shall be settled amicably through mutual consultation and/or negotiations between the Parties through diplomatic channels ~~without reference to any third party or international tribunal.~~

ARTICLE XX Protection of Intellectual Property Rights

1. The protection of intellectual property rights shall be enforced in conformity with the respective national laws and regulations of the Parties and with international agreements ~~signed by both~~ which the Parties are party to.
2. The use of the name, logo and/or official emblem of ~~either of any one of~~ any one of the Parties on any publication, document and/or paper is prohibited without approval by ~~either~~ that Party.
3. Notwithstanding anything contained in paragraph 1 above, a Party shall own the intellectual property rights in respect of any technological development, which were solely and separately developed by that Party. Where such technological

development has been developed by two or more Parties, the intellectual property rights in respect of such technological development shall be owned jointly by those Parties, unless otherwise agreed by them.

ARTICLE XXI Suspension

Each Party reserves the right for reasons of national security, national interest, public order or public health to suspend temporarily, either in whole or in part, the implementation of this Memorandum of Understanding which suspension shall take effect on the date on which the ~~other~~ last Party receives written notification through diplomatic channels.

ARTICLE XXII Confidentiality

1. Each Party shall undertake to observe the confidentiality and secrecy of documents, information and other data received or supplied ~~to the other~~ by another Party during the period of the implementation of this Memorandum of Understanding or any other agreements made pursuant to this Memorandum of Understanding.
2. ~~Both~~ The Parties agree that the provisions of this Article shall continue to be binding between the Parties notwithstanding the termination of this Memorandum of Understanding.

ARTICLE XXIII Withdrawal

1. ~~Any Member~~ A Contracting Party may at anytime withdraw from this Memorandum of Understanding by giving notice in writing to that effect to the ~~Depository Authorities~~ ASEAN Secretary-General.
2. Upon receiving such a notice, the ~~Depository Authorities~~ ASEAN Secretary-General shall inform the ~~Members thereof~~ other Contracting Parties.
3. ~~The Member~~ A Contracting Party shall cease to be a ~~Contracting Party~~ party to this Memorandum of Understanding at the end of the fiscal year of the Centre in which such notification is made. ~~Such~~ A withdrawal shall not affect the financial obligations of that ~~Member~~ Contracting Party that is outstanding at the time when its withdrawal takes effect.

ARTICLE XXIV Amendments

1. Either Contracting Party may propose amendments to this Memorandum. A proposed amendment shall be communicated to the Secretary-General who shall communicate it to the other Contracting Parties at least six months in advance of for the consideration by the Joint Council.

2. Amendments to this Memorandum of Understanding shall come into force upon the adoption by the Joint Council. However, the amendments involving following matters shall require subsequent acceptance by both all Contracting Parties before they come into force:

- (a) fundamental alteration in the purpose or the functions of the Centre;
- (b) change relating to the right to withdraw from this Memorandum of Understanding;
- (c) introduction of new obligations for Members;
- (d) change in the provisions regarding privileges and immunities of the Centre and the persons related to the activities of the Centre; and
- (e) other matters determined by the Joint Council as important.

3. Amendments accepted by the Contracting Parties shall enter into force upon the date of the last deposit of the instruments of acceptance with the ASEAN Secretariat.

ARTICLE XXV

Entry into Force and Duration

1. After the completion of its internal legal procedures for the entry into force of this Memorandum of Understanding, each ASEAN Member State shall give written notification to the Secretary-General of ASEAN, who shall, immediately notify China when all of the ASEAN Member States have finished the said procedures.

2. After the completion of its internal legal procedures for the entry into force of this Memorandum of Understanding, China shall give written notification to the Secretary-General of ASEAN.

3. This Memorandum of Understanding shall enter into force upon receipt of the last written notification is received. The Secretary-General of ASEAN shall notify ASEAN Member States of the entry into force of this Memorandum of Understanding.

4. This Memorandum of Understanding shall remain in force for a period of five years, and thereafter may be extended ~~for additional fixed periods~~ by decision of the Joint Council.

For ASEAN Member States, this Memorandum of Understanding shall be deposited with the ASEAN Secretary-General, who shall promptly furnish a certified true copy to all ASEAN Member States.

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

DONE at (place) on (date), two thousand and eight, in duplicate in the English and Chinese language. In the event of divergence of interpretation, the English text shall prevail.

For the Government of Brunei Darussalam; For the Government of the People's
Republic of China:

For the Government of the Kingdom of
Cambodia:

For the Government of the Republic of
Indonesia:

For the Government of the Lao People's
Democratic Republic:

For the Government of Malaysia:

For the Government of the Union of
Myanmar:

For the Government of the Republic of the
Philippines:

For the Government of the Republic of
Singapore:

For the Government of the Kingdom of
Thailand:

For the Government of the Socialist Republic
of Viet Nam:

Attachment: Annex

ANNEX

To launch the operation of the Centre, a set of activities are proposed into three phases of implementation as follows:

Phase I (1st Year)

A virtual centre will be established with a website set up to provide relevant information on trade, investment, tourism, education and culture, including statistics, event updates, and contacts, as well as offer active links to other related websites. Preparations will be made for the establishment of a physical centre.

Phase II (2nd -3rd Year)

In this phase, more tangible activities will be organised. The Centre will serve as

- 1) a comprehensive information bank through its website, permanent archives and media publications, and
- 2) an activities centre with standing activities, such as an organised business match-making service, investment consultation bureau, educational advisory service, etc. as well as rotational activities, such as trade exhibitions, investment promotion events, tourism fairs, food festivals, art exhibitions, etc. The Centre will explore the feasibility of setting up the ASEAN-China Centre Foundation (ACC Foundation).

Phase III (3rd -5th Year)

Phase II will have been realized, with full-fledged activities in all the areas of cooperation i.e. trade, investment, tourism, education and culture. The activities in this phase will aim at raising the funding necessary for running the Centre, which can be earned from the association dues, rental fee of exhibition booths, etc. In addition, the Centre will operate on private funding through the possible ASEAN-China Centre Foundation.