

FIRST NEGOTIATION MEETING, HALONG CITY, VIET NAM, 17–20 JANUARY 2005

I. Introduction

1. The First Negotiation Meeting (the Meeting) on the Greater Mekong Subregion (GMS) Cross-Border Transport Agreement (the Agreement) Annexes and Protocols (Stage 3) was held in Halong City, Viet Nam, on 17–20 January 2005. The Meeting was jointly organized by the Ministry of Transport of the Socialist Republic of Viet Nam and the Asian Development Bank (ADB).

2. The objective of the Meeting was to discuss and reach agreement on the Annexes and Protocols in Stage 3. The Meeting Program is attached as Appendix 1.

3. The participants of the Meeting consisted of delegations from the Kingdom of Cambodia, the People's Republic of China (PRC), the Lao People's Democratic Republic (Lao PDR), the Union of Myanmar, the Kingdom of Thailand, and the Socialist Republic of Viet Nam. ADB staff and consultants (the ADB Team) facilitated the Meeting and served as resource persons. The list of participants is attached as Appendix 2.

II. Opening Session

4. H.E. Pham The Minh, Vice Minister, Ministry of Transport, Viet Nam, opened the Meeting and welcomed the Meeting participants. He informed the Meeting of the progress on road and port improvements within Viet Nam in the East-West Corridor (Lao Bao–Dong Ha, Hai Van Tunnel, and Tien Sa Port in Da Nang City; to be completed by June 2005), the Southern Economic Corridor (Moc Bai–Ho Chi Minh City–Vung Tau, completed in December 2004; the Southern Coastal Corridor, Xa Xia–Nam Can–Ca Mau, under preparation), and the Kunming–Hanoi–Hai Phong Corridor (Hanoi–Lao Cai, in progress). He also highlighted progress on the initial implementation of the GMS Cross-Border Transport Agreement, at Dansavanh (Lao PDR) –Lao Bao (Viet Nam), which is expected to commence by 30 June 2005.

5. In his Opening Statement, Mr. Yushu Feng, Senior Regional Cooperation Economist, ADB, noted that the signing of the Stage 2 annexes in Vientiane, Lao PDR, on 16 December 2004 was the highlight of the 13th GMS Ministerial Conference. With the Second Summit of Leaders to be held on 4–5 July 2005 in Kunming, PRC, he highlighted the need to accelerate work in the finalization of Annexes and Protocols (Stage 3) so that a number of these can be signed on the occasion of the Second Summit. This will serve as a further concrete manifestation of the GMS countries' commitment to subregional economic cooperation.

III. Business Arrangements

6. The Meeting was held in both plenary and parallel sessions. The opening session, and sessions on Annex 5: Cross-Border Movement of People (part of the session on this annex), Annex 10: Conditions of Transport, Protocol 2: Charges Concerning Transit Traffic, and Protocol 3: Frequency and Capacity of Services and Issuance of Quotas and Permits, were held in plenary. The session on Annex 3: Carriage of Perishable Goods and part of the session on Annex 5: Cross-Border Movement of People were held in parallel.

7. The plenary sessions were chaired by Mr. Pham Thanh Tung, Director General, International Cooperation Department, Ministry of Transport, Viet Nam, and co-chaired by

Mr. Yushu Feng, ADB. The parallel session on Annex 3 was chaired by Ms. Pham Thanh Hien, Deputy Director, International Cooperation Department, Vietnam Customs, Viet Nam, and co-chaired by Mr. Ronald Antonio Q. Butiong, Programs Specialist (GMS), ADB.

IV. Negotiation of Stage 3 Annexes and Protocols

8. The Meeting agreed on the final draft of Annex 3: Carriage of Perishable Goods, which is attached as Appendix 3. Thailand proposed that a meeting of the Health/SPS (Sanitary/Phytosanitary) Subcommittee of the Joint Committee be held after signing of Annex 3 to expedite its implementation. The PRC noted that since the officers of Inspection, Quarantine and Customs use Harmonized System (HS) commodity codes in performing their duties, it will be helpful for the Health/SPS Subcommittee to specify the HS codes for each classification of perishable goods in the Attachment of Annex 3 to assure efficient implementation of the priority crossing regime established in Article 10(b) of the Agreement and Article 9 of Annex 4.

9. The Meeting agreed on a revised draft of Annex 5a: Cross-Border Movement of People (on Entry/Exit, Health, Customs, and Transport Pricing), which is attached as Appendix 4. The first of two options for Annex 5a was selected for negotiation, but it was extended to include certain provisions from Option 2 on visa conditions and modalities. The Meeting agreed that the ADB Team will (i) find an appropriate wording for the phrase “dangerous contagious disease” and (ii) align the regime for the customs duty-free allowance for personal effects with that of the Revised Kyoto Convention.

10. The Meeting agreed in principle on a revised draft of Annex 5b: Cross-Border Movement of People (Carrier Liability Regime for Death and Bodily Injury of the Passenger and Damage to or Loss of Luggage), which is attached as Appendix 5. The Meeting agreed that the ADB Team will (i) find an appropriate term for “reservation” or appropriate way to distinguish the term from its meaning in the context of the reservation article, (ii) propose acceptable levels of liability limitation, and (iii) explore the issue of national compulsory passenger insurance liability regimes for carriers. To facilitate work on (ii), it was agreed that the GMS countries will provide the ADB Team with their suggested acceptable levels of liability limitation, for passengers and for baggage, by 28 February 2005. Viet Nam suggested that a conference be organized to gather national insurance sectors and establish a platform to consider a framework on third-party motor liability insurance in the GMS. Viet Nam urged the delegations to report this issue to their respective governments.

11. The Meeting agreed that Annexes 5a and 5b will be recombined to form a single Annex 5, as called for in the Agreement. The parts that were discussed as Annexes 5a and 5b will be divided into respective chapters, and the articles on Ratification or Acceptance and on Entry into Force will be revised to allow ratification/acceptance and entry into force for each chapter separately or together to provide flexibility for countries in their ratification processes.

12. The Meeting agreed in principle on a revised draft of Annex 10: Conditions of Transport, which is attached as Appendix 6. Thailand submitted a prepared statement (Appendix 7) regarding Annex 10, in which it noted the benefits of adopting the full regime of the Convention on the Contract for International Carriage of Goods by Road (CMR) signed in Geneva on 19 May 1956. The Meeting requested the ADB Team to revise Annex 10 to allow flexibility for GMS countries to approach the CMR regime. In addition, ADB will consider organizing a workshop, jointly with UNESCAP and the Ministry of Transport of Thailand, on the CMR for the GMS countries in order to facilitate the implementation of Annex 10.

13. The Meeting agreed in principle on a revised draft of Protocol 2: Charges Concerning Transit Traffic, which is attached as Appendix 8. The Meeting was informed that the revised draft of Protocol 2 reflects the findings of the ADB/UNESCAP Joint Study of Transit Charges To Be Assessed Under Protocol 2 of the Agreement for the Facilitation of the Cross-Border Transport of Goods and People in the Greater Mekong Subregion¹, the Final Report of which was distributed at the Meeting. The Meeting agreed that the ADB Team will (i) consider simplifying para (b) of Article 3 on Legality (covering unauthorized levying of charges), and (ii) revise the second sentence of Article 7 on Road Maintenance Fees to address the difficulty for one country of charging road maintenance fees on the basis of duration or stay.

14. The Meeting discussed the structure of Protocol 3: Frequency and Capacity of Services and Issuance of Quotas and Permits. Considering the developments in the liberalization in cross-border transport since the negotiation of the Agreement, and considering the administrative burden of a permit system, some countries expressed the desire to proceed immediately to Step 2 (free market) as specified in Article 23 of the Agreement, while however maintaining some measure of control, at least in the initial period. If a regulatory system is required, a decision must be made between one limiting trip frequency or one limiting the number of vehicles that may be engaged in cross-border transport operations (as in the ASEAN approach). The Meeting agreed that the ADB Team will reformulate Protocol 3 to reflect the Meeting discussion, with the aim of achieving a more liberal system. The Meeting suggested offering two options (Steps 1 and 2) with explanation, in order that the GMS countries can better explain the choices to their respective transport industries, for transparency and to assure that the option selected is acceptable to the transport operators. Cambodia requested the ADB Team to examine compatibility of the ASEAN approach and the proposed GMS Protocol 3 and their respective strengths and weaknesses. The Meeting agreed that the GMS countries will discuss these and related issues within their countries and provide the ADB Team with their respective views by 4 March 2005.

15. The Meeting agreed that the ADB Team will provide revised drafts of Annexes 5 and 10, and Protocols 2 and 3, incorporating comments made and related requests, by 22 February 2005. The Meeting further agreed that the GMS countries will provide their comments on the revised drafts, by 4 March 2005, reflecting the views of their respective transport industries.

V. Other Matters

16. The Meeting was informed of the completion of a National Workshop on Issuing and Guaranteeing Organizations in relation to Annexes 6, 8, and 14, held in Bangkok, Thailand, on 20–21 December 2004, as well as plans to conduct similar national workshops in Viet Nam on 21 January 2004, and in the other four GMS countries in early March 2005.

17. The Meeting agreed that the Second Negotiation Meeting on Annexes and Protocols (Stage 3) will be held in Kunming, Yunnan Province, PRC, on 13–17 March 2005.

18. The Meeting agreed that at the Second Negotiation Meeting on Annexes and Protocols (Stage 3), the GMS countries will finalize Annexes 3, 5, and 10, and Protocol 2 to

¹ Myanmar noted that the official exchange rate of its national currency (kyat) differs from the UN Operational Exchange Rate used in the Joint Study.

be ready for signing on the occasion of the Second GMS Summit to be held on 4–5 July 2005.

VI. Adoption of Summary of Proceedings

19. The Meeting adopted the Summary of Proceedings on 20 January 2005 in Halong City, Viet Nam.

VII. Acknowledgements

20. The GMS countries and the ADB Team expressed their sincere thanks and appreciation to the Socialist Republic of Viet Nam, in particular, the Ministry of Transport, for the warm hospitality and excellent arrangements provided to the First Negotiation Meeting on Annexes and Protocols (Stage 3) of the GMS Cross-Border Transport Agreement.