

ASEAN Mutual Recognition Arrangement on Dental Practitioners

PREAMBLE

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand, and the Socialist Republic of Viet Nam, Member State of the Association of South East Asian Nations (hereinafter collectively referred to as ASEAN or ASEAN Member States or singularly as ASEAN Member State);

RECOGNISING the objectives of the ASEAN Framework Agreement on Services (hereinafter referred to as AFAS), which are to enhance cooperation in services amongst ASEAN Member States in order to improve the efficiency and competitiveness, diversify production capacity and supply and distribution of services of their services suppliers within and outside ASEAN; to eliminate substantially the restriction to trade in services amongst ASEAN Member States; and to liberalise trade in services by expanding the depth and scope of liberalisation beyond those undertaken by ASEAN Member States under the General Agreement on Trade in Services (hereinafter referred to as GATS) with the aim of realising free trade in services;

RECOGNISING the ASEAN Vision 2020 on Partnership in Dynamic Development, approved on 15 June 1997, which charted towards the year 2020 for ASEAN the creation of a stable, prosperous and highly competitive ASEAN Economic Region which would result in:

- free flow of goods, services and investment;
- equitable economic development, and reduced poverty and socio-economic disparities; and
- enhanced political, economic and social stability;

NOTING that Article V of AFAS provides that ASEAN Member States may recognise the education and experience obtained, requirements met, or licences or certifications granted in another ASEAN Member State, for the purpose of licensing or certification of service suppliers;

NOTING the decision of the Bali Concord II adopted at the Ninth ASEAN Summit held in 2003 calling for the completion of Mutual Recognition Arrangements (hereinafter referred to as MRAs or singularly as MRA) for qualifications in major professional services by 2008 to facilitate free movement of professionals/skilled labour/talents in ASEAN; and

PROVIDING an MRA for Dental Practitioners that would strengthen professional capabilities by promoting the flow of relevant information and exchange of expertise, experiences and best practice suited to the specific needs of ASEAN Member States;

HAVE AGREED as follows:

ARTICLE I OBJECTIVES

The objectives of this MRA are to:

- 1.1 facilitate mobility of dental practitioners within ASEAN;
- 1.2 exchange information and enhance cooperation in respect of mutual recognition of dental practitioners;
- 1.3 promote adoption of best practices on standards and qualifications; and
- 1.4 provide opportunities for capacity building and training of dental practitioners.

ARTICLE II

DEFINITIONS

In this MRA, unless the context otherwise requires:

2.1 Dental Practitioner refers to a natural person who has completed the required professional dental training and conferred the professional dental qualification; and has been registered and/or licensed by the Professional Dental Regulatory Authority in the Country of Origin as being technically, ethically and legally qualified to undertake professional dental practice.

2.2 Specialist refers to a Dental Practitioner who has the dental specialist training and postgraduate qualification(s) that are recognised by the Country of Origin and has been registered and/or licensed as specialist if such registration is applicable in the Country of Origin;

2.3 Foreign Dental Practitioner refers to a Dental Practitioner including Specialist who holds the nationality of an ASEAN Member State, registered to practise dentistry in the Country of Origin and applying to be registered/licensed to practise dentistry in the Host Country.

2.4 Registration refers to registering and/or certifying and/or licensing of the Dental Practitioner within jurisdiction or may refer to the issuance of a certificate or licence to a Dental Practitioner who has met or complied with specified requirements for registration to practise dentistry in the Country of Origin and/or Host Country.

2.5 Country of Origin refers to the ASEAN Member State where the Dental Practitioner has a current and valid registration to practise dentistry.

2.6 Host Country refers to the ASEAN Member State where a Foreign Dental Practitioner applies for registration to practise dentistry.

2.7 Professional Dental Regulatory Authority (hereinafter referred to as PDRA) refers to a body vested with the authority by the government in each ASEAN Member State to regulate and control Dental Practitioners and their practice of dentistry. PDRA in this context refers to the following:

Member State PDRA Brunei Darussalam Brunei Medical Board Cambodia Cambodian Dental Council and Ministry of Health Indonesia Indonesian Medical Council and Ministry of Health Lao PDR Ministry of Health Malaysia Malaysian Dental Council Myanmar Myanmar Dental Council, Ministry of Health Philippines Professional Regulation Commission, Board of Dentistry and Philippine Dental Association Singapore Singapore Dental Council and Dental Specialists Accreditation Board Thailand Thai Dental Council and Ministry of Public Health Viet Nam Ministry of Health

2.8 Domestic Regulations include laws, by-laws, regulations, rules, orders, directives and policies relating to the practice of dentistry issued by the PDRA and/or relevant authorities.

2.9 Continuing Professional Development (hereinafter referred to as CPD) is the means by which members of the dental profession maintain, develop or improve their knowledge, skills and professional performance.

ARTICLE III

RECOGNITION AND ELIGIBILITY OF FOREIGN DENTAL PRACTITIONERS

3.1 Recognition of a Foreign Dental Practitioner

A Foreign Dental Practitioner may apply for registration in the Host Country to be recognised as qualified to practise dentistry in the Host Country in accordance with its Domestic Regulations and subject to the following conditions:

3.1.1 in possession of a dental qualification recognised by the PDRA of the Country of Origin and Host Country;

3.1.2 in possession of a valid professional registration and current practising certificate to practise dentistry issued by the PDRA of the Country of Origin;

3.1.3 has been in active practice as a general Dental Practitioner or specialist, as the case may be, for

not less than five (5) continuous years in the Country of Origin;

3.1.4 in compliance with CPD at satisfactory level in accordance with the policy on CPD mandate by the PDRA of the Country of Origin;

3.1.5 has been certified by the PDRA of the Country of Origin of not having violated any professional or ethical standards, local and international, in relation to the practice of dentistry in the Country of Origin and in other countries as far as the PDRA is aware;

3.1.6 has declared that there is no investigation or legal proceeding pending against him/her in the Country of Origin or another country; and

3.1.7 in compliance with any other assessment or requirement as may be imposed on any such applicant for registration as deemed fit by the PDRA or other relevant authorities of the Host Country.

3.2 Eligibility of a Foreign Dental Practitioner

A Foreign Dental Practitioner who satisfies the above conditions shall be recognised as qualified to practise dentistry in the Host Country.

3.3 Undertaking of a Foreign Dental Practitioner

A Foreign Dental Practitioner who is allowed to practise dentistry in the Host Country shall be subjected to Domestic Regulations and conditions which include but are not limited to the following:

3.3.1 to be bound by Professional and Ethical Codes of Conduct and standards of dental practice imposed by the PDRA of the Host Country;

3.3.2 to be bound by prevailing laws of the Host Country;

3.3.3 to subscribe to any requirement for insurance liability scheme in the Host Country; and

3.3.4 to respect the culture and religious practice of the Host Country.

ARTICLE IV

PROFESSIONAL DENTAL REGULATORY AUTHORITY

4.1 Subject to Domestic Regulations, the PDRA of the Host Country shall:

4.1.1 evaluate the qualifications, training and experiences of the Foreign Dental Practitioners;

4.1.2 impose any other requirement or assessment for registration where applicable;

4.1.3 grant recognition and register eligible Foreign Dental Practitioners to practise dentistry in the Host Country; 4.1.4 monitor and assess the compliance of the registered Foreign Dental Practitioners practice and conduct in accordance with the Professional and Ethical Codes of Conduct and standards of dental practice of the Host Country; and

4.1.5 take necessary actions in the event any registered Foreign Dental Practitioner failed to practise in accordance with the Professional and Ethical Codes of Conduct and standards of dental practice of the Host Country.

ARTICLE V

RIGHT TO REGULATE

This MRA shall not reduce, eliminate or modify the rights, power and authority of each ASEAN Member State, its PDRA and other relevant authorities to regulate and control dental practitioners and the practice of dentistry. ASEAN Member States, however, should undertake to exercise their regulatory power reasonably and in good faith for this purpose without creating any unnecessary barriers to the practice of dentistry.

ARTICLE VI

ASEAN JOINT COORDINATING COMMITTEE ON DENTAL PRACTITIONERS

6.1 An ASEAN Joint Coordinating Committee on Dental Practitioners (hereinafter referred to as AJCCD) shall be established comprising of not more than two (2) appointed representatives from the PDRA of each ASEAN Member State with the following terms of reference:

6.1.1 to facilitate the implementation of this MRA through better understanding of the Domestic Regulations applicable in each ASEAN Member State and in the development of strategies for the implementation of this MRA;

6.1.2 to encourage ASEAN Member States to standardise and adopt mechanisms and procedures in the implementation of this MRA;

6.1.3 to encourage the exchange of information regarding laws, practices and developments in the practice of dentistry within the region with the view of harmonization in accordance with regional and/or international standards;

6.1.4 to develop mechanisms for continued information exchange as and when needed;

6.1.5 to review the MRA every five (5) years or earlier, if necessary; and

6.1.6 to do any other matters related to this MRA.

6.2 The AJCCD shall formulate the mechanism to carry out its mandate.

ARTICLE VII

MUTUAL EXEMPTION

7.1 The ASEAN Member States recognise that any arrangement which would confer exemption from further assessment by the PDRA of the Host Country may be concluded only with the involvement and consent of the PDRA.

7.2 The ASEAN Member States note that the PDRA of the Host Country has the statutory responsibility of protecting the health, safety, environment, and welfare of the community within its jurisdiction, and may require the Foreign Dental Practitioners seeking the right to practise in the Host Country to submit themselves to some form of supplementary requirements or assessment.

7.3 The ASEAN Member States recognise that such requirements or assessment shall provide the PDRA of the Host Country with a sufficient degree of confidence that the Foreign Dental Practitioner concerned:

7.3.1 are equipped with the necessary skills and expertise consistent with the dental practice, general and/or specialized, that they intend to carry out and undertake in the Host Country;

7.3.2 understand the general principles behind applicable Professional and Ethical Codes of Conduct and standards of dental practice in the Host Country, and demonstrate an ability to apply such principles in carrying out dental practice in the Host Country; and

7.3.3 are familiar with the Domestic Regulations that govern the operation of dental practice in the Host Country.

ARTICLE VIII

DISPUTE SETTLEMENT

8.1 ASEAN Member States shall at all times endeavour to agree on the interpretation and application of this MRA and shall make every attempt through communication, dialogue, consultation and cooperation to arrive at a mutually satisfactory resolution of any matter that might affect the implementation of this MRA.

8.2 The ASEAN Protocol on Enhanced Dispute Settlement Mechanism, done at Vientiane, Lao PDR on 29 November 2004, shall apply to disputes concerning the interpretation, implementation, and/or application of any of the provisions under this MRA upon exhaustion of the mechanism in Article 8.1.

ARTICLE IX

AMENDMENTS

9.1 Any provision of this MRA may only be amended by mutual written agreement by the Government of all ASEAN Member States.

9.2 Notwithstanding Article 9.1, any ASEAN Member State may amend its PDRA listed in Article 2.7 and when necessary without the mutual agreement of the other ASEAN Member States. Any amendments shall be communicated to the other ASEAN Member States through the ASEAN Secretariat in writing.

ARTICLE X

FINAL PROVISIONS

10.1 The terms and definitions and other provisions of the GATS and AFAS shall be referred to and shall apply to matters arising under this MRA for which no specific provision has been made herein.

10.2 This MRA shall enter into force six (6) months after the signing of this MRA by all ASEAN Member States. Any ASEAN Member State that wishes to defer implementation of this MRA shall notify the ASEAN Secretariat in writing of its intention within 6 months from the date of signature and the ASEAN Secretariat shall thereafter notify the rest of the ASEAN Member States. The deferment shall be effective upon notification by the ASEAN Secretariat to the other ASEAN Member States.

10.3 Any ASEAN Member State which has, pursuant to Article 10.2 of this MRA, given notice of deferment of its implementation, shall notify the ASEAN Secretariat of the indicated date of implementation of this MRA, which shall not be later than 1 January 2010. The ASEAN Secretariat shall thereafter notify the rest of the ASEAN Member States of the indicated date of implementation of this MRA. An ASEAN Member State which does not notify the ASEAN Secretariat of its date of implementation by 1 January 2010 shall be bound to implement this MRA on 1 January 2010.

10.4 This MRA shall be deposited with the ASEAN Secretariat, who shall promptly furnish a certified copy thereof to each ASEAN Member State.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this ASEAN Mutual Recognition Arrangement on Dental Practitioners.

DONE at Cha-am, Thailand, this Twenty Sixth Day of February in the Year Two Thousand and Nine, in a single original copy in the English Language.

For Brunei Darussalam:

LIM JOCK SENG

Second Minister of Foreign Affairs and Trade

For the Kingdom of Cambodia:

CHAM PRASIDH

Senior Minister and Minister of Commerce

For the Republic of Indonesia:

MARI ELKA PANGESTU

Minister of Trade

For the Lao People's Democratic Republic:

NAM VIYAKETH

Minister of Industry and Commerce

For Malaysia:

TAN SRI MUHYIDDIN YASSIN

Minister of International Trade and Industry

For the Union of Myanmar:

U SOE THA

Minister for National Planning and Economic Development

For the Republic of the Philippines:

PETER B. FAVILA

Secretary of Trade and Industry

For the Republic of Singapore:

LIM HNG KIANG

Minister for Trade and Industry

For the Kingdom of Thailand:

PORNTIVA NAKASAI

Minister of Commerce

For the Socialist Republic of Viet Nam:

VU HUY HOANG

Minister of Industry and Trade

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