

AGREEMENT ON JUDICIAL CO-OPERATION

BETWEEN

THE KINGDOM OF THAILAND

AND

THE REPUBLIC OF INDONESIA

The Government of the Kingdom of Thailand and
the Government of the Republic of Indonesia,

Desiring to strengthen the historical bonds of
friendship between the two countries,

Realizing the need to implement the provisions
in the Declaration of ASEAN Concord on judicial co-operation,

Have agreed as follows :

Chapter I

General Provisions

Article 1

The Government of the Kingdom of Thailand and
the Government of the Republic of Indonesia agree to
co-operate with each other in serving judicial documents
and obtaining evidence in civil and commercial matters.

Article 2

1. Nationals of either Party shall have free
access in the territory of the other Party to the courts
and may appear before them under the same conditions as
nationals of the latter Party.

2. The provisions of this Agreement referring to nationals of either Party shall also apply to juristic persons constituted under the law of either Party and domiciled in its territory.

Article 3

1. Each Party shall designate an Authority to transmit and receive request for service of judicial documents or Letter of Request to obtain evidence directly or through diplomatic channels and proceed in conformity with provisions of this Agreement.

2. The Authority for the Kingdom of Thailand is the Office of Judicial Affairs of the Ministry of Justice, and the Authority for the Republic of Indonesia is the Directorate General for Court Administration of the Ministry of Justice.

Article 4

1. The request and the Letter of Request shall be written in English. A translation into English of the accompanying documents must also be transmitted, together with the request, to the Authority designated to receive such request or Letter of Request by the requested Party.

2. Such translation must be certified by a sworn translator of the requesting Party. No legalization or other like formality is required.

Article 5

The requesting Party undertakes to reimburse to the requested Party expenses incurred in the execution of the request or the Letter of Request, including costs of translation relating thereto.

Chapter II

Service of Judicial Documents

Article 6

1. The Authority of the Party in which the documents originate shall forward the request to the Authority of the other Party without any requirement of legalization or other like formality.
2. The document to be served or a copy thereof shall be attached to the request.
3. The request and the document shall both be furnished in duplicate.

Article 7

The request shall be accompanied by related documents and shall specify the following particulars :

- (a) The title and address of the Court making the request;
- (b) The nature of the proceedings in which the service is required;
- (c) The names and addresses of the parties to the proceedings and their representatives, if any;
- (d) The name and address of the addressee;
- (e) Such information as may be necessary concerning the nature of the documents to be served and any requirement or specific form to be used.

Article 8

1. A request duly made in accordance with the provisions of this Agreement shall be executed unless :

- (a) Execution is impossible on account of absence of the persons upon whom service is requested or on account of inability to locate such person or for any similar reason;
- (b) The requested Party considers the execution of the request would be contrary to public policy or prejudicial to its sovereignty or security.

2. If a request is not executed, the Authority designated by the requested Party shall as soon as possible inform the Authority designated by the requesting Party of the reason for failure to execute it.

3. The execution of a request for service of judicial documents shall be effected expeditiously in the manner prescribed by the law of the requested Party or in the manner specifically requested, provided this is not incompatible with the internal law of the requested Party.

4. Proof of service of judicial documents, shall be given either by a dated authenticated receipt from the addressee or by an attestation by the Authority of the requested Party, stating that the documents have been served and specifying the manner and date of service.

Article 9

Each Party shall have the right to serve documents on its own nationals resident in the territory of the other Party through its diplomatic mission provided that no compulsion is used in such service.

Chapter III

Taking of Evidence

Article 10

1. In civil or commercial matters, a judicial authority of the Party may, in accordance with provisions of the law of that Party, request the competent authority of the other Party, by means of a Letter of Request to obtain evidence.

2. A Letter of Request shall not be used to obtain evidence which is not intended for use in judicial proceedings.

Article 11

The Letter of Request shall be accompanied by related documents and shall specify the following particulars :

- (a) The title and address of the Court making the Letter of Request;
- (b) The nature of the proceedings in which the evidence is required;
- (c) The names and addresses of the parties to the proceedings and their representatives, if any;

- (d) The names and addresses of witnesses or the addressees;
- (e) The documents or properties to be inspected;
- (f) Such information as may be necessary concerning the circumstances as to which evidence is to be taken, the questions to be put to the persons to be examined, and any requirement that the evidence is to be given on oath or affirmation or in any specific manner.

Article 12

1. In the execution of a Letter of Request, the Court of the requested Party or the Authority designated by the requested Party, shall, if so requested, give reasonable notice of the time and place of its intended taking of evidence, to any person designated to receive notice by the requesting Party from whom the Letter of Request was transmitted.

2. It shall permit the parties to the proceedings in the requesting Party or their representatives to be present when the evidence is taken.

Article 13

1. The execution of a Letter of Request shall be effected expeditiously in the manner prescribed by the law of the requested Party or in the manner specifically requested provided this is not incompatible with the internal law of the requested Party.

Article 14

In the execution of a Letter of Request the person concerned may refuse to give evidence in so far as he has privileges and immunities or duty to refuse to give the evidence :

- (a) Under the law of the requested Party; or
- (b) Under the law of the requesting Party and the privileges and immunities or duty has been specified in the Letter of Request, or, at the instance of the requested Authority, has been otherwise confirmed to that Authority by the requesting Authority.

Article 15

1. A Letter of Request made in accordance with the provisions of this Agreement shall be executed unless :

- (a) Execution of the Letter of Request does not fall within the competence of the judiciary of the requested Party; or
- (b) Execution is impossible on account of absence of the person whose testimony is to be taken, or on account of inability to locate such person or for any similar reason; or
- (c) The requested Party considers the execution of the Letter of Request would be contrary to public policy or prejudicial to its sovereignty or security.

2. Execution may not be refused, solely on the ground that under its internal law the requested Party claims exclusive jurisdiction over the subject-matter of the action or that its internal law does not admit a right of action on it.

Article 16

1. The Authority designated by the requested Party shall transmit a certificate of the fact specifying the date and manner of the execution of the Letter of Request, together with a record of any testimony taken, to the Authority designated by the requesting Party.

2. The Authority designated by the requested Party shall cause such certificate of execution and record of testimony taken, to be translated into English for transmittal, together with the certificate and the record, to the Authority designated by the requesting Party.

3. Such translation must be certified by a sworn translator of the requested Party. No legalization or other like formality is required.

Article 17

Each Party shall transmit to each other on request, in accordance with the law of the requested Party, extracts from judicial records concerning the cases in which the nationals of the requesting Party are involved.

Chapter IV

Final Clauses

Article 18

Any difficulties between the Parties arising out of the interpretation or implementation of this Agreement shall be settled peacefully through consultation or negotiation.

Article 19

This Agreement shall be ratified and shall enter into force on the date of exchange of the instruments of ratification.

Article 20

1. This Agreement may be terminated at any time by either Party in writing giving the other one year prior notice of its intention to do so.

2. The termination of this Agreement shall not prejudice any proceedings commenced prior to the date of such termination.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments have signed this Agreement.

Done in duplicate at Bangkok on the Eighth day of March, One Thousand Nine Hundred and Seventy Eight in the Thai, Indonesian and English languages, all the three texts being equally authentic. In case of divergence, the English text shall prevail.

FOR THE GOVERNMENT OF THE
KINGDOM OF THAILAND

FOR THE GOVERNMENT OF THE
REPUBLIC OF INDONESIA

U. Pachariyangkun

M. Mohtar

(Dr. Upadit Pachariyangkun)
Minister of Foreign Affairs

(Prof. Dr. Mohtar Kusumaatmadja)
Minister of Justice