

Protocol 3: Frequency and Capacity of Services and Issuance of Quotas and Permits

To the Agreement between and among the Governments of the Kingdom of Cambodia, the People's Republic of China, the Lao People's Democratic Republic, the Union of Myanmar, the Kingdom of Thailand, and the Socialist Republic of Viet Nam for the Facilitation of Cross-Border Transport of Goods and People
(hereinafter referred to as "the Protocol")

The Governments of the Kingdom of Cambodia, the People's Republic of China, the Lao People's Democratic Republic, the Union of Myanmar, the Kingdom of Thailand, and the Socialist Republic of Viet Nam (hereinafter referred to as "the Contracting Parties"),

Referring to the Agreement between and among the Governments of the Lao People's Democratic Republic, the Kingdom of Thailand, and the Socialist Republic of Viet Nam for the Facilitation of Cross-Border Transport of Goods and People, originally signed at Vientiane on 26 November 1999, amended at Yangon on 29 November 2001, acceded to by the Kingdom of Cambodia at Yangon on 29 November 2001, acceded to by the People's Republic of China at Phnom Penh on 3 November 2002, and acceded to by the Union of Myanmar at Dali City on 19 September 2003, and amended at Phnom Penh on 30 April 2004 (hereinafter referred to as "the Agreement"),

Referring to Articles 3 (n) of the Agreement to the effect that Protocols contain time- and/or site-specific variable elements and that they form an integral part of the Agreement and are equally binding,

Referring to Article 36 of the Agreement, as amended, per which the Agreement may be signed and ratified or accepted and enter into force separately from the Annexes and Protocols,

Referring to the Ninth GMS Ministerial Conference held in Manila in January 2000, the Seventh Meeting of the Subregional Transport Forum held in Ho Chi Minh City in August 2002, and the 11th GMS Ministerial Conference held in Phnom Penh in September 2002, where the Governments agreed to a work program to finalize the Agreement and its Annexes and Protocols by 2005, and

Referring to Article 23 of the Agreement, calling for this Protocol to provide technical details,

HAVE AGREED AS FOLLOWS:

Article 1: Permit Requirement

Transport operators of one Contracting Party shall be entitled to perform cross-border transport operations under Article 23 of the Agreement in other Contracting Parties'

territories only if they hold a GMS road transport permit (hereinafter referred to as “permit”) in accordance with this Protocol.

Article 2: Eligible Operations

(a) Vehicles

The vehicles to be operated during Step 1 in accordance with the Agreement are the motor vehicles used for the carriage of people or goods by road as defined by Article 1 of Annex 2 to the Agreement.

(b) Operators

(i) Cross-border transport operations for reward shall be performed only by the transport operators that have been licensed in accordance with Article 21 of the Agreement and Annex 9 to the Agreement.

(ii) The Contracting Parties shall periodically communicate their updated register of licensed road transport operators holding permits for cross-border road transport operations, to the Joint Committee for dissemination to the other Contracting Parties as appropriate.

(c) Itineraries

Itineraries shall be restricted to the exit/entry points, routes, and corridors defined in Protocol 1 to the Agreement.

Article 3: Exemptions

The following transport operations shall be exempted from the permit requirement for the purpose of cross-border transport operations:

- (a) transport for own account, provided that a certificate to qualify for this exemption, issued by the National Transport Facilitation Committee of the Home Country or its authorized Competent Authority, shall be recognized by the Host Country;
- (b) movement of non-commercial vehicles;
- (c) funeral transport; and
- (d) emergency assistance operations (ambulances, firefighting vehicles, recovery vehicles, humanitarian missions).

Article 4: Types of Permits (Frequency and Capacity)

(a) For Scheduled Passenger Transportation

The permits shall be continuous during their period of validity and shall specify the itinerary, frequency, and maximum capacity of the transport operations.

(b) For Cargo Transportation and for Non-Scheduled Passenger Transportation

(i) The permits issued by one Contracting Party shall be continuous during their period of validity and shall entitle their holders to perform cross-border transport operations in the other Contracting Parties' territories.

(ii) The holder shall allocate permits to the vehicles of his/her choice employed in cross-border transport operations, but he/she can use a permit only for one vehicle at the same time.

Article 5: Permit Issuance and Distribution Procedure

- (a) The permits shall be issued and distributed by the National Transport Facilitation Committee of the Home Country or by its authorized Competent Authority to its transport operators, while observing the principle of non-discrimination. The Contracting Parties will mutually recognize the permits so issued.
- (b) For scheduled passenger transportation, the Contracting Parties whose territory is traversed by the itinerary, shall make appropriate arrangements on terms and conditions and/or on the number of permits.
- (c) For cargo transportation and for non-scheduled passenger transportation, each Contracting Party, shall be entitled to issue up to 500 permits. This arrangement shall be subject to annual review and modification by the Joint Committee.

Article 6: Period of Validity of Permits and Extensions

- (a) A permit shall be valid for a period of one year as from the date of its issuance. Provided the permit was first used before the expiry of its validity period by entering the territory of a Contracting Party other than the operator's Home Country, it shall however remain valid until the completion of the transport operation by the return of the vehicle to its Home Country.
- (b) Permits issued by the National Transport Facilitation Committee of the Home Country to its Transport Operators shall be nominative, non-negotiable, and non-transferable.
- (c) The validity of the Permit shall be subject to the validity of the holder's transport operator license issued in accordance with Article 21 of the Agreement and Annex 9 to the Agreement.
- (d) A border crossing transport operation shall be completed by the exit of the vehicle from the Host Country territory within a period of no more than 30 days as from the date of entry in the Host Country territory. If the transport operator is unable to leave the Host Country territory in time, he/she shall inform the Host Country Competent Authority and may be required to file for extension with the Host Country's Competent Authority, which shall grant the extension if the transport operator's delay was caused by force majeure or other reasonable cause.

Article 7: Permit Format and Evidence

(a) Format

The permit form shall include the following particulars in the English language without prejudice to the parallel use of national languages:

- (i) the title: GMS Road Transport Permit;
- (ii) the name (and logo) of the issuing authority, its address, contact data, and country;
- (iii) a reference to Protocol 3 and Article 23 of the Agreement;
- (iv) country code (distinguishing nationality sign as per Article 7(d) of Annex 2 to the Agreement) and permit number;
- (v) its period of validity;
- (vi) the type of permit and the type of transport operation it covers (cargo/passenger, scheduled/non-scheduled);

- (vii) for scheduled passenger transport vehicles, the itinerary (including the points of origin and destination), frequency of operations, and the maximum capacity of vehicles, as appropriate;
- (viii) the identity of the transport operator beneficiary of the permit;
- (ix) a number of blank boxes to contain the registration number of the vehicle(s) to which the permit is allocated;
- (x) the place and date of issuance; and
- (xi) an authentication (seal/stamp, signature).

The Joint Committee may modify the particulars to be included in the permit form, as appropriate. The Joint Committee will determine the format, appearance, layout, and printing specifications of the permit form.

(b) Evidence

- (i) The vehicle to which the permit is allocated, shall carry the original permit form on board at all times during cross-border transport operations.
- (ii) Each permit shall be valid only for a vehicle of which the registration number is entered on the permit form.

Article 8: Time Frame for Implementation of Step 2

This Protocol shall be effective for a period of three years after its entry into force. Thereafter the Contracting Parties will reassess the road transport market situation and consider the transition to the free market system as described in Step 2 of Article 23 of the Agreement.

Article 9: Amendment

Any Contracting Party may propose amendments to the Protocol via the Joint Committee. Such amendments shall be subject to the unanimous consent of the Contracting Parties.

Article 10: Ratification or Acceptance

The Protocol is subject to ratification or acceptance of the Governments of the Contracting Parties. The same applies to an amendment to the Protocol, if any.

Article 11: Entry into Force

The Protocol will enter into force on the day that at least two Contracting Parties have ratified or accepted it, and will become effective only among the Contracting Parties that have ratified or accepted it. The same applies to an amendment to the Protocol, if any.

Article 12: Conforming National Law

Where necessary, the Contracting Parties undertake to conform their relevant national legislation with the contents of the Protocol.

Article 13: Reservations

No reservation to the Protocol shall be permitted.

Article 14: Suspension of the Protocol

Each Contracting Party may temporarily suspend wholly or partly the application of the Protocol with immediate effect in the case of emergencies affecting its national safety.

The Contracting Party will inform as soon as possible the other Contracting Parties of such suspension, which will end as soon as the situation returns to normal.

Article 15: Relationship with the Agreement

As a measure to implement the principles laid down in the Agreement, the Protocol cannot depart from or be contrary to these principles. In case of incompatibility between the Protocol and the Agreement, the latter shall prevail. In case of incompatibility between the Protocol and another annex or protocol, such incompatibility shall be interpreted in light of the Agreement.

Article 16: Dispute Settlement

Any dispute between or among two or more Contracting Parties on the interpretation or application of the Protocol shall be settled directly or by amicable negotiation in the Joint Committee.

Article 17: Denunciation

Once entered into force, the Protocol cannot be denounced separately from the Agreement.

In witness whereof, the undersigned, being duly authorized, have signed this Protocol.

Done at Beijing on 20 March 2007 in six originals in the English language.

Signed:

For the Royal Government of Cambodia

(Signed) His Excellency Tram Iv Tek
Secretary of State, Ministry of Public Works and Transport

For the Government of the People's Republic of China

(Signed) His Excellency Weng Mengyong
Vice Minister of Communications

For the Government of the Lao People's Democratic Republic

(Signed) His Excellency Sommad Pholsena
Minister of Communication, Transport, Post and Construction

For the Government of the Union of Myanmar

(Signed) His Excellency Thura Thaug Lwin
Deputy Minister of Rail Transportation

For the Government of the Kingdom of Thailand

(Signed) His Excellency Sansern Wongcha-um
Deputy Minister of Transport

For the Government of the Socialist Republic of Viet Nam

(Signed) His Excellency Tran Doan Tho
Vice Minister of Transport