

## **FACILITATION OF THE CROSS-BORDER TRANSPORT OF GOODS AND PEOPLE IN THE GREATER MEKONG SUBREGION**

(February 2005)

### **A. Cross-Border Facilitation: A Critical Component of Subregional Cooperation in the Transport Sector**

1. Since the onset of the ADB-assisted Economic Cooperation Program in the Greater Mekong Subregion (GMS Program) in 1992, priority has been given to the provision of subregional transport infrastructure that would enhance the connectivity and economic linkages between and among the six GMS countries.

2. The GMS Governments have recognized that the provision of subregional physical infrastructure is a necessary, but not a sufficient condition for increased connectivity among the six GMS countries. The mitigation of nonphysical barriers to the cross-border movement of goods and people is important to increase efficiency, reduce costs, and maximize the economic benefits of improved subregional transport infrastructure. It is a crucial component in the transformation of GMS transport corridors into so-called economic corridors. An economic corridor is a geographically designated area where infrastructure developments are directly linked to production, trade, and investment potentials.

3. In 1996, ADB provided a technical assistance (TA) to the six GMS countries to (i) identify and assess priority transport-related cross-border issues, (ii) assess the viability of existing international conventions or agreements as possible 'solutions' or 'responses' to the priority issues, (iii) identify and assess issues that are not addressed by existing international conventions or agreements, and (iv) identify implementation requirements for addressing priority issues. The findings of the TA showed that the barriers to trade and the free movement of people between GMS countries are substantial. A number of nonphysical barriers that impede the free movement of vehicles, goods, and people across international borders in the subregion have been identified. They include (i) restrictions on the entry of motor vehicles, often causing costly and time-consuming transshipment; (ii) different standards pertaining to vehicle size, weight and safety requirements, and driver qualifications; (iii) inconsistent and difficult formalities related to customs procedures, inspections, clearances, and assessment of duties; and (iv) restrictive visa requirements.

4. For example, in the East-West Corridor linking Myanmar, Thailand, Lao PDR, and Viet Nam, while most trucks move freely across the Lao-Thai border, any movements further inside the country, until recently, are restricted to border areas. Because of the absence of inland container depots in Mukdahan or Khon Kaen, Lao goods are brought across the border as loose cargo, transferred to Thai trucks, and transported by them to the port, where they are loaded into containers. For Thai goods transiting through Lao PDR to Viet Nam, goods are taken across the border in Thai trucks and sold to Lao traders who then load them onto their own trucks. If the East-West Corridor is to efficiently serve all east-west movements resulting in reduced delay and damage to cargo, then trucks from the four Corridor countries must be able to move freely along its length.

5. There are existing international conventions that address these nonphysical barriers to the cross-border movement of goods and people. However, for legal and

political reasons, most GMS members are still unable to fully accede to these international conventions on cross-border transport facilitation. Over the long term, the accession to these international conventions by all GMS members is necessary to ensure efficient cross-border transport in the subregion. However, there is a need to address these nonphysical barriers over the short to medium term to ensure smooth cross-border movement of goods and people.

6. Bilateral agreements exist between many GMS members related to cross-border movement. These agreements, however, only partly address critical cross-border facilitation issues, and hinder transit movement of vehicles, goods, and people to third countries. In addition, the bilateral agreements that exist among pairs of GMS countries are not necessarily consistent with each other and run the risk of having gaps and overlaps, thereby making transport facilitation even more difficult. There is, therefore, a need for a multilateral framework to facilitate the cross-border movement of goods and people on a subregion-wide and consistent basis, allowing for both inter-state and transit traffic.

## **B. The GMS Cross-Border Transport Agreement**

7. The GMS Cross-Border Transport Agreement (GMS Agreement) is a multilateral instrument designed to be adopted by all GMS members for the facilitation of cross-border transport of goods and people. Formulated under the auspices of ADB TA, the GMS Agreement provides a practical approach, in the short to medium term, to streamline regulations and reduce nonphysical barriers in the GMS. It incorporates the principles of bilateral or multilateral action, and flexibility in recognition of differences in procedures in each of the GMS countries. The GMS Agreement includes references to existing international conventions that have demonstrated their usefulness in a broad range of countries. It also takes into account, and is consistent with, similar initiatives being undertaken by ASEAN. In this regard, ADB has undertaken extensive consultations and coordination with the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) and the ASEAN Secretariat to ensure that the GMS Agreement is consistent with the existing international conventions on cross-border land transport facilitation as well as with similar agreements being forged by ASEAN countries of which five of the six GMS countries are also members. ADB has also undertaken consultations with the United Nations Economic Commission for Europe (UNECE) in order to learn from UNECE's experience in promoting cross-border land transport facilitation in Europe.

8. The GMS Agreement is a compact and comprehensive multilateral instrument, which covers in one document all the relevant aspects of cross-border transport facilitation. These include (i) single-stop/single-window customs inspection; (ii) cross-border movement of persons (i.e., visas for persons engaged in transport operations); (iii) transit traffic regimes, including exemptions from physical customs inspection, bond deposit, escort, and phytosanitary and veterinary inspection; (iv) requirements that road vehicles will have to meet to be eligible for cross-border traffic; (v) exchange of commercial traffic rights; and (vi) infrastructure, including road and bridge design standards, road signs and signals. The GMS Agreement will apply to selected and mutually agreed upon routes and points of entry and exit in the signatory countries.

9. The GMS Agreement is formally known as *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.* As the current name of the Agreement suggests, all GMS countries are already signatories to the Agreement.

10. The Agreement includes a preamble and ten parts. Part I provides general provisions. Part II covers the facilitation of border crossing. Part III addresses the cross-border movement of people. Part IV covers the cross-border transport of goods. Part V covers the requirements for the admittance of road vehicles. Part VI deals with the exchange of commercial traffic rights. Part VII covers infrastructure. Part VIII addresses the institutional framework. Part IX sets out miscellaneous provisions. Part X sets out final provisions.

11. Annexes and protocols to the GMS Agreement have also been drafted under the auspices of an ADB TA. An annex is an attachment to the Agreement that will contain technical details, forms an integral part of the Agreement, and will be equally binding. A protocol is an attachment to the Agreement that will contain time- or site-specific variable elements. It forms an integral part of the Agreement and will be equally binding. There are currently 17 annexes and 3 protocols that will be negotiated and finalized by the GMS countries during 2003-2005 (Attachment 1). These annexes and protocols have been drafted in close consultation with the GMS Governments, UNESCAP, ASEAN Secretariat, and UNECE.

12. All six signatory Governments have ratified the Agreement. For this reason, the Agreement has entered into force, and articles of the Agreement articles that do not require annexes or protocols can now be implemented.

### **C. Next Steps**

13. The major milestones for the future work on cross-border transport facilitation under the GMS Program and their respective estimated timeframe are as follows: (i) Negotiation, Finalization, and Signing of Annexes and Protocols [2003-2005], (ii) Ratification by all GMS Governments of the Annexes and Protocols [2004-2007], (iii) Initial Implementation of the GMS Agreement and its Annexes and Protocols [2005-2007], and (iv) Full implementation of the GMS Cross-Border Agreement and its Annexes and Protocols [2007/2008].

14. **Negotiation, finalization and signing of the Annexes and Protocols.** The annexes and protocols are being negotiated in three stages: (i) Stage 1 were the easiest Annexes and Protocols to negotiate in terms of understanding and reaching agreement, and were signed on 30 April 2004; (ii) Stage 2 Annexes and Protocols were more difficult in terms of ease of understanding and/or ease of reaching agreement, and were signed on 16 December 2004; and (iii) Stage 3 Annexes and Protocols are the most difficult and are expected to be signed in 2005

15. **Initial implementation of the GMS Agreement.** During the Eighth Meeting of the GMS Transport Forum held in Phnom Penh in August the GMS countries agreed to undertake the initial implementation of the GMS Agreement, on a pilot basis at five of the 16 border crossing points defined in Protocol 1 of the GMS Agreement (see Map in Attachment 2): (i) Hekou (PRC)-Lao Cai (Viet Nam); (ii) Bavet (Cambodia)-Moc Bai (Viet Nam); (iii) Dansavanh (Lao PDR)-Lao Bao (Viet Nam); (iv) Poipet (Cambodia)-

Aranyaprathet (Thailand); and (v) Mukdahan (Thailand)-Savannakhet (Lao PDR). The initial implementation of the GMS Agreement at these border crossing points is expected to commence in mid-2005.

16. **Full implementation of the GMS Agreement.** Essential activities such as incorporation into domestic law, the preparation of detailed implementation guidelines and manuals, and training are planned to be undertaken under the auspices of ADB technical assistance. These will take place either simultaneous with the negotiation of the annexes and protocols, or following the finalization of some annexes and protocols in order to expedite implementation of the GMS Agreement and/or allow partial implementation of some of the Agreement's components that have already been finalized. Full implementation of the GMS Agreement requires each country to ratify the Agreement and conform its affected national laws to the Agreement's contents, which, in some cases, would require amendment(s) of such laws.

<b><u>List of Annexes and Protocols</u></b>		<b><u>Status</u></b>
Annex 1	Carriage of Dangerous Goods	Signed on 16 December 2004
Annex 2	Registration of Vehicles in International Traffic	Signed on 30 April 2004
Annex 3	Carriage of Perishable Goods	Being negotiated
Annex 4	Facilitation of Frontier Crossing Formalities	Signed on 30 April 2004
Annex 5	Cross-Border Movement of People	Being negotiated
Annex 6	Transit and Inland Clearance Customs Regime	Being negotiated
Annex 7	Road Traffic Regulation and Signage	Signed on 30 April 2004
Annex 8	Temporary Importation of Motor Vehicles	Being negotiated
Annex 9	Criteria for Licensing of Transport Operators for Cross-Border Transport Operations	Signed on 16 December 2004
Annex 10	Conditions of Transport	Being negotiated
Annex 11	Road and Bridge Design and Construction Standards and Specifications	Signed on 30 April 2004
Annex 12	Border Crossing and Transit Facilities and Services	Signed on 30 April 2004
Annex 13a	Multimodal Carrier Liability Regime	Signed on 30 April 2004
Annex 13b	Criteria for Licensing of Multimodal Transport Operators for Cross-Border Transport Operations	Signed on 16 December 2004
Annex 14	Container Customs Regime	Being negotiated
Annex 15	Commodity Classifications System	Signed on 30 April 2004
Annex 16	Criteria for Driving Licenses	Signed on 16 December 2004
Protocol 1	Designation of Corridors, Routes, and Points of Entry and Exit (Border Crossings)	Signed on 30 April 2004
Protocol 2	Charges Concerning Transit Traffic	Being negotiated
Protocol 3	Frequency and Capacity of Services and Issuance of Quotas and Permits	Being negotiated

