



# THE LEGAL FRAMEWORK

Updated at the 35<sup>th</sup> ASEF Board of Governors' Meeting,  
01-02 December 2016, Singapore

## PREFACE

This booklet is meant to provide the ASEF Board of Governors and ASEM Stakeholders with a convenient guide to the legal framework of ASEF.

Its objectives are to present the organisation and clarify its relations with ASEM governments and stakeholders.

The booklet consists of three (3) sections:

- 1) General Provisions;
- 2) Rules of the Board of Governors;
- 3) Appendices (source documents, incl. the Dublin Principles, papers prepared at ASEM meetings, etc.).

Any amendments in the sections “*General Provisions*” and “*Rules of the Board of Governors*” of this booklet have to be approved at an ASEF Board of Governors’ Meeting. These potential amendments reflect internal development and changes within ASEF, policy directives and other policy documents relating to ASEF. Source documents, like the Dublin Principles or papers approved at ASEM meetings, cannot be changed.

References to source documents in the sections “*General Provisions*” and “*Rules of The Board of Governors*” are listed in brackets behind the headings of the various paragraphs. The paragraphs printed in italics provide background information and brief notes on how rules are applied in practice.

## TABLE OF CONTENTS

<b>GENERAL PROVISIONS</b> .....	<b>6</b>
1. Mandate from ASEM ( <i>ASEM 1, BoG 1, ASEM 6, ASEM 7, ASEM 8</i> ) .....	6
2. Purpose, Areas of Interest and Functions ( <i>DP, ASEM 5, BoG 25</i> ).....	6
3. Participation ( <i>DP, BoG 1, ASEM 6</i> ).....	7
4. Funding ( <i>DP, BoG 1, BoG 18, ASEM 6, BoG 22, SOM 09/09/06, ASEM 8, BoG 24, FAC/ExCo May 2010, BoG 25</i> ) .....	7
5. Legal Capacity ( <i>DP, BoG 1</i> ) .....	8
6. Constitutional Document ( <i>M&amp;A, BoG 1, BoG 25</i> ):.....	8
7. Privileges ( <i>BoG 1</i> ) .....	8
8. Executive Office: ( <i>DP, M&amp;A, BoG 18, ASEM SOM Hanoi 2007</i> ) .....	8
9. Recruitment of Staff ( <i>DP, BoG 1</i> ).....	9
10. Audit ( <i>DP, M&amp;A</i> ) .....	9
<b>RULES OF THE BOARD OF GOVERNORS</b> .....	<b>10</b>
1. Role of the Board ( <i>DP, M&amp;A, BoG 1, BoG 16, BoG 25</i> ).....	10
2. Chair and Vice-Chair ( <i>DP, M&amp;A, BoG 1, BoG 16</i> ).....	10
3. Appointment of Governors ( <i>DP, M&amp;A, BoG 1, BoG 16, BoG 25</i> ).....	10
4. Composition of Executive Committee ( <i>BoG 1, BoG 5, BoG 6, BoG 16, BoG 25</i> ) .....	10
5. Terms of Reference of the Executive Committee ( <i>BoG 5, BoG 6, BoG 16</i> ) .....	11
6. Board Meetings and Executive Committee Meetings ( <i>DP, M&amp;A, BoG 1, BoG 16, BoG 21, ASEM 5, BoG 25, BoG 28</i> ) .....	11
7. Rules of Procedure of the Board ( <i>DP, M&amp;A, BoG 1</i> ).....	11
8. Quorum ( <i>M&amp;A, BoG 1, BoG 25</i> ).....	12
9. Voting ( <i>DP, M&amp;A</i> ) .....	12
10. Resolutions in Writing ( <i>M&amp;A, BoG 16, BoG 25</i> ).....	12
11. Minutes ( <i>M&amp;A</i> ) .....	12
12. Power to Delegate to Committees ( <i>DP, M&amp;A, BoG 1</i> ) .....	12
13. Rules and Procedures of Committees ( <i>DP, M&amp;A, BoG 1</i> ) .....	12
14. Composition of the Finance & Audit Committee ( <i>BoG 5, BoG 6, BoG 10, BoG 16, BoG 25</i> ) .....	13
15. Terms of Reference of the Finance & Audit Committee ( <i>BoG 5, BoG 6, BoG 10</i> ).....	13
<b>APPENDICES</b> .....	<b>14</b>
APPENDIX 1 .....	14
DUBLIN PRINCIPLES .....	14
Dublin Agreed Principles of the Asia-Europe Foundation (Revised during BoG 16).....	14
APPENDIX 2 .....	17
Recommendations for Organizational and Management Strategy and Long Term Financial Sustainability of ASEF .....	17

APPENDIX 3 .....	19
Paper on ASEF Financial Sustainability .....	19
APPENDIX 4 .....	23
Paper on “ <i>Selection of ED &amp; DED</i> ” .....	23

## KEY TO SOURCES

Source	Abbreviation
<b>Memorandum &amp; Articles of Association (ASEF's Constitution)</b>	<b>M&amp;A</b>
<b>Dublin Principles</b>	<b>DP</b>
<b>Chair's Statement of an ASEM Summit</b> <i>The number next to the abbreviation indicates which ASEM Summit is being referred to.</i>	<b>ASEM</b>
<b>ASEM Senior Officials' Meeting</b> <i>The date next to the abbreviation indicates which ASEM SOM is being referred to.</i>	<b>SOM</b>
<b>Minutes of an ASEF Board Meeting</b> <i>The number next to the abbreviation indicates which ASEF Board of Governors' Meeting is being referred to.</i>	<b>BoG</b>

## GENERAL PROVISIONS

### 1. Mandate from ASEM (ASEM 1, BoG 1, ASEM 6, ASEM 7, ASEM 8)

- The first ASEM resolved that “*an Asia-Europe Foundation would be set up in Singapore with contributions from Asian and European countries, to promote exchanges between think-tanks, peoples, and cultural groups.*” The nature and scope of ASEF’s mandate is defined in the Dublin Agreed Principles (DP) of the Asia-Europe Foundation, which resulted from the Senior Officials Meeting that was held in Dublin in December 1996.
- At the 5th ASEM Summit in 2004 in Hanoi ASEM Leaders endorsed SOM’s “*Recommendations for organisational and management strategy and long term financial sustainability of ASEF*” (the “*Hanoi Recommendations*”), which revised the Dublin Agreed Principles (the “*Revised Dublin Principles*”). The Revised Dublin Principles are at Appendix 1 and the Hanoi Recommendations are at Appendix 2.
- At the 6th ASEM Summit in September 2006 in Helsinki, the leaders endorsed a paper on ASEF Financial Sustainability, in line with the revised Dublin Principles (see Appendix 3).
- The Helsinki Declaration on the Future of ASEM furthermore underlines the place of ASEF within the ASEM process, stating: “*While continuing to align ASEF with the ASEM process, the partners are encouraged to consider the recommendations resulting from seminars co-organised by ASEF.*”

### 2. Purpose, Areas of Interest and Functions (DP, ASEM 5, BoG 25)

- The purpose of the Foundation is to promote better mutual understanding between Asia and Europe through greater intellectual, cultural and people-to-people exchanges, in line with the vision for Asia-Europe cooperation as laid down by the ASEM Leaders at their initial meeting in Bangkok from 1–2 March 1996, as well as their subsequent meetings.
- In pursuit of this purpose, the Foundation should seek to add value by:
  - (a) Acting as a catalyst and facilitator; for co-operation and dialogue between Asia and Europe
  - (b) Functioning as an interface between Asian and European civil society on one axis, and between civil society and the ASEM process on another axis;
  - (c) Organizing projects closely linked with ASEM activities in collaboration with relevant institutions of the ASEM partners, particularly in response to any specific mandate from the ASEM Summit or Ministerial meeting, with the approval of the Board of Governors; and
  - (d) Enhancing public perception and knowledge of Asia-Europe relations in general and the ASEM process in particular.
- The Foundation should avoid duplicating existing and future bilateral and multilateral exchanges between Asia and Europe in three core areas of its work, and should seek where possible to build on and promote further development in the activities of existing networks working in these areas.

### 3. Participation (DP, BoG 1, ASEM 6)

- Participation in the Foundation shall be open to ASEM Partners having taken part in the first ASEM in Bangkok in March 1996, as well as to any new partner joining the ASEM process.
- Intellectual, cultural and other relevant institutions and nongovernmental organisations of the ASEM partners, working in the three core areas of the Foundation's mandate, are eligible to be partners of ASEF's programmes.
- At the 6th ASEM Summit, leaders agreed that: "*ASEF has the discretion to decide on project partnerships with ASEM members. ASEF may decide to exercise such discretion to decline project partnerships with ASEM countries which do not meet their moral and political obligations to make fair and balanced contributions, which are important for the long term financial sustainability of ASEF. However, nationals of these countries will continue to be allowed to participate in all ASEF activities undertaken with other partner countries.*"

### 4. Funding (DP, BoG 1, BoG 18, ASEM 6, BoG 22, SOM 09/09/06, ASEM 8, BoG 24, FAC/ExCo May 2010, BoG 25)

- The Foundation has established an operating fund and a reserve fund<sup>1</sup>. The Foundation shall be entitled to solicit and accept contributions for either of these funds from member governments and their institutions, as well as from private corporations, foundations or individuals.
- Fair and balanced contributions from all partners, which are important for the long-term financial sustainability of the Foundation, should be made on a voluntary basis by the governments of the ASEM. The Board has decided that money designated by any donor government for the operating fund should remain in that fund, and cannot, without the consent of that government, be transferred to the reserve fund.
- In circumstances where the annual budget exceeds the operating fund, resulting in a deficit in the operating fund, the Board has decided that any accumulated income that has accrued from the reserve fund may be transferred to the operating fund.
- Regarding the use of interest accrued from contributions received from ASEM partners, the following policy will apply:
  - Interest accrued from contributions received from ASEM partners can be used by ASEF in pursuit of its purpose (as stated in the "*Dublin Principles*") and to sustain its activities.
  - Notwithstanding the provisions of paragraph 1, if the contributing ASEM partner requests it, the Executive Director can make special arrangements with the contributing ASEM partner on the use of the interest accrued on the specific contribution.

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<sup>1</sup> The proposal to reclassify the existing *Endowment Fund* into a *Reserve Fund* was approved at the 22<sup>nd</sup> ASEF Board of Governors' Meeting on 20-21 November 2008 in Singapore.

- The Paper on “*ASEF Financial Sustainability*” was endorsed by the leaders at the ASEM6 Summit. The paper states the funding formula for ASEF, approved by the ASEM Senior Officials in Hanoi on October 2006 shall be for a trial period of 3 years, subject to further review and fine-tuning if necessary. At the 24th ASEF Board of Governors’ Meeting in 2009 in Singapore and the subsequent FAC and ExCo meetings in May 2010, it was agreed that the focus for ASEF should be now to secure the annual contributions from ASEM partners and to ensure its timely receipt in the face of a challenging financial environment. No changes will be made in the funding system and a review shall take place after 3 years in 2013.
- At the 8th ASEM Summit in Brussels in October 2010, leaders expressed their appreciation for the important work performed by the Asia-Europe Foundation (ASEF), ASEM’s only established institution, which acts as a networking node of activities for promoting mutual understanding between Asia and Europe. Leaders recognised the value of ASEF’s flagship programs in furthering the priorities, and enhancing the visibility of ASEM. They called on ASEM partners to ensure, through the regularity of their contributions, that the long-term financial sustainability of its programs would be assured. They invited the new ASEM partners to also make their contributions and encouraged their active participation in ASEF activities.

#### **5. Legal Capacity (DP, BoG 1)**

- The Foundation was created by the consensus of ASEM partners who consider it as an International Organisation. This status of International Organisation is notably recognised by the Singapore Government which confers on ASEF certain rights and diplomatic privileges.
- For practical convenience, the Foundation is registered in Singapore’s domestic law as “*A company limited by guarantee and not having a share capital*”.
- The Foundation has the legal capacity to contract, acquire and dispose of moveable and immoveable property, and be party to legal proceedings.

#### **6. Constitutional Document (M&A, BoG 1, BoG 25)**

##### **International Organisation status**

- ASEF is an institution of the Asia-Europe Meeting (ASEM), established and funded by ASEM Partners.
- ASEF’s projects and programmes are aligned with the ASEM priorities as defined during ASEM Summits and Ministerial Meetings.

#### **7. Privileges (BoG 1)**

- The Singapore Government has accorded limited privileges and immunities to ASEF and its seconded staff on an *ex gratia* and *ad hoc* basis.

#### **8. Executive Office: (DP, M&A, BoG 18, ASEM SOM Hanoi 2007)**



- The staff of the Foundation shall be headed by the Executive Director. The Executive Director shall be a citizen of an ASEM country. He shall be appointed by the Board of Governors for a term of four years. The Foundation will be represented by the Executive Director. The Executive Director is responsible to the Board for the administration of the Foundation and the implementation of its policies and programmes.
- The Executive Director will be assisted by a Deputy Executive Director who will be a citizen of an ASEM country, appointed by the Board for a term of four years.
- If the Executive Director is an Asian, the Deputy Executive Director will be a European, and vice versa.
- The Executive Director shall be invited, to attend a SOM and submit budgetary reports and brief on its activities. The decision to invite the ED shall be made at the Coordinators' Meeting preceding the SOM in which the Executive Director is expected to submit budgetary reports and brief on its activities.
- The ASEM SOM leader of the host country of a BoG meeting, or his/her representative, should be invited to attend the meeting as an observer.

#### **9. Recruitment of Staff (DP, BoG 1)**

- The Executive Director will recruit such professional, secretariat and other staff, as are from time to time considered essential for carrying out the policies and programmes of the Foundation. To ensure that the Foundation can properly carry out its main roles in terms of programme management, office maintenance, human resources, and corporate information technology support, the Executive Director may recruit experienced administration professionals and qualified existing staff may be retrained to ensure that the Foundation is professionally and efficiently run in keeping with its purpose as a reputable International Organisation. The Executive Director will also seek the secondment of such staff where appropriate.

#### **10. Audit (DP, M&A)**

- The accounts of the Foundation shall be maintained according to normal principles of good practice, and shall be audited by an external auditor appointed by the Board whose reports shall be submitted to the Board.

\*\*\*\*\* End \*\*\*\*\*

## **RULES OF THE BOARD OF GOVERNORS**

### **1. Role of the Board (DP, M&A, BoG 1, BoG 16, BoG 25)**

- The Board shall oversee the business of the Foundation. It reviews ASEF's strategy and policies to ensure that these are aligned with the ASEM principles and priorities. It is responsible for the finance and budget of the Foundation, including approving the projects and programmes submitted by the Executive Director, Deputy Executive Director and the Heads of Departments, who together form the Management of the Foundation.
- The Board is also responsible for the appointment of the Chair and the Vice-Chair, the Executive Director and the Deputy Executive Director, as well as the appointment of any other Committee that it considers necessary.
- In the exercise of their responsibilities, members of the Board shall have regard to the interests of the ASEM as a whole.
- In the event of dissolution, the Board of Governors will decide on how any remaining property of ASEF is to be distributed, after the payment of its debts and duties.

### **2. Chair and Vice-Chair (DP, M&A, BoG 1, BoG 16)**

- The Board elects its own Chair and Vice-Chair for a term of one calendar year. If the Chair is European, the Vice-Chair shall be Asian, and vice versa.
- In practice, each Chair is succeeded by the Vice-Chair upon the expiry of his or her term.
- In the event that the Chair resigns before expiry of the term, he or she will be succeeded by the Vice-Chair until the end of the following year.

### **3. Appointment of Governors (DP, M&A, BoG 1, BoG 16, BoG 25)**

- Each ASEM partner will designate one Governor for a period of three years, with the possibility of renewal. Governors must be natural persons.

### **4. Composition of Executive Committee (BoG 1, BoG 5, BoG 6, BoG 16, BoG 25, ExCo May 2013, BoG 31)**

- The Executive Committee (ExCo) comprises six (6) Asian Governors, and six (6) European Governors, including the Chair and the Vice-Chair. The Governor for Singapore is a standing member of the Asian group. In addition, the Executive Director and the Deputy Executive Director sit in the ExCo, making a total of fourteen (14) ExCo members. The Chair and the Vice-Chair of the Board shall act as Chair and Vice-Chair of the ExCo respectively.

**5. Terms of Reference of the Executive Committee (BoG 5, BoG 6, BoG 16, ExCo May 2013)**

- ExCo will prepare the decisions over finance, the annual budget and the audited financial statements, and consider project proposals. It will also assume the responsibilities of the Nominating Committee, which primarily include consulting with the Board for the purpose of nominating the Chair and Vice-Chair, and assisting the Board in short-listing qualified candidates for the posts of Executive Director and Deputy Executive Director.
- In urgent cases, the management may submit new project proposals to the Executive Committee and to the full Board during the interval between ExCo and Board Meetings. Observations made by ExCo members relating to such project proposals should be circulated to all Governors for their comments. If ExCo members' formally approve the project (within 2 weeks), projects are submitted to Board members for comments and final approval (within 1 week). The Governors will be deemed to have consented to ExCo's decision unless they raise objections within 3 weeks of the date of circulation ('silent procedure').

**6. Board Meetings and Executive Committee Meetings (DP, M&A, BoG 1, BoG 16, BoG 21, ASEM 5, BoG 25, BoG 28)**

- Three (3) Board Meetings are required to be held within a two-year period. The Board will meet at least once a year and more often, if necessary. An annual meeting shall take place in Singapore, the seat of the Foundation, in the last quarter of the year. A biennial meeting shall take place abroad (2nd quarter of the year), alternating in Asia and Europe
- The Finance & Audit Committee (FAC) and Executive Committee (ExCo) will meet twice a year, each time prior to the Board Meeting. In any year when there is no Board meeting in the 2nd quarter of the year, the FAC and ExCo will meet separately in Singapore at this period of time, so that decisions are still made on a biannual basis.
- The Board has decided that Governors, and in their absence, their duly authorized representatives, be allowed to attend Board Meetings and take decisions.
- In regard to ExCo meetings, only ExCo members are entitled to participate in the ExCo meetings. However, the Heads of Departments may be invited to attend the meetings but they shall have no voting power.
- The above procedures relating to Board Meetings and ExCo Meetings will take effect from January 2013 onwards and be reviewed after a period of two (2) years.

**7. Rules of Procedure of the Board (DP, M&A, BoG 1)**

- The Board will draw up its own rules of procedure.

#### **8. Quorum (*M&A, BoG 1, BoG 25*)**

- The quorum for Board Meetings (or General Meetings) may be fixed by the Board and unless so fixed shall be twenty-five. A meeting of the Board at which a quorum is present shall be competent to exercise all the authorities, powers, and discretion by or under the regulations of the Foundation for the time being vested in the Board.
- The quorum for ExCo Meetings may be fixed by the Board and unless so fixed shall be 7.

#### **9. Voting (*DP, M&A*)**

- Each member or Governor has one vote. Subject to the Articles, questions arising at any meeting of the Board shall be decided by a majority of votes and a determination by a majority of Governors shall for all purposes be deemed a determination of the Board. In the event of an equality of votes the Chair of the meeting shall have a second or casting vote.
- In practice, the Board and ExCo have been exercising their powers and passed their resolutions on the basis of consensus.

#### **10. Resolutions in Writing (*M&A, BoG 16, BoG 25*)**

- A resolution in writing signed by all Governors for the time being of the Board of Governors shall be as valid and has effect as if it had been passed at a meeting of the Governors duly convened and held and such resolution in writing may consist of several documents in like form each signed by one or more of such Governors.
- The intention is that ASEF can have its regular Board of Governors' Meeting without the Governors having to meet physically, if it so wishes.

#### **11. Minutes (*M&A*)**

- The Board is required to cause proper minutes to be made of its proceedings and to distribute such minutes to the Governors.
- In practice, the minutes are prepared by ASEF Executive Office acting as the Secretariat of the Board meetings.
- The decisions of all ExCo Meetings shall be distributed to the Board.

#### **12. Power to Delegate to Committees (*DP, M&A, BoG 1*)**

- The Board may delegate any of its powers to committees consisting of such persons as it thinks fit and any person so appointed need not be a Governor or a member of the Foundation.

#### **13. Rules and Procedures of Committees (*DP, M&A, BoG 1*)**

- Save where the Board provides otherwise, and as far as possible, the meetings and procedure of such committees are subject to the same rules as the meetings and proceedings of the Board itself.

**14. Composition of the Finance & Audit Committee (BoG 5, BoG 6, BoG 10, BoG 16, BoG 25, BoG 33)**

- The Finance & Audit Committee consists of six (6) Governors, three (3) Asians and three (3) Europeans, proposed by the Executive Committee, and appointed by the Board for the term of at least one year. One of the Asian members will be the Governor for Singapore. The Finance & Audit Committee shall appoint amongst its members a Chair, who will hold the appointment for at least one year.

**15. Terms of Reference of the Finance & Audit Committee (BoG 5, BoG 6, BoG 10)**

- The Finance & Audit Committee *“shall review the finances of ASEF periodically and make appropriate reports to the Board of Governors”, and “shall review the audited financial statements with the Management and with the external auditors before these are submitted to the Board, and keep the Board informed of the results of its review.”*

\*\*\*\*\* End \*\*\*\*\*

## **APPENDICES**

### **APPENDIX 1**

#### **DUBLIN PRINCIPLES**

**Dublin Agreed Principles of the Asia-Europe Foundation (Revised during BoG 16)**

##### **Purpose, Areas of Interest and Functions**

1. The purpose of the Foundation is to promote better mutual understanding between Asia and Europe through greater intellectual, cultural and people-to-people exchanges, in line with the vision for Asia-Europe cooperation as laid down by the ASEM Leaders at their meeting in Bangkok from 1-2 March 1996 as well as at their subsequent meetings.
2. In pursuit of this purpose, the Foundation should seek to add value by:
  - (a) organizing projects closely linked with ASEM activities in collaboration with relevant Asia and European institutions of the ASEM countries;
  - (b) implementing any projects assigned by future meetings of ASEM Leaders or Ministers and the relevant member of the European Commission;
  - (c) acting as a clearing house, catalyst and facilitator;
  - (d) organizing a few flagship projects of its own;
  - (e) conducting public relations activities to profile ASEM, and publicize ASEM Meetings, seminars and other activities; and
  - (f) giving grants.
3. The Foundation should avoid duplicating existing and future bilateral and multilateral exchanges between Asia and Europe in the three areas of its work, as stated in paragraph 1 above, and should seek where possible to build on and promote further development in the activities of existing networks working in these areas.

##### **Participation**

4. Participation in the Foundation shall be open to ASEM partners having taken part in the first ASEM in Bangkok in March 1996, as well as to any new partners joining the ASEM process.
5. Intellectual, cultural and other relevant institutions and non-governmental organizations of the ASEM partners, working in the three core areas of the Foundation's mandate, will be eligible to apply to the Foundation for assistance.

##### **Funding for the Foundation**

6. The Foundation will establish an operating fund and an endowment fund.
7. The Foundation shall be entitled to solicit and accept contributions for either of these funds from member governments and their institutions, as well as from private corporations, foundations or individuals.

8. Fair and balance contributions of all partners, which are important for the long-term financial sustainability of the Foundation, should be made on a voluntary basis by the governments of ASEM partners and the European Commission.
9. Any moneys received in the operating fund in excess of the annual budget of the Foundation shall be transferred to the endowment fund, which shall also receive any contributions specifically earmarked for this purpose.

### **Legal Capacity**

10. The Foundation shall be incorporated under Singapore's domestic law as a not-for-profit corporation with tax-exempt status. It will have the legal capacity to contract, acquire and dispose of movable and immovable property, and be party to legal proceedings.

### **Governance**

11. The Foundation will be governed by a Board of Governors. Each participant will designate one Governor for a period of three years. The Board will meet at least once a year and more often, if necessary. The Board will, at its first meeting, formally adopt a statement of the Foundation's purposes, objectives and procedures. The Board will likewise draw up its own rules of procedure. It may appoint an Advisory Committee and any other committee as may, in its view, be necessary for the performance of the Foundation's functions.
12. The Board of Governors shall elect its own Chairperson and Vice-Chairperson for a period of one year. If the Chairperson is a European, the Vice-Chairperson shall be an Asian, and vice-versa. The first Chairperson and Vice-Chairperson shall be elected by the Board at its first meeting, on the basis of nominations made at the ASEM Foreign Ministers' Meeting on 15 February 1997.
13. The Board of Governors will be responsible for determining the Foundation's policies, programmes and priorities. The Board of Governors shall also be responsible for ensuring the efficient use of the Foundation's resources, for approval of the Foundation's annual report, its proposed budget and workplan for the coming year. In the exercise of their responsibilities, members of the Board will have regard to the interest of the ASEM as a whole.
14. The Executive Director shall have meetings with the ASEM SOM leaders for consultation when necessary in order to ensure that the ASEM annual work programme is coherent with the ASEM official work programme. The Foundation shall also submit financial reports and other documents directly to the ASEM partner governments.

### **Staffing**

15. The staff of the Foundation shall be headed by an Executive Director. The Executive Director will be a citizen of an ASEM country. He shall be appointed by the Board of Governors for a term of four years. The Executive Director will be responsible to the Board for the administration of the Foundation and the implementation of its policies and programmes. The Foundation will be represented by the Executive Director.

16. The Executive Director will be assisted by a Deputy Executive Director who will be a citizen of an ASEM country, appointed by the Board for a term of four years.
17. If the Executive Director is an Asian, the Deputy Executive Director will be a European, and vice-versa.
18. The Executive Director will recruit such professional, secretariat and other staff essential for carrying out the policies and programmes of the Foundation. The Executive Director will also seek the secondment of such staff where appropriate, including a Chief Financial Officer to ensure cost effectiveness across programmes and projects, reporting and auditing in accordance with international standards.

### **Accounts**

19. The accounts of the Foundation shall be maintained according to normal principles of good practice, and shall be audited by an external auditor appointed by the Board whose reports shall be submitted to the Board.

*19 December 1996, Dublin, Ireland*  
*Amended on 6 October 2004, Hanoi, Viet Nam*



## APPENDIX 2

### **Recommendations for Organizational and Management Strategy and Long Term Financial Sustainability of ASEF (ASEM SOM, 6 October 2004, Hanoi, Viet Nam)**

At the Fourth Asia-Europe Meeting (ASEM 4) held in 2002, ASEM leaders urged ASEM partners to adopt the necessary measures to ensure ASEF's long-term sustainability before the next Summit. At the Fifth ASEM Foreign Ministers' Meeting in 2003, the Ministers requested ASEF to provide further cost and benefit analysis as well as management strategy for ASEF's long-term financial sustainability and mandated SOM to follow up this issue for adoption at the Hanoi Summit. At the sixth ASEM Foreign Ministers' Meeting in 2004, the Ministers requested the Board of Governors of ASEF to submit proposals on the future of ASEF to ASEM Senior Officials for consideration and approval prior to submission to the Hanoi Summit.

After careful considerations of the "ASEF Sustainability (ASEF Board of Governors, Berlin, May 2003)", the supplementary paper submitted by the Executive Office of ASEF on cost-benefit analysis, "Asia Europe Foundation's Strategy and its Long Term Financial Sustainability (The Van der Geest-Macaranas Report)" and the "Comments by the Board of Governors on the Study Report (Van der Geest-Macaranas Report)", SOM leaders agreed on the following recommendations for adoption by the leaders. Accordingly the Dublin Principles should be revised as attachment A.

#### **Organizational and management strategy**

1. Align ASEF more closely to the ASEM process through providing information and analysis of the ASEM process to a key audience through suitable intellectual exchange, people-to-people, cultural exchange and public relations/information projects. In particular, in the run-up to the biennial ASEM Summits, ASEF should place more emphasis on implementing major projects to highlight the importance and implications of the ASEM process.
2. The relations between ASEF Governors and ASEM SOM leaders should be strengthened by the following arrangements.
  - (1) A meeting between the Board of Governors (BoG) Chairperson, the ASEF Executive Director (ED) and the ASEM Coordinators or SOM leaders should be arranged as and when the SOM leaders deem it necessary. ASEF may request such a meeting for consideration by the SOM leaders.
  - (2) The ED shall be invited, to attend a SOM and submit budgetary reports and brief on its activities. The decision to invite the ED shall be made at the Coordinators' Meeting preceding the SOM in which the ED is expected to submit budgetary reports and brief on its activities.
  - (3) The ASEM SOM leader of the host country of a BoG meeting, or his/her representative, should be invited to attend the meeting as an observer.

3. The Dublin Principles and the logical framework for ASEF were reviewed and it was found that it should give greater priority to implementation of projects assigned by ASEM Leaders or ASEM Ministerial Meetings, with a view to making ASEF even more effective to further substantiating the co-operation between Asia and Europe.
4. The ASEF's Executive Office and the Governors should be reminded that ASEF has accountability to the contributing countries for explaining a policy of its activities.

### **Long Term Financial Sustainability**

1. The ASEM partners reaffirmed that contribution to ASEF must be continued voluntarily. The partners duly take note of the call by the ASEF Executive Director for the continuous and more active contributions in order to sustain ASEF activities and the recommended formula for contribution in the "ASEF Sustainability (ASEF Board of Governors, Berlin, May 2003)".
2. Annual budget should not be considered as fixed at a certain amount. The budget should be continuously and critically reviewed to achieve cost-effectiveness by implementing applicable recommendations made in the Van der Geest-Macaranas Report.
3. To ensure cost-effectiveness across programmes and projects, a professional senior manager to act as the Foundation's Chief Financial Officer (CFO) should be introduced as a staff member. Such a staff member can be made available by an ASEM partner. While acknowledging an important role of BoG meetings to publicize ASEF activities in various countries, it is important to hold the meetings cost-efficiently. Hence, it is encouraged to limit the representatives from the ASEF Executive Office only to the ED, Deputy ED and the CFO when a BoG meeting is held outside of Singapore.

## APPENDIX 3

### Paper on ASEF Financial Sustainability

(Approved by ASEM SOM 09/09/06 and Endorsed by the Leaders at the ASEM 6 Summit)

#### GENERAL OBSERVATIONS

The following proposal is made in respect of the responsibilities and roles of the SOM and the Board of Governors on the basis of the Dublin Principles and is premised on the following considerations which emerged during the deliberations of the Task Force.

1. The proposed formula aims to provide greater structure and predictability to ASEF's income streams so as to put ASEF on a firmer financial footing. Each and every member of ASEM is encouraged to contribute regularly to ASEF.
2. Contributions to ASEF will remain on a voluntary basis, as different ASEM members have different legislative constraints with regard to financial contributions to ASEF. The proposed formula serves only as a recommended rate of payment for ASEM countries, which will retain the ultimate decision on their level of voluntary financial commitment to ASEF.
3. It is proposed that members self-declare their financial commitment to ASEF according to three bands, taking cognisance of their political obligations. The bands do not represent any form of weighting, nor imply any ranking of influence among ASEM members. Countries determine their own placement in these bands. ASEM countries are thus encouraged to honour their political commitments by volunteering into the bands commensurate with their level of activity in and support for ASEF.
4. Members are also free to change their placement between bands if their priorities change.
5. It is proposed that this formula be used for a trial period of 3 years, subject to further review and fine-tuning if necessary.
6. Apart from financial contributions from ASEM members, ASEF is strongly encouraged to increasingly tap other non-governmental sources of funding (e.g. local business communities and private sector players), with a view to reducing ASEF's share of costs for each programme activity.
7. ASEF is also encouraged to continue and strengthen its current practice of budgetary discipline in order to maintain a balanced budget.

#### PROPOSED TWO-TIER STRUCTURE FOR CONTRIBUTIONS BY ASEM MEMBERS

1. **TIER ONE** comprises a **recommended contribution dedicated solely to the Administrative Costs** of ASEF. Funding to Tier One is on a voluntary basis, but partners are morally and politically obliged to make contributions according to their self-declaration. Once a year, the SOM will review the administrative costs incurred for the previous year and the provision made in the budget for the coming year, and endorse (or otherwise) the premises on which the proposed

budget is based The agreed level of annual Administrative Costs will be allocated according to the formula (see box) illustrated below.

#### Explanatory Notes:

- i. This tier puts the resource requirements and job security of ASEF staff on a sure footing. It also gives ASEF the flexibility to adjust activity, resource and staff levels according to prevailing circumstances.
- ii. This self-declaration formula employs an honour system for each member to contribute to ASEF. It avoids prescriptive methodologies on which it would be difficult to achieve consensus.
- iii. ASEF has the discretion to decide on project partnerships with ASEM members. ASEF may decide to exercise such discretion to decline project partnerships with ASEM countries which do not meet their moral and political obligations by making fair and balanced contributions, which are important for the long term financial sustainability of ASEF. However, nationals of these countries will continue to be allowed to participate in all ASEF activities undertaken with other partner countries.

#### The Formula

The Recommended Annual Membership Fee for the 39 ASEF members will be derived from a three band ratio, with countries **voluntarily declaring** which band they wish to commit to. There is flexibility to move between bands if national priorities change over time.

The 3 bands of contribution rates, Levels A, B and C, carry ratios of 3: 2: 1 respectively.

ASEM Governments will self-declare their own placement within these three bands.

The allotment of each member's contribution can then be determined once all self-declarations are known.

An additional discount (suggested at 80%) off the Level C contribution rate should be allowed for low-income economies (Cambodia, Laos and Myanmar). The amount arising from this discount can be redistributed among the other members, according to the same ratio (illustrative calculations are provided below).

2. **TIER TWO** comprises **funding contributions to projects**. This includes project funding, and Trust Funds. **Contribution is voluntary**. To aid effective ASEF budget planning and to enhance the predictability of funding inflows, ASEM members should indicate the amount and timing of their contributions prior to 1 January, the start of the ASEF financial year.
  - a. The aggregate funding level for Tier Two will be proposed by ASEF. Several 'menus' can be presented to illustrate what numbers/types of projects can be secured at what levels of funding. The SOM will review the different levels of proposed project funding and acknowledge a realistically admissible level of funding. The Board of Governors will then adopt the budget and the work plan for the coming year. Each partner has the discretion to decide how much it contributes taking into account the agreed level of funding.

- b. For opportune projects of significant value arising outside the scope of planned annual projects, ASEF can tap the revolving Reserve Fund (converted from the Endowment Fund as per the Task Force recommendation from its Paris meeting) to launch the activity, and work to raise the requisite funds to replenish the Reserve Fund thereafter.
- c. ASEF should continue to proactively seek funds from sources other than the upfront contributions from members, in order to fund and grow project activities. As project activities increase, contributions should be sought from the ASEM members proposing such projects. Proponents of projects should bear commensurate funding responsibility for their projects, and not leave ASEF to bear such costs entirely.
- d. ASEF should continue to raise funds on a project-specific basis, including from non-governmental sources and directly from government agencies other than the ministries contributing to ASEF in Tier 1.

#### ILLUSTRATIVE EXAMPLE:

1. Assume voluntary self-banding results in the following distribution of the 39 ASEM members:
  - a. Level A: 11 members
  - b. Level B: 19 members
  - c. Level C: 9 members (including Cambodia, Laos and Myanmar)
2. Assume the annual Administrative Costs are agreed at €1,450,000. This constitutes the funding in TIER ONE.  
*(Past ASEF expenditure on administrative costs average €750,000 per year. This example is illustrated with the figure of €1,450,000 which corresponds to ASEF projected Administrative Costs for the next FY—amount subject to change from year to year)*

#### Distribution via self-declared ratios

3. €1,450,000 will be apportioned using these calculations:

$A=11 \times 3 \text{ shares}; B=19 \times 2 \text{ shares}; C=9 \times 1 \text{ share} = \text{sum total of } 80 \text{ shares} * €1,450,000 \div 80 \text{ shares} = \mathbf{€18,125 \text{ per share}}$

Level C members pay €18,125 each (€18,125 x 1 share)

Level B members pay €36,250 each (€18,125 x 2 shares)

Level A members pay €54,375 each (€18,125 x 3 shares)

*\*Please note that 80 shares is derived from the illustrative self-categorisation example at para 1. If more countries commit to the higher bands (A & B), it will mean more than 80 shares (thus each share will be smaller). If more countries commit to the lowest band (C), there will be less than 80 shares (hence each share will be larger).*

## Discount for low income members

4. Assume an additional discount of 80% off the Level C rate is given to **Cambodia, Laos and Myanmar. Cambodia, Laos and Myanmar each pay €3,625** (20% x €18,125). The discount is redistributed to the remaining 36 countries on the same ratio. The calculations will be as follows:  $80\% \times €18,125 = €14,500 \times 3 \text{ countries} = €43,500$  to be redistributed.

A=11 x 3 shares; B=19 x 2 shares; C=6 x 1 share (less 3 countries) = sum total of **77 shares**  $€43,500 \div 77 \text{ shares} = €565 \text{ per share}$

Level C members each pay  $€18,125 + €565 \text{ (1 share)} = €18,690$

Level B members each pay  $€36,250 + €1,130 \text{ (2 shares)} = €37,380$

Level A members each pay  $€54,375 + €1,695 \text{ (3 shares)} = €56,070$

## APPENDIX 4

### Paper on “*Selection of ED & DED*”

(Approved at the 16<sup>th</sup> ASEF Board of Governors’ Meeting on 25-26 November 2004 in Hanoi, Viet Nam)

#### ASIA-EUROPE FOUNDATION

#### 16<sup>TH</sup> BOARD OF GOVERNORS MEETING

25-26 NOV 2004

**Agenda Item 7: Paper on Nominating Committee  
for Selection of Executive Director  
and Deputy Executive Director**

## SELECTION OF ED & DED

*(DRAFT APPROVED BY THE NOMINATING COMMITTEE)*

After eight years of ASEF experience, and following the suggestion of the Nominating Committee Meeting in Dublin, in May 2004, the Executive Office submits the following regulations for the next selection of ED and DED:

- 1 One year before the expiration of ED and DED's terms, the Executive Office will address a letter to all the ASEM partners asking them to submit candidacies, always having in mind paragraphs 14 and 15 of the Dublin Principles, where it is stated that ED and DED "will be citizens of an ASEM country" and "shall be appointed by the BOG for a term of four years".
- 2 The Executive Office will establish the convenient deadline to ensure both, an accurate and timely selection by the Nominating Committee and a smooth transition between the outgoing and the incoming senior staff.
- 3 All the candidacies received – and formally seconded by the ASEM partners – will be submitted to the Nominating Committee as a whole, without making any distinction (as in the past) between Asian and European members.
- 4 After examination of the candidacies, the Nominating Committee will decide upon the most suitable candidates who should be interviewed by the Committee.
- 5 After interviewing the candidates, the Nominating Committee will take the decision of proposing to the plenary of the Board of Governors the selected candidates, to become ASEF ED and DED.



- 6 Following the BOG tradition, the Nominating Committee's decision should be taken by consensus. But if a proper consensus was not reached, the decision will be taken by simple majority of its members. In case of a tie, the Chairman's vote will be decisive.
- 7 Once the candidates are chosen, a specific point for their approval will be inscribed in the Agenda of the next BOG meeting.
- 8 The BOG's final decision will be officially communicated by the Chairman of the Board to all the ASEM partners.