

**PROTOCOL TO AMEND THE FRAMEWORK AGREEMENT  
ON COMPREHENSIVE ECONOMIC CO-OPERATION  
BETWEEN THE ASSOCIATION OF SOUTH EAST ASIAN  
NATIONS AND THE PEOPLE'S REPUBLIC OF CHINA**

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, the Socialist Republic of Vietnam, Member States of the Association of South East Asian Nations (collectively "ASEAN" or "ASEAN Member States") and the People's Republic of China ("China");

**RECALLING** the Framework Agreement on Comprehensive Economic Co-operation between ASEAN and China (hereinafter referred as "the Framework Agreement") signed on 4 November 2002;

**RECOGNISING** that any Party may accelerate its tariff reduction and elimination for products covered under the Framework Agreement, including any commitments covered under the Early Harvest Programme of the Framework Agreement;

**RECOGNISING** also the requirement for some ASEAN Member States to complete their negotiations with China in respect of the Early Harvest Programme provided under the Framework Agreement;

**SEEKING** to incorporate into the Framework Agreement the Rules of Origin applicable to the products covered under the Early Harvest Programme of the Framework Agreement;

**SEEKING** also to revise the contents of the existing Annex 1 and Annex 2 of the Framework Agreement in order to include the subsequent Early Harvest agreements between some ASEAN Member States and China and to insert the relevant HS Codes and product descriptions;

**DESIRING** to clarify the implementation of the provisions of the Early Harvest Programme of the Framework Agreement;

**DESIRING** also to provide for the terms and conditions for the acceleration of tariff reduction and/or elimination for products covered under the Early Harvest Programme of the Framework Agreement through bilateral or plurilateral arrangements and to provide for such arrangements to be administratively annexed to the Framework Agreement;

**NOTING** that Article 14 of the Framework Agreement provides for any amendments thereto to be mutually agreed upon in writing by the Parties;

**HAVE AGREED AS FOLLOWS:**

#### **ARTICLE 1**

##### **Amendment of Article 6(3)(a)(iv) of the Framework Agreement**

Article 6(3)(a)(iv) of the Framework Agreement shall be deleted and substituted entirely by a new Article 6(3)(a)(iv) as set out below:

“(iv) For those parties which are unable to complete the appropriate product lists in Annex 1 or Annex 2, the lists may still be drawn up by mutual agreement consistent with the implementation timeframe set out in Annex 3 to this Agreement.”

#### **ARTICLE 2**

##### **Amendment of Article 6(3)(b)(i) of the Framework Agreement**

Article 6(3)(b)(i) of the Framework Agreement shall be substituted by a new Article 6(3)(b)(i) as set out below:

“(i) All products covered under the Early Harvest Programme shall be divided into 3 product categories for tariff reduction and elimination as defined and to be implemented in accordance with the timeframes set out in Annex 3 to this Agreement. This paragraph shall not prevent any Party from accelerating its tariff reduction and/or elimination if it so wishes, subject to the following terms and conditions:

- (1) A Party may accelerate its tariff reduction and/or elimination under this Article in relation to the rest of the parties on a unilateral basis;
- (2) One or more ASEAN Member States may also conduct negotiations and enter into a bilateral or plurilateral acceleration arrangement with China to accelerate their tariff reduction and/or elimination under this Article;
- (3) Before the commencement of negotiations of any arrangement pursuant to subparagraph 2 of Article 6(3)(b)(i) of this Agreement, all parties which decide to enter into such negotiations shall give joint written notification to the other ASEAN Member States at least one month before entering into such negotiations, so that any one or more of the ASEAN Member States may participate in such negotiations if they so wish. Any ASEAN Member State that intends to participate in such negotiations shall notify the original parties intending to enter into such negotiations of its intention in writing, and shall provide copies of such notification to the other ASEAN Member States through the ASEAN Secretariat;
- (4) Any individual ASEAN Member State shall be permitted to accede to any arrangement concluded pursuant to subparagraph 2 of Article 6(3)(b)(i) of this Agreement, provided that it undertakes to be fully bound by the entire package of commitments under such arrangement with respect to product coverage, tariff schedule, and implementation timeframe, as prescribed by such arrangement. For newer ASEAN Member States, special and differential treatment and flexibility on the implementation timeframe shall be provided;
- (5) In implementing tariff reduction and/or elimination under any arrangement concluded pursuant to subparagraph 2 of Article 6(3)(b)(i) of this Agreement, the Rules of Origin as set out in Annex 5 of this Agreement shall be applicable;



- (6) Any arrangement concluded pursuant to subparagraph 2 of Article 6(3)(b)(i) of this Agreement shall be jointly notified by the concluding parties to the rest of the ASEAN Member States through the ASEAN Secretariat, which shall annex it administratively to this Agreement without the need for any Protocol to amend this Agreement. The ASEAN Secretariat shall provide every ASEAN Member State and China with a copy of such arrangement with the appropriate annex numbering;
- (7) Any ASEAN Member State that intends to accede to any arrangement concluded pursuant to subparagraph 2 of Article 6(3)(b)(i) of this Agreement shall notify the original parties to such arrangement of its intention in writing, and shall provide copies of such notification to the other ASEAN Member States through the ASEAN Secretariat; and
- (8) Any acceleration arrangement concluded pursuant to the terms and conditions set forth in Article 6(3)(b)(i) of this Agreement, including any acceleration arrangement concluded before the entry into force of this Agreement, shall form an integral part of this Agreement.”

### **ARTICLE 3**

#### **Amendment of Article 6(3)(c) of the Framework Agreement**

1. Article 6(3)(c) of the Framework Agreement shall be amended by inserting a new paragraph immediately after the existing Article 6(3)(c) of the Framework Agreement and by renumbering those paragraphs as Article 6(3)(c)(i), Article 6(3)(c)(ii) and Article 6(3)(c)(iii) respectively as follows:

“(c) Rules of Origin

- (i) The Rules of Origin are set out in Annex 5 of this Agreement.

- (ii) The text of the Rules of Origin shall be applicable to the products covered under the Early Harvest Programme.
- (iii) Negotiations on the Product Specific Rules, which appear as Attachment B of the Rules of Origin, shall commence in January 2004.”

2. The Framework Agreement is amended by inserting as Annex 5 the Rules of Origin set out in Appendix 1 of this Protocol.

#### **ARTICLE 4**

##### **Amendment to insert new Article 12A into the Framework Agreement**

The Framework Agreement shall be amended by inserting a new Article 12A immediately after the existing Article 12 of the Framework Agreement as follows:

#### **“ARTICLE 12A**

##### **Agreements Outside this Agreement**

Nothing in this Agreement shall prevent or prohibit any individual ASEAN Member State from entering into any bilateral or plurilateral agreement with China and/or the rest of the ASEAN Member States relating to trade in goods, trade in services, investment, and/or other areas of economic co-operation outside the ambit of this Agreement. The provisions of this Agreement shall not apply to any such bilateral or plurilateral agreement.”

#### **ARTICLE 5**

##### **Substitution of Annex 1 of the Framework Agreement**

The existing Annex 1 of the Framework Agreement shall be substituted by the new Annex 1 as set out in Appendix 2 of this Protocol.

**ARTICLE 6**  
**Substitution of Annex 2 of the Framework Agreement**

The existing Annex 2 of the Framework Agreement shall be substituted by the new Annex 2 as set out in Appendix 3 of this Protocol.

**ARTICLE 7**  
**Incorporation of Early Harvest Schedules of Commitments**

All Parties shall incorporate all of their commitments under the Early Harvest Programme of the Framework Agreement, as contained in Appendix 2 and Appendix 3 of this Protocol, in their respective schedules of the Early Harvest Concessions, which will form an integral part of the Framework Agreement, and shall promptly deposit such Schedules of Commitments with the ASEAN Secretariat.

**ARTICLE 8**  
**Entry into Force**

1. This Protocol shall form an integral part of the Framework Agreement and shall enter into force upon the date of signature.
2. For ASEAN Member States, this Protocol shall be deposited with the ASEAN Secretariat which shall promptly furnish a certified copy thereof to each ASEAN Member State.

**IN WITNESS WHEREOF**, the undersigned being duly authorised by their respective Governments, have signed this Protocol to Amend the Framework Agreement on Comprehensive Economic Co-operation between the Association of South East Asian Nations and the People's Republic of China.

**DONE** at Bali, Indonesia this \_\_\_\_ day of October 2003, in duplicate copies in the English language.

*For Brunei Darussalam*

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**Pehin Dato Abdul Rahman Taib**  
Minister of Industry and Primary Resources

*For the People's Republic of China*

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**Yu Guangzhou**  
Vice Minister of Commerce

*For the Kingdom of Cambodia*

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**Cham Prasidh**  
Minister of Commerce

*For the Republic of Indonesia*

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**Rini M. S. Soewandi**  
Minister of Industry and Trade

*For the Lao People's Democratic Republic*

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**Soulivong Daravong**  
Minister of Commerce