

# **AFTA Reader**

**Volume V**

**The Sixth ASEAN Summit and  
the Acceleration of AFTA**

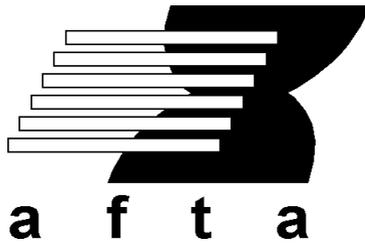
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**Plus:**

- **The 1998 CEPT Package**
- **Liberalisation of Services**
- **Mutual Recognition Arrangements**
- **Facilitation of Goods in Transit**
- **Current Economic Developments  
in Lao PDR**

**ASEAN Secretariat  
December 1998**





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The AFTA READER is a publication of the ASEAN Secretariat which is intended to be the main vehicle for providing concerned parties with the latest developments on AFTA, the results of continuing analysis on the products and industries covered by the CEPT Scheme, the progress of cooperation in the AFTA Plus areas, global developments affecting AFTA, as well as abstracts of works done by regional institutions and other international organizations on the CEPT for AFTA.

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## INTRODUCTION

The Fifth Volume of the AFTA Reader comes out more than two years after the last one issued in September of 1996.

The last two years have proven to be extraordinarily challenging for ASEAN. The period saw the further enlargement of ASEAN with the admission of Laos and Myanmar in July 1997. A major part of ASEAN's attention was, thus, absorbed in undertaking the necessary preparations for the accession of Laos and Myanmar to the CEPT Agreement and the finalisation of their CEPT package for tariff reduction beginning 1 January 1998.

More importantly, we saw the advent of the financial and economic crisis, whose effects continue to be felt in the region a year and a half after it broke out in July of 1997. The devaluation of the Thai baht on 2 July 1997 precipitated a financial crisis that has affected virtually all the ASEAN Countries. While one can dismiss this contagion effect as a reflection of market panic, it also reflects the very real process of economic integration that has been going on in the region. As a result, while each ASEAN Member has to take measures at the national level to deal with the impacts of the financial crisis, a strong regional response is needed as well.

At the regional level, ASEAN is responding to the crisis by establishing an ASEAN Surveillance Process (ASP), encouraging the use of ASEAN currencies for settling intra-ASEAN trade payments and pushing for greater regional integration. In October 1997, the ASEAN Economic Ministers expressed their resolve not to backtrack on their regional liberalisation commitments, particularly in the implementation of the CEPT Agreement. In December 1997 on the occasion of the Second Informal ASEAN Summit, the ASEAN Leaders called for the acceleration of the implementation of AFTA.

Hence the pace of regional liberalisation has not slackened. In fact, there is now an even greater air of urgency in this work. These initiatives are also being complemented by trade and investment facilitation work, particularly in the areas of customs and standards and conformity assessment.

#### Acceleration of the Implementation of AFTA

At the Sixth ASEAN Summit in December 1998, the Leaders agreed to complete the establishment of AFTA by the year 2002 for the six original signatories to the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA) - Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore and Thailand. However, the Leaders also agreed that some flexibility would have to be allowed in meeting this target.

#### Other Developments

The rules and disciplines of the CEPT Agreement continued to be strengthened with the signing of the Protocol on ASEAN Dispute Settlement Mechanism (DSM) by the ASEAN Economic Ministers on 20 November 1996. The ASEAN DSM provides an expeditious and transparent way of settling disputes among Member States regarding the implementation of ASEAN economic agreements. This was followed by the signing of the Protocol on Notification Procedures in October 1998 and the amendment of Article 6 on Emergency Measures of the CEPT Agreement. The Protocol on Notification Procedures obliges Member Countries to provide early notification of actions or measures that may nullify existing benefits enjoyed by other Members. The Interpretative Notes of Article 6 on emergency measures of the CEPT Agreement was amended to make it consistent with relevant provisions of the WTO Agreement on Safeguards.

Facilitation work in the areas of customs and elimination of technical barriers to trade also continued. An ASEAN Agreement on Customs was signed by the ASEAN Finance Ministers on 1 March 1997 in Phuket, Thailand formalising intra-regional cooperation in this area.

Members have also agreed to adopt a harmonised tariff nomenclature no later than the year 2000. Plans of Action to implement the Customs Vision 2020 which calls for “An ASEAN Customs Partnership for World Class Standards and Excellence” are now being prepared in 15 major areas

and these are targeted for completion soon. In addition, an ASEAN Framework Agreement on the Facilitation of Goods in Transit has been worked out to facilitate the movement of goods in transit among geographically contiguous countries in the region. The Agreement was signed during the Sixth ASEAN Summit in Hanoi, Vietnam in December 1998.

In the area of standards and conformance, ASEAN finalised a Framework Agreement on Mutual Recognition Arrangements which shall provide the basis for accelerating the development of bilateral as well as regional mutual recognition agreements on standards and conformity assessment among ASEAN Members.

Apart from the implementation of the CEPT Scheme, the AFTA-plus areas also continued to evolve rapidly. AFTA plus initiatives refer to non-border areas such as services, investments, industrial cooperation and intellectual property, which complement the realisation of a free trade area in ASEAN.

ASEAN Members were able to conclude two packages of services commitments covering seven priority sectors - air transport, business services, construction, financial services, maritime transport, telecommunications and tourism. The commitments in market access and national treatment are more favourable than those provided under the General Agreement on Trade in Services ("GATS-plus") and represent the region's continuing effort to liberalise trade in services.

In the area of intellectual property cooperation, Members are taking measures to enhance and strengthen intellectual property enforcement, protection, administration, and legislation in the region. Member Countries are amending previous legislation or enacting new ones to comply with the provisions of the Trade Related Intellectual Property Rights (TRIPS) Agreement. There are on going activities to promote public awareness as well as private sector participation in this important field. ASEAN Countries are also moving forward on the establishment of a regional trademarks and patents filing system.

In this volume of the AFTA Reader, we have therefore focussed on the continuing work on regional liberalisation and integration. The focus is on the implementation of the CEPT Agreement, the development of new rules and disciplines on dispute settlement and notification, the inclusion of

Laos and Myanmar and their CEPT commitments, as well as customs, standards and conformity assessment. But given the expansion of regional economic cooperation to include liberalisation of trade in services and cooperation in intellectual property, and noting how these efforts complement the establishment of AFTA, we have also broadened the coverage of this volume to include an update of the progress achieved in these areas.

We hope that the information shall adequately provide ample evidence of ASEAN's strong commitment to regional liberalisation even during these times of economic hardship.

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# ***Acceleration of the Implementation of AFTA***

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At the Second Informal ASEAN Summit held on 15-16 December 1997 in Kuala Lumpur, Malaysia, the ASEAN Heads of Government “agreed that the implementation of the ASEAN Free Trade Area ... be accelerated to increase intra-ASEAN trade ...”.

The mandate for accelerating the implementation of AFTA was an important way of maintaining the momentum of regional economic integration and sends a positive signal to the outside world that ASEAN was not slowing down on intra-regional liberalisation commitments because of the financial and economic crisis.

Subsequently, the modality for the acceleration of AFTA was decided at the Sixth ASEAN Summit in December 1998 held in Hanoi, Vietnam. ASEAN agreed to complete the establishment of AFTA by the year 2002 for the six original signatories to the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA) - Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore and Thailand. However, the Leaders also agreed that some flexibility would have to be allowed in meeting this target.

In addition, a firm timetable leading up to the realisation of AFTA by the year 2002 was also agreed upon. The timetable appears in Table 1.

The six countries also agreed to deepen, as soon as possible, tariff reduction to 0% and accelerate the transfer of products, which are currently



not included in the tariff reduction scheme, into the Inclusion List.

**Table 1**  
**TIMETABLE FOR ACCELERATING AFTA**

Year	Commitment
2000	<b>A minimum of 90% of the six countries' total tariff lines must have tariffs of 0-5%. Individually, each country would commit to achieve a minimum of 85% of the Inclusion List with tariffs of 0-5%.</b>
2001	<b>Each country would achieve a minimum of 90% of the Inclusion List in the 0-5% tariff range.</b>
2002	<b>100% of items in the Inclusion List would have tariffs of 0-5%, but with some flexibility.</b>

The new members of ASEAN shall maximise their tariff lines between 0-5% by 2003 for Vietnam and 2005 for Laos and Myanmar, and expand the number of tariff lines in the 0% category by 2006 for Vietnam and by 2008 for Laos and Myanmar.



# The 1998 CEPT Package

The number of tariff lines included in the CEPT Scheme has expanded with the membership of Lao PDR and Myanmar in 1997. The 1998 CEPT Package contains a total of 55,471 tariff lines comprising 45,942 tariff lines (82.8% of total tariff lines) in the Inclusion List, 8,353 tariff lines (15.1% of total tariff lines) in the Temporary Exclusion List, 340 tariff lines (0.6% of total tariff lines) in the Sensitive List and 836 tariff lines (1.5% of total tariff lines) in the General Exception List. The detailed breakdown is shown in Table 2.

**Table 2**  
**THE 1998 CEPT PACKAGE**

Country	Number of Tariff Lines				Total
	Inclusion	Temporary Exclusion	Sensitive	General Exception	
Brunei	6,105	135	14	239	6,493
Indonesia	6,622	541	4	45	7,212
Lao	533	2,820	96	102	3,551
Malaysia	8,621	276	104	63	9,064
Myanmar	2,356	2,987	21	108	5,472
Philippines	5,202	380	71	28	5,681
Singapore	5,739	0	0	120	5,859
Thailand	9,046	73	7	n.a	9,126
Vietnam	1,718	1,141	23	131	3,013
<b>Total</b>	<b>45,942</b>	<b>8,353</b>	<b>340</b>	<b>836</b>	<b>55,471</b>
<b>Percentage</b>	<b>82.8</b>	<b>15.1</b>	<b>0.6</b>	<b>1.5</b>	<b>100.0</b>

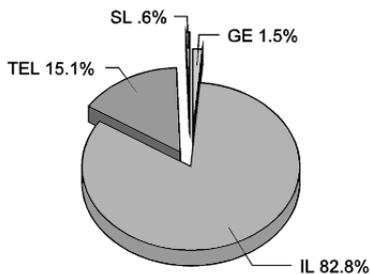
Notes: Valid as of 6 October 1998; n.a - not available

Source: ASEAN Secretariat.

Lao PDR has a total of 3,551 tariff lines. Out of this, 533 tariff lines (15% of total tariff lines) are in the Inclusion List and the CEPT (as well as MFN) rates for all these lines are at 5%. About 45.4% of these tariff lines are from the Machinery and Electrical Appliances Sectors (i.e. chapter 84-85) while 19.14% of tariff lines are from the Optical, Precision and Musical Instruments sectors (i.e. chapter 90-92). Lao PDR maintains 2,820 tariff lines in the Temporary Exclusion List, which constitutes 79.4% of her tariff lines. The remaining 198 tariff lines are in the Sensitive List (i.e. 96) and General Exception List (i.e. 102).

Myanmar has a total of 5,472 tariff lines of which 2,356 tariff lines (43%) are in the Inclusion List. More than 71% of these tariff lines have CEPT rates between (0-5)%. 2,987 tariff lines or almost 55% of total tariff lines are in the Temporary Exclusion List. The remaining 129 tariff lines are in the Sensitive List (i.e. 21) and General Exception List (i.e. 108). From the Inclusion List, almost 20% of the tariff lines are in the Base Metal and Metal Article sectors (i.e. chapters 72-83). The average tariff rates for Myanmar's Inclusion List will be reduced from 4.47% in 1998 to 2.77 % in the year 2008.

**Figure 1**  
**DISTRIBUTION OF TARIFF LINES IN 1998 CEPT PACKAGE**



*Legend:*

*IL - Inclusion List*

*TEL - Temporary Exclusion List*

*SL - Sensitive List*

*GE - General Exception*

## Transfer of Products from the Temporary Exclusion List into the Inclusion List

There are two important categories of Temporary Exclusion Lists in the CEPT. One category is the manufactured and processed agricultural products and the other is the unprocessed agricultural products.<sup>1</sup> Manufactured and processed agricultural products are to be included in five equal installments beginning 1 January 1996. Thus the 1998 CEPT Package includes the third instalment for manufactured and processed agricultural products. Unprocessed Agricultural Products (UAPs) would be phased-in in seven equal installments beginning 1997. The first package was included in the 1997 CEPT Package. The 1998 CEPT Package therefore includes the second instalment of unprocessed agricultural products.

The phasing in of TELs for the new ASEAN members has a different time frame. For Vietnam, the phase-in program will start on 1 January 1999. For Laos and Myanmar, the programme will begin on 1 January 2001. The number of products transferred from the TEL into the Inclusion List is shown in Table 3.

**Table 3**  
**NUMBER OF TARIFF LINES TRANSFERRED FROM THE TEL INTO THE IL**

Country	Number of Tariff Lines					
	1997			1998		
	Manufactured Products (TEL-2)	Agricultural Products (UAP-1)	Total	Manufactured Products (TEL-3)	Agricultural Products (UAP-2)	Total
Brunei	29	n.a.	29	45	n.a.	45
Indonesia	275	29	304	219	11	230
Malaysia	36	10	46	100	10	110
Philippines	150	91	241	150	-	150
Singapore	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Thailand	37	n.a.	37	37	n.a.	37
Vietnam	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Laos	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Myanmar	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
<b>Total</b>	<b>527</b>	<b>130</b>	<b>657</b>	<b>551</b>	<b>21</b>	<b>572</b>

*n.a.: not applicable*

*Source: ASEAN Secretariat*

## CEPT Tariff Rates

The average regional CEPT rate for products in the Inclusion List in 1998 has fallen to 5.05% from 12.76% in 1993. As of 1998, no product in the Inclusion List of the first six ASEAN Member Countries can have CEPT tariff rates higher than 20%. The average CEPT rate for the region is scheduled to fall to 3.74% by the year 2000 and then to 2.63% by the year 2003.

**Table 4**  
**AVERAGE CEPT TARIFF RATES BY COUNTRY**

Country	1998	1999	2000	2001	2002	2003
Brunei Darussalam	1.35	1.30	1.00	0.97	0.94	0.87
Indonesia	6.12	5.29	4.57	4.36	4.10	3.69
Laos	5.00	5.00	5.00	5.00	5.00	5.00
Malaysia	3.40	3.00	2.57	2.40	2.27	1.97
Myanmar	4.47	4.45	4.38	3.32	3.31	3.19
Philippines	7.43	6.54	5.27	4.79	4.53	3.62
Singapore	0.00	0.00	0.00	0.00	0.00	0.00
Thailand	10.56	9.75	7.40	7.36	6.02	4.64
Vietnam	3.92	3.90	3.38	2.97	2.72	1.78
<b>ASEAN<sup>2</sup></b>	<b>5.05</b>	<b>4.59</b>	<b>3.74</b>	<b>3.54</b>	<b>3.17</b>	<b>2.63</b>

Source: ASEAN Secretariat

## Legal Enactments

The legislation to enact these tariff reductions have all been issued by the ASEAN Countries. In the beginning of the implementation of the CEPT Scheme, annual legal enactments were issued covering only the tariff reductions for that year. But since 1997, most ASEAN Countries have enacted legislation covering the whole period of tariff reduction to increase private sector confidence in the commitment of ASEAN to AFTA. As a result, annual legal enactments are only undertaken for products being moved into the Inclusion List.

Table 5 lists down all the legal enactments that have been issued over the past five years.

**Table 5**  
**LIST OF CEPT LEGAL ENACTMENTS**

Country/Legal Enactment	Date of Signature	Effective Date
<b>Brunei Darussalam</b>		
1. Customs (ASEAN Common Effective Preferential Tariff) Order, 1995	29 May 1995	1 June 1994
<b>Indonesia</b>		
1. Decree of Minister of Finance, No. 479/KMK.05/1993.	29 December 1993	1 January 1994
2. Decree of Minister of Finance, No. 645/KMK.01/1994.	29 December 1994	1 January 1995
3. Decree of Minister of Finance, No. 358/KMK.05/1996.	27 May 1996	1 January 1996
4. Decree of Minister of Finance, No.94/KMK.01/1997.	28 February 1997	1 January 1997
5. Decree of Minister of Finance, No. 151/KMK.01/1997. (Amendment of the Decree No. 94/KMK.01/1997 on petrochemical products.	2 April 1997	1 January 1997
6. Decree of Minister of Finance, No. 430/KMK.01/1998.	23 September 1998	1 January 1998
<b>Malaysia</b>		
1. Warta Kerajaan No. P.U. (A) 291.	28 July 1994	1 January 1994
2. Warta Kerajaan No. P.U. 418 , Mother Act.	30 November 1995	1 January 1995
3. Warta Kerajaan No. P.U. (A) 214, Amendment No.1/1997.	29 May 1997	1 January 1996
4. Customs Act 1967, CEPT Amendment Order No.2/1997.	13 October 1997	17 October 1997
5. Customs Duties Order, Amendment No.3/1997.	10 November 1997	27 November 1997
6. Customs Duties Order, Amendment No. 4/1997.	1997	1 January 1997
7. Customs Duties CEPT Amendment Order 1998 (1/98)	15 January 1998	1 January 1998
<b>Philippines</b>		
1. Executive Order 145	27 December 1993	1 January 1994
2. Executive Order 287	December 1995	1 January 1996
3. Executive Order 453	31 October 1997	31 October 1997
4. Executive Order 487	11 June 1998	31 July 1998

Country/Legal Enactment	Date of Signature	Effective Date
<b>Singapore</b>		
1. Trade Classification and Customs Duties 1996.	October 1995	1 January 1996
<b>Thailand</b>		
1. Notification of the Ministry of Finance No. C11/2537 (AFTA 1 for Fast Track).	27 December 1994	1 January 1995
2. Notification of the Ministry of Finance No. C12/2537 (AFTA 2 for Fast Track).	27 December 1994	1 January 1995
3. Notification of the Ministry of Finance No. C13/2537 (AFTA 3 for Normal Track).	27 December 1994	1 January 1995
4. Notification of the Ministry of Finance No.C14/ 2537 (AFTA 4 for Normal Track).	27 December 1994	1 January 1995
5. Notification of the Ministry of Finance No. C1/2539 ( AFTA 9 for Normal Track, UAP and TEL).	31 January 1996	1 January 1996
6. Notification of the Ministry of Finance No. C2/2539 (AFTA 10 for Normal Track, UAP and TEL).	31 January 1996	1 January 1996
7. Notification of the Ministry of Finance No. C1/2540 (AFTA 11 for Fast Track).	18 February 1997	19 February 1997
8. Notification of the Ministry of Finance No. C1/2541 (AFTA 12).	23 January 1998	1 January 1998
9. Notification of the Ministry of Finance No. C2/2541 (AFTA 13).	23 January 1998	1 January 1998
<b>Vietnam</b>		
1. Government Decree No. 82/OP.	13 December 1996	1 January 1997
2. Decree of the Government No. 15/1998/ND-CP.	12 March 1998	1 January 1998
<b>Laos</b>		
1. Decree of Prime Minister No. 142/PM.	22 July 1998	
<b>Myanmar</b>		
1. Notification of the Ministry of Finance and Revenue, No. 247/97.	10 December 1997	1 January 1998

### **The 1999 CEPT Package**

Based on preliminary submissions of Member Countries, the 1999 CEPT Package would consist of 47,160 tariff lines (84.8% of total tariff lines) in the Inclusion List. These additional tariff lines would come from products being transferred from the Temporary Exclusion List into the Inclusion List. Given the acceleration initiatives by Member Countries, the

actual 1999 Inclusion List would exceed this number. Member Countries are also required to issue their 1999 CEPT legal enactments by 1 January 1999 for those products that will be transferred into the Inclusion List.



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<sup>1</sup> The other category of TEL products are those covered by state-trading enterprises notified to the WTO. This category no longer exists as the products have been transferred to the TEL of unprocessed agricultural products.

<sup>2</sup> Regional CEPT tariff rates are a weighted average with the number of tariff lines in the Inclusion List for 1998 used as the weights.

# **Strengthening the Disciplines of the CEPT Agreement**

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Since 1993, the implementation of the Common Effective Preferential Tariff (CEPT) Scheme has proceeded on schedule and has largely been free from important disputes. However since 1995, the ASEAN Economic Ministers have called for strengthening some of the mechanisms governing ASEAN economic cooperation and, in particular, the disciplines of the CEPT Agreement.

The need for the strengthening of the CEPT Agreement was soon apparent. ASEAN was being enlarged with the addition of its new Members and economic cooperation was both expanding in scope and deepening in terms of commitments. The informal and cooperative style of decision-making in ASEAN had to be complemented by a more rules-based mechanism to ensure transparency and the sustainability of regional economic cooperation.

As a result, we have seen the formulation of two new and important mechanisms governing the CEPT Agreement - the Protocol on Dispute Settlement Mechanism and the Protocol on Notification Procedures. We have also seen the strengthening of the emergency provision (Article 6 on Emergency Measures) of the CEPT Agreement to make the conditions under which it could be invoked more stringent.

## ***Protocol on Dispute Settlement Mechanism***

The Protocol on Dispute Settlement Mechanism was signed by the ASEAN Economic Ministers on 20 November 1996 in Manila, Philippines. The objective of the Protocol is to create an expeditious and transparent process of resolving disputes in ASEAN. The entire dispute settlement process is designed not to exceed 290 days. The ASEAN Dispute Settlement Mechanism represents an expansion of Article 9 (Settlement of Disputes) of the 1992 Framework Agreement on Enhancing ASEAN Economic Cooperation.

The dispute settlement mechanism applies to all previous and future ASEAN economic agreements. However, the Protocol does not preclude other Member States from seeking recourse to other fora for the settlement of disputes.

There are five possible stages in the entire process of dispute settlement. They are:

1. Consultation
2. Elevation of dispute to the Senior Economic Officials Meeting (SEOM)
3. Appeal of SEOM ruling to the ASEAN Economic Ministers (AEM)
4. Implementation of Decision of SEOM or AEM
5. Compensation or Suspension of Concessions

### ***Consultation***

The Protocol encourages Member States, involved in a dispute, to enter into consultations with the view to reaching a mutually satisfactory solution. However, should the consultations fail to achieve a solution, then Members can elevate the case to the SEOM.

### ***Elevation to SEOM***

A dispute is automatically elevated to SEOM once the allotted period

of 60 days for consultation runs out and no mutually acceptable outcome has emerged.

SEOM then convenes a panel of experts to assist it in settling the dispute. However SEOM may, if it wishes, deal with the dispute directly to achieve an amicable settlement without appointing a panel.

Should a panel be convened, the SEOM shall make the final determination of the size, composition and terms of reference of the panel. The panel's role is to assist the SEOM in making the rulings including fact-finding and determining the applicability of relevant ASEAN agreements. It shall be composed of three individuals and shall submit a report to SEOM for its consideration. Panels shall be composed of well-qualified governmental and/or non-governmental individuals, including persons who have served on or presented a case to a panel, served in the Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a Member State. Citizens of Member States whose governments are parties to the dispute shall not serve on a panel concerned with that dispute, unless the parties to the dispute agree otherwise. SEOM shall consider the report of the panel in its deliberations and make a ruling on the dispute.

SEOM's ruling shall be based on simple majority.

### ***Appeal of SEOM ruling to AEM***

The AEM is the appellate body in the dispute settlement mechanism. Parties to the dispute who are not satisfied with SEOM's ruling may appeal to the AEM. The AEM's decision on the appeal is final and binding on the parties to the dispute.

Parties to the dispute (i.e. AEM Members who are parties to the dispute) will not be present during AEM's deliberation on the appeal. The AEM shall decide by simple majority.

### ***Implementation of Decision of SEOM or AEM***

Members are given 30 days to implement the ruling of SEOM (decision of the AEM in case of an appeal).

### ***Compensation and Suspension of Concessions***

Should a party to a dispute fail to implement a ruling or a decision, then the other party or parties to the dispute may, with AEM's approval, suspend concessions to the former.

### ***Notification Procedures***

During the five years in which the CEPT Scheme has been implemented, there had been occasional modification of measures which affected concessions granted to other Members. To address the difficulty these modifications may pose for affected trading partners, ASEAN has agreed to formulate a notification mechanism designed to inform affected Member Countries in advance of the introduction of any measure that may affect the concessions and benefits they are currently enjoying.

The notification procedures has been incorporated into a legal instrument, the Protocol on Notification Procedures, which was signed by the ASEAN Economic Ministers on 7 October 1998 in Makati City, Philippines. The notification procedures contain several important elements.

### ***General Obligation to Notify***

First, ASEAN Members have a fundamental obligation to notify measures that may have the effect of affecting concessions or benefits enjoyed by other Members. The notification obligation applies not only to the CEPT Agreement but also to all other ASEAN economic agreements.

### ***Prior Notification of Intent***

To make the notification procedures meaningful, ASEAN Members

must provide notification in advance. The notification must be given at least 60 days before an action or measure is to take effect. A Member State must also provide adequate opportunity for prior discussions with those Member States having an interest in the action or measure concerned. The notification of a particular measure or action shall not preclude any other Member Country from requesting for consultation or invoking the dispute settlement mechanism.

### ***Specifying What Actions or Measures are Subject to Notification Requirements***

One difficulty that was recognised very early during the formulation of the mechanism was that ASEAN agreements contain a large number of provisions or articles which make it difficult to narrow down those actions or measures that should be subject to notification. Consequently, a provisional list of measures was identified and it was agreed that the notification procedure shall apply, but need not be limited, to changes in those measures. These include:

1. CEPT tariffs;
2. CEPT Product List;
3. Quotas;
4. Surcharges;
5. Quantitative restrictions;
6. Other non-tariff measures;
7. Customs valuation;
8. Rules of origin;
9. Technical barriers/SPS;
10. Export taxes;
11. Licensing (import and export);
12. Foreign exchange controls related to imports and exports;
13. Application of the ASEAN Harmonised Tariff Nomenclature beyond the 8-digit level for tariff purposes; and
14. Schedule of specific commitments, list of MFN exemptions and other concessions in the ASEAN Framework Agreement on Services

### ***Content of Notification***

In submitting a notification, a Member State shall provide sufficient information regarding the proposed action or measure to be taken, which shall include:

1. A description of the action or measure to be taken;
2. The reasons for undertaking the action or measure; and
3. The intended date of implementation and the duration of the action or measure.

### ***Taking Account of Other Members Views/Comments***

To minimise the likelihood of disputes, Member Countries undertaking an action or measure are to allow adequate opportunities for other Member Countries to present their comments in writing and discuss these comments upon request.

### ***Amending the Interpretative Notes of Article 6 on Emergency Measures in the CEPT Agreement***

However, prior notification does not apply to actions taken for emergency or safeguard measures specified in Article 6 of the CEPT Agreement. It was recognised that Members have a legitimate right to undertake emergency measures and under those circumstances it may be impractical to require advance notice or warning. Such emergencies may be a sudden surge in imports which has an adverse effect on a domestic industry or threatens the balance of payments.

Under Article 6 of the CEPT Agreement, preferences given to another ASEAN Member can be suspended provisionally if imports are increasing so as to cause injury or to threaten to cause injury to a sector producing like or directly competitive products. Immediate notice of the emergency action must be given to the AFTA Council and the action can be subject to consultations. An important feature of Article 6 is that emergency actions are to be applied on a non-discriminatory basis, i.e., it cannot be confined to just

one country but is applied to all ASEAN Members. The Interpretative Notes of Article 6 further require that the suspension of preferences be consistent with Article XIX (Emergency Action on Imports of Particular Products) of the GATT. A summary of the key features of Article 6 is shown in Table 6.

**Table 6**  
**SUMMARY OF FEATURES OF ARTICLE 6 OF CEPT AGREEMENT**  
**AND ITS INTERPRETATIVE NOTES**

ITEMS	FEATURES
1. Condition under which Emergency Measures may be invoked	When imports are increasing in such a manner as to cause or threaten to cause serious injury
2. When is notice to be given	Immediately with emergency action
3. Who is to be notified	AFTA Council
4. Application of measure	Must be on a Non-discriminatory basis.
5. Other Features	Must be consistent with Article XIX of GATT

Article XIX of GATT allows a country to withdraw or modify concessions when a product is being imported in such increased quantities and under such conditions as to cause or threaten serious injury. Article XIX does not require pre-notification during “critical circumstances” but requires the country undertaking the action to conduct consultations immediately afterwards. Article XIX also allows a country affected by the emergency action to withdraw substantially equivalent concessions. A summary of the features of Article XIX appears in Table 7.

**Table 7**  
**SUMMARY OF FEATURES OF ARTICLE XIX OF GATT**

ITEMS	FEATURES
1. Condition under which Emergency Measures may be invoked	When a product is being imported in such increased quantities and under such conditions as to cause or threaten serious injury
2. When is notice to be given	Give notice in writing as far in advance as may be practicable affording other countries an opportunity to consult with it.  However, in critical circumstances where delay would cause damage which would be difficult to repair, action may be taken provisionally without prior consultation
3. Who is to be notified	Contracting Parties
4. Other Features	If no agreement is reached among the interested parties with respect to the action, affected parties may withdraw substantially equivalent concessions

However, while emergency actions are exempted from the advance notification requirement, ASEAN agreed on the need to strengthen Article 6 of the Agreement by requiring compliance with relevant provisions of the WTO Agreement on Safeguards. In particular, compliance with Article 3 (Investigation), Article 4 (Determination of Serious Injury or Threat Thereof), Article 5 (Application of Safeguard Measures), Article 6 (Provisional Safeguard Measures), Article 7 (Duration and Review of Safeguard Measures) and Article 8 (Level of Concessions and Other Obligations) are now mandated in cases where emergency action is to be sought. This was done by amending the Interpretative Notes of Article 6 of the CEPT Agreement.

The Agreement on Safeguards was part of the Uruguay Round Agreements and was intended to clarify and reinforce the disciplines of GATT 1994 and specifically those of Article XIX. Hence it could be seen as an expanded Article XIX of GATT. Some of the more important features of the Agreement on Safeguards are discussed below.

## ***Investigation***

Countries may apply a safeguard action only after an investigation conducted by competent authorities of the country concerned. The investigation is to determine whether increased imports have caused or are threatening to cause serious injury to a domestic industry. The investigation should give public notice to all interested parties or provide appropriate means for them to present evidence and give their views.

Furthermore, the investigation should include an evaluation of all relevant information of an objective and quantifiable nature, such as, rate and amount of increase in imports, share of the domestic market taken by the increased imports, changes in the level of sales, production, productivity, capacity utilisation, profits and losses, and employment.

A detailed analysis of the case shall be published by the authorities of the country conducting the investigation.

## ***Measured Application of Safeguards***

The action or measure must only be the extent necessary to prevent or remedy serious injury and to facilitate adjustment.

## ***Duration of Safeguard Measures***

The measures should only be for such a period of time as may be necessary to prevent injury or remedy serious injury and to facilitate adjustment. The period shall not exceed four years.

## ***Maintain a Substantially Equivalent Level of Concessions***

The country invoking the safeguard measure must endeavour to maintain a substantially equivalent level of concessions.



# ***Developments in ASEAN Customs Cooperation***

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The liberalisation of trade in ASEAN through the establishment of the ASEAN Free Trade Area (AFTA) is not limited to addressing tariff barriers alone. Measures that are being implemented to support AFTA includes the elimination of non-tariff barriers and other trade facilitation measures.

Among those being intensively addressed within ASEAN are trade facilitation measures in the area of customs. It has been recognised that inefficient customs procedures can hinder trade. Thus in ASEAN, customs measures have been identified as a critical factor in ensuring the smooth cross-border flow of goods within the region.

As a demonstration of this commitment, ASEAN Member Countries have signed an Agreement on Customs, which commits the Governments in ASEAN to undertake cooperative measures in customs to promote and ensure improvements in the performance and levels of service rendered by customs in the region. The Agreement also marks a significant step in ASEAN in that it provides a legal framework for customs cooperation.

The ASEAN Agreement on Customs was signed by the ASEAN Finance Ministers on 1 March 1997 in Phuket, Thailand. New Members, Laos and Myanmar acceded to the Agreement on 23 July 1997, when they were admitted into ASEAN.



## **Objectives of the Agreement**

The objectives of the ASEAN Agreement on Customs are:

- to simplify and harmonise customs valuation methods, tariff nomenclature systems and customs procedures;
- to ensure consistency, transparency and fair application of customs laws and regulations, procedures and other administrative guidelines within each ASEAN Member State;
- to ensure efficient administration and expeditious clearance of goods to facilitate intra-regional trade and investments; and
- to explore other appropriate intra-ASEAN cooperation arrangements in the field of Customs, particularly in the prevention and repression of all forms of smuggling and other customs frauds.

## **The CASTEM Principles**

The Agreement also institutionalised the following principles adopted by ASEAN Customs:

1. **Consistency:** to ensure the continuous consistent application of customs laws and regulations, procedures, administrative guidelines and other rulings within each ASEAN Member Country.
2. **Appeals:** to ensure the availability to traders of readily accessible means of review of customs decisions in ASEAN.
3. **Simplicity:** endeavour to ensure the simplification of customs procedures and requirements within ASEAN.
4. **Transparency:** to make all laws, regulations, procedures and

administrative notifications pertaining to customs administration in their economies publicly available in a prompt, transparent and readily accessible manner.

5. Efficiency: to ensure the efficient and effective administration and expeditious clearance of goods to facilitate intra-ASEAN trade and investment.
6. Mutual assistance and cooperation: endeavour their utmost cooperation and mutual assistance between customs authorities.

The full text of the Agreement can be referred in the Annex. A summary of the provisions of the Agreement is presented in Box 1.

#### Box 1

#### MAIN PROVISIONS OF THE AGREEMENT ON CUSTOMS

##### **Tariff Nomenclature**

- to use a common tariff nomenclature to make it easier for traders operating in the region. An ASEAN Harmonised Tariff Nomenclature shall be created based on the Harmonised Commodity Description and Coding Systems (HS) of the World Customs Organisation.

##### **Customs Valuation**

- Customs Valuation shall not be used for protective purposes or as barrier to trade
- the GATT Valuation Agreement shall be implemented on an accelerated schedule
- a common interpretation of the GATT Valuation Agreement shall be adopted to ensure a level playing field across the region

##### **Customs Procedures**

- to continuously simplify and harmonise customs procedures, so as to ensure the expeditious clearance of products traded in ASEAN. Simplification of procedures is aimed at cutting the time taken and cost of transactions at customs point
- customs procedures shall be aligned to standards and recommended practices of the Kyoto Convention under the auspices of the World Customs Organisation (WCO)

##### **Information Exchange**

- Member States encouraged to exchange vital information on the prevention and

repression of smuggling, trafficking of narcotics and psychotropic substances, and other customs frauds

#### **Appeals**

- Any affected person shall have the right to appeal decision taken by the Customs authorities of Member States, subject to national laws and regulations in each country

#### **Private Sector Participation**

- Private sector encouraged to cooperate and consult with ASEAN Directors-General of Customs on how to enhance further trade facilitation measures in ASEAN

## ***The ASEAN Customs Vision 2020***

Whilst the Agreement on Customs provides a legal framework for current work being undertaken within ASEAN, an ASEAN Customs Vision 2020 was developed to provide the necessary direction into the 21<sup>st</sup> Century. This was in recognition of the need to face the challenges posed by a dynamic economic environment, the need to stay ahead of international and regional developments, and the desire of ASEAN Member Countries to promote and forge closer economic integration within the region.

The main theme of the Vision is:

**“an ASEAN Customs Partnership for World Class Standards and Excellence in efficiency, professionalism and service, and uniformity through harmonised procedures, to promote trade and investment and to protect the health and well-being of the ASEAN community”**

The theme reflects the collective goals sought by ASEAN Customs Administrations. The word ‘Partnership’ reflects the desire to cooperate not only among customs administrations in the region, but also cooperation with clients and the business sector generally, to promote trade and investment in the region. This is to be achieved through quality and professional service in accordance with international standards and norms.

Plans of action are being developed to help realise the vision. The action plans will chart out the steps that will be taken to achieve the stated objectives. Fifteen customs areas have been identified as main elements to be developed collectively in working towards the realisation of the Vision. These areas and their corresponding objectives are:

***Technical Elements:***

- **Procedures for Goods in Transit and Temporary Admission:** to simplify and harmonise these procedures and requirements on a regional basis;
- **Automation:** to ensure maximum use of state-of-the-art information technology to assist in the efficient performance of all international trade and customs functions and activities. Such systems should comply with UNEDIFACT to enhance linkage;
- **Cargo Processing:** to promote facilitation, simplicity and uniformity for the processing of cargo. Targets will be formulated for the time release of goods, benchmarks and performance standards to be reviewed and met continuously. To develop activities which account for the assurance that only those procedures that contribute to effective implementation of customs control is utilised; to separate the process of goods release from process of revenue collection, accounting and statistical reporting to expedite customs clearance; to establish pre-arrival processing of transactions; to use advanced risk assessment, profiling and selectivity techniques to identify risk consignments for physical examination;
- **Tariff Classification:** to promote transparency, consistency and uniformity/ equivalence of treatment on tariff classification rulings;
- **Valuation:** to promote transparency, consistency and uniformity on valuation methods and rulings;

- **Rules of Origin:** to promote transparency and uniformity/equivalence of application of rules of origin;
- **Audit:** to apply post-entry audits and development of ASEAN guidelines for post-audit system based on best practices;
- **Enforcement:** to apply risk management techniques and check small percentage of consignments;

### ***Administrative Elements:***

- **Training and Human Resource Development:** to promote regional uniformity, coordinated action, equivalent treatment and homogeneity. Also to promote excellence, resource, expertise, research on customs relevant to the needs of the region;
- **Partnership with the Business Community:** to establish a close relationship with the business community for the mutual benefit of customs control, revenue collection, trade and commercial activity;
- **Mutual Assistance:** to enhance the effectiveness of customs compliance and control to reduce smuggling and other customs frauds, and to promote uniformity and harmonisation;
- **International Customs Fora:** to conform to international standards to promote consistency of customs treatment to traders. To ensure greater coherence and proactiveness of ASEAN customs in relevant international fora;
- **Technical Assistance Programme to ASEAN Customs Administrations:** to promote equal levels of development amongst customs administration in ASEAN so as to enhance regional efficiency, effectiveness and uniformity;

- **Transparency Enhancement:** to promote transparency, accountability, appeals and accessibility to information on customs procedures and requirements;
- **Strategic Planning and Management:** to take enlightened approaches to management of customs by defining corporate objectives and strategic plans to strike the right balance between customs control and trade facilitation; to make better use of resources, strengthen management capabilities and devise appropriate systems, processes and structures; to ensure the highest level of integrity and professional standards within customs and the provision of quality service.



# **Facilitation of Goods in Transit**

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The ASEAN initiative on facilitation of goods in transit was first mooted during the 29th ASEAN Ministerial Meeting (29th AMM) held in Jakarta on 20-21 July 1996. In noting the progress made in the implementation of the ASEAN Free Trade Area (AFTA), the ASEAN Foreign Ministers decided that efforts had to be undertaken to promote trade and the free movement of goods in the ASEAN region. They therefore agreed to recommend to the ASEAN Heads of Government that appropriate ASEAN bodies consider additional measures for facilitation of goods in transit.

At the First ASEAN Informal Summit in Jakarta on 30 November 1996, the ASEAN Heads of Government agreed to request the economic ministers (AEM) to look into establishing measures to facilitate goods in transit. Subsequently, the Second ASEAN Informal Summit held in Kuala Lumpur on 15 December 1997 directed the officials to expeditiously study the necessary measures to facilitate the transportation of goods both in transit and interstate, covering land, maritime and air links. The Leaders underscored that these measures will contribute towards enhancing intra-ASEAN trade and the further integration of the ASEAN economies.

Freedom of transit is guaranteed under Article V of the 1969 General Agreement on Tariffs and Trade (GATT). There are also seven international conventions presently in force in the field of international land transport facilitation covering *inter alia*, road traffic, road signs and signals, container and goods transport, and frontier control of goods. For landlocked countries,

two international conventions are in force to facilitate transit transport, namely: (a) Convention and Statute on Freedom of Transit, Barcelona, 20 April 1921 (Barcelona Transit Convention), and (b) Convention on Transit Trade of Landlocked States, New York, 8 July 1985 (New York Transit Convention).

A Framework Agreement on the Facilitation of Goods in Transit has now been finalised by the economic and transport bodies of ASEAN and will be signed at the Sixth ASEAN Summit in Hanoi on 15-16 December 1998. In addition, a separate ASEAN Framework Agreement on the Facilitation of Inter-State Transport, designed to complement transit transport for the purposes of facilitating trade and improving efficiency of overall transport operation, will be formulated and concluded by the year 2000.

This essentially implies that goods may be moved by road or rail across two or more countries within ASEAN to reach a final destination, without the problems of regulatory obstacles like customs checks and documentation, transport regulations for drivers and vehicle specifications. Goods may thence be transported from a source across other transit territories, destined for another ASEAN country; thus facilitating intra-regional trade and enhancing cost efficiency.

### ***Framework Agreement on the Facilitation of Goods in Transit***

The Framework Agreement grants the following rights:

- a) Right of transit transport on the transit of goods and vehicles across the territory of one or more member countries from point of origin to final destination, including the right to load and discharge goods destined for or coming from third countries;
- b) Transit transport shall not be subject to any unnecessary delays or restrictions and shall be exempt from customs duties, taxes and other charges; and

- c) Goods carried in sealed road vehicles, combination of vehicles or container shall not be subject to examination at Customs offices *en route*.

To operationalise the Framework Agreement by the year 2000, nine (9) implementing Protocols are to be finalised and concluded by December 1999. Relevant ASEAN bodies have been tasked to formulate the implementing Protocols, as follows:

- a) Designation of Transit Transport Routes to serve as the primary land transport corridor for the movement of inter-State traffic and transit transport, including the harmonisation on technical standards;
- b) Designation of Frontier Posts at selected number of important border crossings/points with adequate facilities and resources, to facilitate the clearance and examination of transit transport;
- c) Liberalisation of Road Transit Transport Services, in terms of type and quantity;
- d) Harmonisation of technical requirements for road transit transport, in terms of vehicle specifications, maximum weights and loads, and emission standards;
- e) Harmonisation or establishment of a common ASEAN scheme of compulsory motor vehicle third-party liability insurance, capable of providing prompt and effective compensation;
- f) General Conditions for Rail Transit, to improve cross-border facilitation of trains;
- g) Establishment of a Customs Transit System to ensure that there is no loading and unloading of goods in the transit territory and that transit goods are exempted from taxes and duties, provide for customs forms for transit and to simplify customs control procedures to facilitate the movement of goods in transit;

- h) Establishment of Sanitary and Phytosanitary Measures to cover crops, fisheries and livestock; and
- i) Special rules on the transit transport of dangerous goods.

In addition, a National Transit Transport Coordinating Committee shall be established in each Member Country for effective coordination and implementation of the Agreement and Protocols. It is expected that this national committee will be composed of representatives from the ministries of transport and/or communications, trade, finance and home affairs and customs administrations, immigration and police departments.

On a regional level, a Transit Transport Coordinating Board shall be established, composed of a senior official nominated from each member country and a representative of the ASEAN Secretariat. This regional board shall oversee the overall coordination and implementation of the Agreement. The Board can further seek appropriate guidance on significant issues as necessary, from the relevant ASEAN ministerial bodies.

The ASEAN Secretariat shall assist the Transit Coordinating Board, in its functions and responsibilities, and in particular, shall monitor and report on the progress of carrying out Agreement and its Protocols.

### ***Other Transport Facilitation Agreements***

In addition to the above Agreements, two other transport facilitation agreements were concluded by ASEAN transport bodies i.e. the Agreement on the Recognition of Commercial Vehicle Inspection Certificates of Goods Vehicles and Public Services Vehicles Issued by ASEAN Member Countries. An ASEAN Framework Agreement on Multimodal Transport is also currently in formulation.

The Agreement on the Recognition of Commercial Vehicle Inspection Certificates of Goods Vehicles and Public Services Vehicles will facilitate cross-border movement of goods and public services vehicles in the ASEAN region. By virtue of the mutual recognition of the vehicle inspection

certificates, ASEAN public services and goods vehicle operators will no longer be required to send their vehicles for inspection checks before they enter another ASEAN Member Country.

The ASEAN Framework Agreement on Multimodal Transport will make possible the door-to-door delivery of goods in the Member Countries, using as many modes of transport and terminals, under a single transport document. This proposed agreement would also lay down the broad principles on minimum standards of registration and liability limits for ASEAN multimodal transport operators.

### **Conclusion**

All four transport agreements collectively represent major milestones to facilitate and enhance the flow of goods and vehicles in the ASEAN region. All these agreements will bring about a much more integrated region, with a responsive regulatory environment, the proper documentary and operational systems and procedures, greater efficiency and coordination in the ASEAN transport service industry, which will result in improvement in transport efficiency and operation to meet the expanding demands of international and intra-regional trade.



# ***Elimination of Other Non-Tariff Barriers***

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The Fifth ASEAN Summit held in Bangkok, Thailand in December 1995 reaffirmed the commitments of removing all quantitative restrictions and non-tariff barriers. The Fifth ASEAN Summit further mandated greater transparency in standards and conformance, alignment of product standards with international standards and establishment of mutual recognition arrangements on a bilateral or plurilateral basis to facilitate greater intra-regional trade.

ASEAN Member Countries were able to make an important headway towards the removal of NTBs in the region with the removal of all customs surcharges affecting CEPT products at the end of 1996.

## ***Progress Made on Elimination of TBT***

Subsequently, work has been focussed on the elimination of technical barriers to trade (TBT) and the harmonisation of Sanitary and Phytosanitary (SPS) Measures.

To disseminate information on standards and conformity assessment in ASEAN, the ASEAN Consultative Committee on Standards and Quality (ACCSQ) has published seven volumes of the ASEAN Standards and Quality Bulletin and two issues of the Directory of the ASEAN Contact Points for Standards and Technical Regulations. An ASEAN Homepage on Standards and Conformity Assessment has also been established and can be

found in the ASEAN Secretariat Homepage (URL address: <http://www.aseansec.org>). It contains relevant information on standards and conformity assessment in ASEAN, including electronic versions of the ACCSQ Bulletin, and is also linked to the home pages of the various standards-setting bodies in ASEAN.

To provide focus to the harmonisation of product standards, 20 product groups that are widely traded in ASEAN have been selected for standards harmonisation. These 20 product groups, which include major consumer durables, appear in Table 8:

**Table 8**  
**TWENTY PRIORITY PRODUCTS**

<b>1. Air-conditioners</b>	<b>11. Diodes (other than photosensitive)</b>
<b>2. Refrigerators</b>	<b>12. Parts of TV and Radio</b>
<b>3. Radio</b>	<b>13. Loudspeakers and parts</b>
<b>4. Telephone</b>	<b>14. Inductors</b>
<b>5. Television</b>	<b>15. Capacitors</b>
<b>6. Video apparatus</b>	<b>16. Resistors</b>
<b>7. Printed Circuits</b>	<b>17. Switches</b>
<b>8. Monitor and Generators</b>	<b>18. Cathode-ray tube</b>
<b>9. Monitor and Keyboard</b>	<b>19. Rubber gloves</b>
<b>10. Mounted piezo-electric crystal</b>	<b>20. Rubber condoms</b>

The harmonisation of standards for these product groups is carried out through alignment of national standards with relevant international standards such as those set by the International Standards Organisation (ISO), International Electrotechnical Commission (IEC) and International Telecommunications Union (ITU). The harmonisation will be completed by the year 2000 as mandated by the Eleventh AFTA Council Meeting held on 15 October 1997 in Subang Jaya, Malaysia.

Realising the important role that mutual recognition arrangements can play in removing technical barriers to trade, Member Countries are now drafting an ASEAN Framework Agreement on Mutual Recognition Arrangements. The Framework Agreement is intended to set out the general principles governing the development of sectoral or product-based MRAs

among ASEAN Countries. ASEAN Countries are working towards finalising the Agreement and having it signed at the Sixth ASEAN Summit in December 1998.

At present, several bilateral arrangements have been established, which include:

1. MOU on technical cooperation between the Standardisation Council of Indonesia (DSN) and the Bureau of Product Standards of the Philippines (BPS);
2. Arrangement between DSN and BPS on Product Certification and Approval Schemes; and
3. Arrangements between SIRIM (Malaysia) and Sucofindo (Indonesia) on ISO 9000 audits.

In addition, specific sectoral MRAs are being developed within ASEAN. These include an MOU on MRAs on Conformance Testing being undertaken by the ASEAN Telecommunication Regulators' Council (ATRC). Furthermore, in response to a request from the cosmetic industry in the region, ASEAN is looking at harmonising cosmetic regulations and establishing recognition of equivalence or acceptance of registration and test results for cosmetic products.

### ***Progress made on Harmonisation of SPS Measures***

ASEAN has also undertaken activities to harmonise phytosanitary measures in the region as part of the effort to expand intra-ASEAN trade in food and agricultural products. This work is being carried out in various working groups under Senior Official Meeting of the ASEAN Ministers of Agriculture and Forestry (SOM-AMAF).

The principles for harmonisation of Phytosanitary Measures in ASEAN have been developed and adopted, which include, among others, facilitation of intra-ASEAN trade, consistency with international standards,

transparency and technical justification of Phytosanitary Measures.

Fourteen agricultural products have also been prioritised for harmonisation. These include rice, mango, coconuts, ginger, dendrobium, groundnuts, round cabbage, black pepper, potato, onions, oranges, coffee, pineapples and banana.

ASEAN is also harmonising the Maximum Residual Limits (MRLs) of pesticides in vegetables so as to enhance regional trade in vegetables. The major progress so far has been the establishment of harmonised MRLs for ten pesticide-vegetable combinations. In addition, the harmonisation of MRLs now has been expanded to include all vegetables as well as an additional 10 pesticides, which are used in ASEAN namely: cabaryl, carbofuran, methomyl, malathion, diazinon, prothiophos, triazophos, parathion-methyl, cypermethrin and endosulfan.

**Table 9**  
**HARMONISED MAXIMUM RESIDUE LIMITS**

No	Pesticide	Crop	ASEAN MRLs, mg/kg
1	Dithiocarbamates	Cabbage	5
		Tomato	3
2	Dimethoate	Cabbage	2
		Tomato	1
3	Methamidophos	Cabbage	1
		Tomato	2
4	Monocrotophos	Cabbage	0.2
		Tomato	1
5	Chlorpyrifos	Cabbage	0.05
		Tomato	0.5

To facilitate intra-ASEAN trade in animal vaccines, a complete set of Manuals for Animal Vaccines have been adopted and published covering

accreditation of laboratories testing animal vaccines, good manufacturing practice, etc. A complete list of the manuals appear below:

1. The Manual of ASEAN Accreditation Criteria for Animal Vaccine Testing Laboratories;
2. The Manual of ASEAN Standards for Animal Vaccines;
3. The Manual of ASEAN Standards for Good Manufacturing Practice for Animal Vaccines; and
4. The Manual of the ASEAN Rules and Procedures for the Registration of Animal Vaccines.



# **Current Economic Developments in the LAO PDR and its Participation in AFTA**

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The Lao People's Democratic Republic is a least developed landlocked country with an area of 236,800 square kilometres and a population of 4.8 million. The country became a Member of ASEAN on 23 July 1997 during the 30<sup>th</sup> ASEAN Ministerial Meeting held in Kuala Lumpur, Malaysia.

The accession of the Lao PDR to various ASEAN agreements and its application for WTO membership demonstrate her commitment to economic co-operation with the region and the world and to further trade liberalisation.

## **Economic Background**

Since 1986, the Lao PDR has been engaged in a comprehensive programme of economic reforms referred to as the "New Economic Mechanism: NEM". The main objective of NEM is to shift from the system of command economy to a market-oriented economy and to open up to international trade. The reform package is wide ranging. Some of the key liberalisation efforts since 1986 include decontrol of prices and distribution of goods and services, elimination of subsidies, establishment of a market-determined exchange rate, reform of the tax system, refinements in money

and credit management and foreign investment law, privatisation of inefficient state owned enterprises, etc.

### **Past Development**

With the introduction of the New Economic Mechanism and the open door policy, GDP has increased by an average of 7% per annum. Between the 1992-96 period, the average growth rates of the agricultural, industrial and services sectors were 5%, 12% and 7% respectively.

The open door policy also attracted more foreign investors into the Lao PDR. Since 1988, over 30 countries have invested about US\$ 6.7 billion in the country. The lion's share of foreign investment has gone to the development of hydropower.

### **Trade Relations**

The value of the Lao PDR's total external trade increased by more than 3-fold from US\$ 281 million in 1990 to US\$ 935 million in 1995. The value of exports increased from US\$ 79 million to US\$ 348 million for the same period, while the value of imports increased from US\$ 202 million to US\$ 587 million. As a result, the Lao PDR experienced trade deficits between 1990-1995.

**Table 10**  
**LAO PDR'S TOTAL TRADE (1990-1995)**  
**(Million US\$)**

	1990	1991	1992	1993	1994	1995
<b>Imports (c.i.f)</b>	202	215	253	432	564	587
<b>Exports (f.o.b)</b>	79	97	133	241	300	348
<b>Trade Balance</b>	-123	-118	-120	-191	-264	-239

*Source: Statistical Yearbook for the Asia-Pacific, United Nations, 1996.*

The main trade partners of the Lao PDR are Thailand, China, Japan, France, Germany, Italy, and the USA.

**Table 11**  
**LAO PDR'S TRADE WITH ASEAN (1990-1994)**  
(Million US \$)

<b>Imports</b>	<b>1990</b>	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>
<b>Imports from ASEAN (US\$ million)</b>	<b>72</b>	<b>84</b>	<b>138</b>	<b>205</b>	<b>319</b>
<b>Imports from ASEAN as Share of Total (%)</b>	<b>35</b>	<b>39</b>	<b>58</b>	<b>47</b>	<b>56</b>

<b>Exports</b>	<b>1990</b>	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>
<b>Exports to ASEAN (US\$ million)</b>	<b>40</b>	<b>43</b>	<b>37</b>	<b>57</b>	<b>71</b>
<b>Exports to ASEAN as Share of Total (%)</b>	<b>50</b>	<b>44</b>	<b>27</b>	<b>23</b>	<b>23</b>

Source: Compiled from Statistical Yearbook of Asia and Pacific, United Nations, 1996

Lao PDR's trade with ASEAN is mainly with Thailand, which accounts for about 30% of her total exports and over 60% of total imports.

The Lao PDR's important export items consist of timber products, electricity, gypsum, rattan products, coffee, forest produce, garments and handicraft items. Main imports are foodstuff, fabrics, machinery, equipment, construction materials and industrial raw materials, electrical appliances and fuel.

### **1996-2000 and 1997-2020 Development Plan**

The main targets to be achieved during the period 1996-2000 are:

- GDP growth at 8-8.5% per annum, average GDP per capita of approximately US\$ 500.
- Maintain the rate of inflation under 10%, increase the revenue of the government to 16-16.5% of the GDP by the year 2000 and reduce the budget deficit to 10% of the GDP.

- Reduce the trade deficit to 12% by the year 2000 by increasing exports at the rate of 12% and imports by 10.5% per year.

To realise the targets, the Lao government will concentrate on the implementation of eight priority programmes and major projects that are identified in the five-year plan (1996-2000). These are:

- Food production;
- Commercial production;
- Shifting cultivation stabilisation programme;
- Rural development;
- Development of infrastructure;
- Widening of external relations and co-operation;
- Human resource development; and
- Services.

The government of the Lao PDR has set the year of 2020 as the target year to uplift the country from the status of underdevelopment. The detailed strategic development plan to realise this is being worked out.

### ***Implications for Lao PDR of Membership in ASEAN***

In the age of increased regionalisation and globalisation, the membership of the Lao PDR in ASEAN has helped her economy to integrate into the regional and global economy. Furthermore, the Lao PDR's participation in AFTA will create valuable strategic opportunities to support the objectives of the New Economic Mechanism. One of the objectives of the New Economic Mechanism is to foster the efficient operation of the market in the Lao PDR. Accession to AFTA will help to enlarge the size of the markets for companies based in the Lao PDR and attract FDI into the country.

The tariff liberalisation programme committed under the CEPT Scheme and the Lao PDR's participation in other spheres of economic cooperation will send a strong signal to foreign investors of the direction of Lao economic and investment policies and her firm commitment to trade and

investment liberalisation. The law on the promotion of foreign investment adopted in 1988 and revised in 1994 is one of the most liberal foreign investment laws in the region. It provides for the establishment of joint ventures and wholly foreign-owned enterprises. The Government also provides tax and non-tax incentives to foreign investors such as tax holidays, tax exemptions in some cases, import duties at a flat rate of 1% on equipment and materials used in the operation of foreign companies. The Lao PDR imposes no export duties on finished products and grants right to repatriate capital and profits.

Lastly, the Lao PDR's participation in AFTA will lead to the adoption of international norms and practices governing the conduct of international trade. The Lao PDR's official application for admission into the World Trade Organisation (WTO) further demonstrates her commitment to trade and investment liberalisation and the open door policy that the Government of the Lao PDR has pursued since 1986.

### ***Lao PDR's CEPT Package***

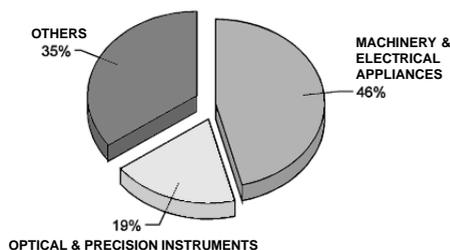
Laos signed the Protocol for the Accession to AFTA of the Lao People's Democratic Republic to the Agreement on the Common Effective Preferential Tariff Scheme (CEPT) for the ASEAN Free Trade Area (AFTA) on 23 July 1997. Under the terms and conditions of its accession, the Lao PDR is to:

- Extend Most Favoured Nation Treatment and National Treatment to ASEAN Member Countries;
- Provide relevant information on her trade regime as and when requested;
- Prepare a list for tariff reduction and begin tariff reduction effective 1 January 1998;
- Phase in products which are temporarily excluded in five equal instalments beginning 1 January 2001 and ending January 2005, and at 0-5% by 1 January 2008 and prepare a list of these products for their annual instalment; and
- Phase in agricultural products which are temporarily excluded

- beginning 1 January 2002 and ending 1 January 2008 at 0-5% and prepare a list of these products for their annual instalment.
- Phase in agricultural products which are considered sensitive beginning on 1 January 2006 and ending on 1 January 2015 at 0-5%, except certain highly sensitive products whose final rates shall be subject to further negotiation. Laos is, however, encouraged to accelerate the tariff reduction for these products.

Lao PDR began implementing her CEPT commitments on 1 January 1998. She has already submitted her CEPT package - Inclusion, Temporary Exclusion, Sensitive and General Exception Lists.

**Figure 2**  
**COMPOSITION OF THE LAO PDR'S INCLUSION LIST BASED ON TARIFF LINES**



Source: ASEAN Secretariat

The Lao PDR has placed a total of 533 tariff lines in her Inclusion List, representing 15.2% of her total tariff lines. All the products in the Inclusion List have tariff rates of 5%. The products in the Inclusion List have no quantitative restrictions. The bulk of the products in the Inclusion List consisted of machinery and electrical appliances (242 tariff lines or 45.40%) and optical and precision instruments (102 tariff lines or 19.14%). The Temporary Exclusion List of the Lao PDR contains 2,820 tariff lines, representing 79.4 % of her total tariff lines. The products in the TEL will be phased into the CEPT scheme in five equal instalments beginning on 1 January 2001 and ending on 1 January 2005 and at 0-5% tariff rates by 1 January 2008. This means that by 1 January 2008 the Inclusion List of the

Lao PDR will consist of 3,353 (the sum of the present Inclusion List and present TEL) tariff lines, representing 94.4% of total tariff lines. The Lao PDR has 96 tariff lines in her Sensitive List. Most of the items in the Sensitive List are agricultural products. These products will be phased in beginning on 1 January 2006 and ending at 0-5% on 1 January 2015. The General Exception List of the Lao PDR consists of 102 tariff lines, representing 2.9% of her total tariff lines. Table 12 summarises the CEPT commitment of the Lao PDR.

**Table 12**  
**LAO PDR'S CEPT PRODUCT LISTS BY NUMBER OF TARIFF LINES**

LIST	Number of Tariff Lines	Percent of Total
<b>Inclusion</b>	<b>533</b>	<b>15.2</b>
<b>Temporary Exclusion</b>	<b>2,820</b>	<b>79.4</b>
<b>Sensitive</b>	<b>96</b>	<b>2.7</b>
<b>General Exceptions</b>	<b>102</b>	<b>2.9</b>
<b>TOTAL</b>	<b>3,551</b>	<b>100.0</b>

Source: ASEAN Secretariat



# **Current Economic Developments in Myanmar and its Participation in AFTA**

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Myanmar joined ASEAN on 23 of July 1997 together with Laos PDR. In addition, Myanmar acceded to the CEPT Agreement and submitted her CEPT Product Lists and tariff reduction plan on the same day. Subsequently, Myanmar, submitted the lists of products to be phased in from the TEL into the IL with their tariff reduction schedules, including unprocessed agricultural products, processed agricultural products and manufactured products at the 29<sup>th</sup> ASEAN Economic Ministers Meeting on 16-18 October 1997 in Kuala Lumpur.

## **Country Profile**

Myanmar is the largest country on the mainland of Southeast Asia with a total land area of 676,577 sq. km (167.2 million acres). It is situated between two sub-continental countries, with the largest populations in the world, namely China and India. Myanmar has a long international border of 5,858 km flanked by Bangladesh, India, China, Laos and Thailand, and also a long coastline of 2,632 km. Myanmar has a population of about 46.4 million in 1997/98 with an annual population growth rate of 1.84%. Myanmar has a vast amount of resources including arable land, natural gas, mineral deposit, fisheries, forestry and manpower.



## **Economic Background**

Since 1988, Myanmar has been shifting her policy towards a more market-oriented system by adopting appropriate liberalisation and deregulation measures. She abolished or amended laws, regulations and procedures that were not in conformity with the market-oriented system. New laws, regulations and procedures were enacted; a privatisation program was launched to encourage private sector participation in the national economy; reform measures were introduced in the financial sector, agricultural sector and many other sectors to create a conducive environment for trade and investment. All these structural adjustment measures are intended to bring about further development of her national economy.

With the aim of emerging as a peaceful, modern and developed nation, Myanmar implemented the Four Year Short Term Plan (1992/93-1995/96) to raise the standard of living of her people. The Plan focuses mainly on agriculture and export promotion. As a result of the Plan, Myanmar achieved an average annual Gross Domestic Product growth rate of 7.5% for the said period. This was a remarkable achievement since the target GDP growth rate was set at 5.1%.

Following the success of the Four Year Short Term Plan, the Five Year Short Term Plan (1996/97 - 2000/01) has been formulated to enhance the favourable economic environment and to sustain the growth on a long-term basis. All-round efforts are being made to implement the 1996/97 Annual Plan in order to facilitate the successful realisation of the Five Year Short Term Plan. Provisional data indicates that real GDP growth rate for the year 1996/97 was 5.8%.

Myanmar's economic structure has not changed much and still relies heavily on the agricultural sector. Agriculture accounts for 51 per cent of Gross Domestic Product, 64 per cent of employment and 50 per cent of total exports. To upgrade the industrial sector, 18 industrial zones have been established in various states and divisions under the Myanmar Industrial Development Committee to develop the agro-based industries. As of April 1997, 3 industrial estates have been established under the permission of the Myanmar Investment Commission.

Foreign direct investment has played a considerable role in the economic development of Myanmar since the 1990s. Since the promulgation of the Union of Myanmar Foreign Investment Law in November 1988, foreign investment had increased gradually and had exceeded over US\$ 6.6 billion in 1997. Investments are mostly concentrated in oil and gas, manufacturing, real estate, and hotel and tourism. The United Kingdom, Singapore and Thailand are the three top investors in Myanmar.

Domestic investment stood at Kyats 11.7 billion in September 1997, after the enactment of the Myanmar Citizens Investment Law in March 1994. However, the level of domestic investment is still low compared to the resource base.

As part of its commitment to develop a market oriented economy, the government has taken measures to reform the financial and fiscal system. These reform measures allow citizen investors to operate domestic banks, foreign investors to establish representative offices/branch offices, or establish joint venture banks with private domestic banks. Some domestic banks are allowed to transact in foreign exchange and are permitted to issue credit cards. There are 21 domestic private banks and 48 representative offices of foreign banks established in Myanmar.

### ***Structure of Myanmar's External Trade***

Myanmar exports agricultural and other primary products and imports manufactured goods. Main export items include rice products, forest products, fishery products, metals and minerals, precious stones and pearls. The major import items are capital goods like power tillers, hand tractors, fertiliser and water pumps. Myanmar also imports industrial raw materials, spare parts, fuel and consumer goods. Detailed breakdown of Myanmar's trade appear as Tables 13 and 14.

**Table 13**  
**MYANMAR'S EXPORTS, BY TYPE OF COMMODITY**  
 (Kyats in million)

Type of Commodity	1992/93	1993/94	1994/95	1995/96 (Provisional actual)
<b>Agricultural Products</b>	1,299.2	1,357.8	2,478.3	2,321.0
<b>Forest Products</b>	1,120.4	1,356.7	1,204.7	1,275.1
<b>Marine Products</b>	259.3	368.2	617.3	614.9
<b>Minerals &amp; Gems</b>	154.9	364.4	221.9	212.9
<b>Others</b>	756.2	780.7	883.0	582.2
<b>Total</b>	<b>3,590.0</b>	<b>4,227.8</b>	<b>5,405.2</b>	<b>5,006.1</b>

Source: Review of the Financial, Economic and Social Conditions for 1996/97, Ministry of National Planning and Economic Development

**Table 14**  
**MYANMAR'S IMPORTS, BY TYPE OF COMMODITY**  
 (Kyats in million)

Type of Commodity	1992/93	1993/94	1994/95	1995/96 (Provisional actual)
<b>Consumer goods</b>	913.4	1,391.2	1,941.5	2,572.7
<b>Raw material &amp; spares for inter-industry use</b>	1,128.1	2,127.8	1,854.3	2,530.8
<b>Capital goods</b>	1,750.1	2,777.3	2,913.9	3,644.5
<b>Others</b>	1,573.7	1,627.0	1,622.6	1,553.6
<b>Total</b>	<b>5,365.3</b>	<b>7,923.3</b>	<b>8,332.3</b>	<b>10,301.6</b>

Source: Review of the Financial, Economic and Social Conditions for 1996/97, Ministry of National Planning and Economic Development

The value of exports at current prices was Kyats 5,234.3 million and the value of import was Kyats 11,343.0 million in 1996/97. Despite the growth of trade, exports and imports comprise only 0.7% and 1.6% of her Gross Domestic Product respectively in 1996/97. Nevertheless, as a reflection of the ongoing trade liberalisation efforts, substantial changes are taking place in the pattern of exports and imports, and in the direction of

trade. In spite of the fact that the capital goods and raw material are still taking the lion's share, there is also sharp increase in the import of consumer items capturing about little over 24 per cent of total imports in 1995/96.

From Table 15, a comparison of the value of exports with that of imports show a trade deficit of Kyats 548 million in 1989/90 and Kyats 5,577 million in 1996/97. The rapid increase in the trade deficit in this period is directly correlated with the increase in imports for infrastructure development and industrial development. Over the 1986-96 period, Myanmar has also faced a worsening terms of trade as the terms of trade index declined from 82 to 47 during this period.

**Table 15**  
**BALANCE OF TRADE**  
(Kyats in million)

Year	Exports	Imports	Balance of trade Surplus(+) Deficit(-)
1989/90	2,846.5	3,395.0	-548.5
1990/91	2,961.9	5,522.8	-2,560.9
1991/92	2,931.8	5,336.7	-2,404.9
1992/93	3,655.4	5,365.3	-1,709.9
1993/94	4,227.8	7,923.3	-3,695.5
1994/95	5,405.2	8,332.3	-2,927.1
1995/96 (Provisional actual)	5,017.2	10,301.6	-5,284.4
1996/97 (Provisional)	5,234.3	10,811.5	-5,577.2

Source: Review of the Financial, Economic and Social Conditions for 1996/97, Ministry of National Planning and Economic Development

### **Direction of Trade**

During 1980s, Myanmar's foreign trade was mainly with other Asian countries namely China, India, Hong Kong and Japan while trading with ASEAN Countries was less than 30 per cent of her total trade value. After liberalising her trade measures, Myanmar's trade with ASEAN Countries has

grown rapidly in the 1990s. The share of Myanmar's exports to ASEAN Countries grew from 24.67 per cent in 1989/90 to 38.39 per cent in 1996/97. The share of imports from ASEAN Countries also grew from 28.58 per cent in 1989/90 to 38.35 per cent in 1996/97. Myanmar's trade with ASEAN shown in Table 16.

**Table 16**  
**MYANMAR'S TRADE WITH ASEAN**

<b>Export</b>	<b>1989-1990 (Ks. Millions)</b>	<b>1996-1997 (Ks. Millions)</b>
<b>Exports to ASEAN</b>	<b>702.17</b>	<b>2,012.29</b>
<b>ASEAN's Share of Myanmar's Exports (%)</b>	<b>24.67</b>	<b>38.39</b>
<b>Import</b>	<b>1989-1990 (Ks. Millions)</b>	<b>1996-1997 (Ks. Millions)</b>
<b>Imports from ASEAN</b>	<b>970.24</b>	<b>4,350.3</b>
<b>ASEAN's Share of Myanmar's Imports (%)</b>	<b>28.58</b>	<b>38.35</b>

*Source: Myanmar Statistical Year Book, Central Statistical Organisation, Ministry of National Planning and Economic Development.*

### **Myanmar's CEPT Package and Commitment to AFTA**

Myanmar, as a founding member of WTO/GATT, adopted the Harmonised Commodities Description and Coding System (HS) beginning April, 1992, and effective on 1 January 1997 it introduced the 1996 HS Version at 8 digits level. The total number of tariff lines stood at 5,472.

Myanmar signed the "Protocol for the Accession of the Union of Myanmar to the Agreement on the Common Effective Preferential Tariff Scheme (CEPT) for the ASEAN Free Trade Area (AFTA)" on 23<sup>rd</sup> July 1997.

Under the terms and conditions of its accession, Myanmar is to:

- (a) extend, on a reciprocal basis, Most-Favoured Nation and National Treatment to ASEAN Member Countries;
- (b) provide relevant information on her country's economic profile, particularly trade statistics requirements when requested;
- (c) prepare a list for tariff reduction and begin tariff reduction effective on 1 January 1998 and ending at 0-5 per cent tariff rate on 1 January 2008; phase in products which are temporarily excluded in five equal instalments beginning 1 January 2001 and ending 1 January 2005 and at 0-5 per cent tariff rate by 1 January 2008, and prepare a list of these products for their annual instalment; phase in agricultural products which are temporarily excluded beginning 1 January 2002 in equal instalments and ending 1 January 2008 at 0-5 per cent, and prepare a list of these products for their annual instalment;
- (d) phase in agricultural products which are considered sensitive beginning 1 January 2006 and ending on 1 January 2015 at 0-5 per cent and prepare a list of these products for their annual instalment; and
- (e) submit a list of products for General Exception which are consistent with Article 9 of the CEPT Agreement.

At the time of Myanmar's admission into ASEAN, Myanmar had 14 tariff rates ranging from 0 to 40% with an average tariff of almost 10%. As shown in Table 17, tariffs on 68% of the tariff lines are levied at rates within 0 to 5%. Furthermore, only 52 tariff lines (less than 1% of the total tariff lines) have rates higher than 20%.

**Table 17**  
**DISTRIBUTION OF MYANMAR'S TARIFF LINES**

No.	Tariff Rates (%)	No. of Tariff Lines	Percent of Total
1.	0	209	3.8
2.	0.5	107	2.0
3.	1.0	1,723	31.5
4.	1.5	600	11.0
5.	2.0	170	3.1
6.	3.0	410	7.5

No.	Tariff Rates (%)	No. of Tariff Lines	Percent of Total
7.	4.0	50	0.9
8.	5.0	453	8.3
9.	7.5	413	7.5
10.	10.0	336	6.1
11.	15.0	700	12.8
12.	20.0	249	4.6
13.	30.0	39	0.7
14.	40.0	13	0.2
<b>Total</b>		<b>5,472</b>	<b>100.0</b>

Source: Customs Tariff of Myanmar, Harmonised Commodity Description and Coding System, 1996 Version, January 1997.

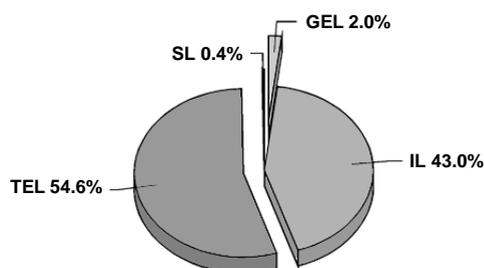
Myanmar's tariff reduction schedule plan was submitted to the ASEAN Secretariat in July 1997. Myanmar has 2,356 tariff lines ( 43 per cent of total tariff lines ) in its Inclusion List; 21 tariff lines of unprocessed agricultural products in the Sensitive List; and 108 tariff lines under the General Exception List. Due to difficulties in removing non-tariff barriers (NTBs) and quantitative restrictions (QRs), 2,987 tariff lines were placed in the Temporary Exclusion List. The distribution of Myanmar's CEPT Products List is shown in Table 18.

**Table 18**  
**MYANMAR'S CEPT PRODUCT LISTS**

Product List	No. of Tariff Lines	Percent
Inclusion List (IL)	2,356	43.0
Temporary Exclusion (TEL)	2,987	54.6
Sensitive List (SL)	21	0.4
General Exception (GEL)	108	2.0
<b>Total</b>	<b>5,472</b>	<b>100.0</b>

Source: ASEAN Secretariat

**Figure 3**  
**MYANMAR'S CEPT PRODUCT LIST**



On 1 January 1998, Myanmar implemented her first package of the CEPT Scheme, which was legally enacted by the Ministry of Finance and Revenue Notification No.(247/97) of December 10, 1997. In this first package, Myanmar has included 2,356 tariff lines in the Inclusion List. Out of this total, 1,683 tariff lines (71.4 per cent of total IL) have tariffs of 0-5%, 463 tariff lines (19.7 per cent of total IL) have tariffs in the range of 6-10%, 167 tariff lines (7.1 per cent of total IL) have tariffs in the 11-15% range, 36 tariff lines (1.5 per cent of total IL) have tariffs in the 16-20% range and only 6 tariff lines (0.3 per cent of total IL) have tariffs above 20%. Table 19 provides a distribution of Myanmar's IL as of 1 January 1998.

**Table 19**  
**DISTRIBUTION OF MYANMAR'S INCLUSION LIST**

Tariff Category (%)	Tariff Lines	Percent
0-5	1,683	71.4
6-10	464	19.7
11-15	167	7.1
16-20	36	1.5
>20	6	0.3
<b>Total</b>	<b>2,356</b>	<b>100.0</b>

Source: ASEAN Secretariat

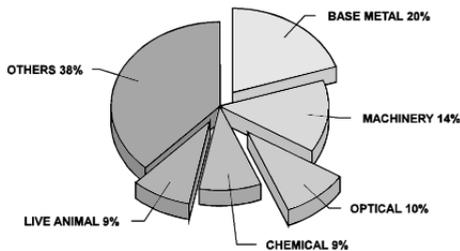
The composition of Myanmar's Inclusion List by sector is shown in Table 20. Almost 20% of the tariff lines are from the base metal and metal articles sectors (i.e. chapter 72-83), 14% from the machinery and electrical appliances (i.e. chapter 84-85), 9.8% from the optical, precision and musical instrument (chapter 90-92), 9.25% and 9.04% from the chemical products (chapter 28-38) and live animal (chapter 01-05) sectors, respectively.

**Table 20**  
**COMPOSITION OF MYANMAR'S INCLUSION LIST BASED ON THE TARIFF LINES**

Sectors	Percentage
Base Metal	19.91
Machinery	14.09
Optical	9.80
Chemicals	9.25
Live Animal	9.04
Others	37.91
<b>Total</b>	<b>100.0</b>

Source: ASEAN Secretariat

**Figure 4**  
**COMPOSITION OF MYANMAR'S INCLUSION LIST**



At present, there are three classifications of Temporary Exclusion List in the Myanmar's CEPT List. The first category is the TEL for unprocessed agricultural products, second, the TEL for processed agricultural products and third, the TEL for manufactured products. There are a total of 265 tariff

lines in the first category of TEL, 507 tariff lines in the second category of TEL and 2215 tariff lines in the third category of TEL. The manufactured products and processed agricultural products of TEL begin their phase in on 1 January 2001 and complete the process by 1 January 2005 in five equal instalments. The TEL for unprocessed agricultural products will be phased into the Inclusion List starting on 1 January 2002 and shall complete the process by 1 January 2008.

**Table 21**  
**NUMBER OF TARIFF LINES IN MYANMAR'S TEL**

Temporary Exclusion List	Number of Tariff Lines	Percentage
Unprocessed Agricultural Products	265	8.9
Processed Agricultural Products	507	17.0
Manufactured Products	2,215	74.1
<b>Total</b>	<b>2,987</b>	<b>100.0</b>

Source: ASEAN Secretariat

Myanmar has also drawn up a list of unprocessed agricultural products, shown in Table 22. There are 591 tariff lines classified as unprocessed agricultural products. Out of these, 305 tariff lines are in immediate inclusion list, 265 tariff lines belong to the UAPs of temporary exclusion list and 21 tariff lines are in UAPs of sensitive list. The products in the Sensitive List will start phase in on 1 January 2003, even though 2006 is the beginning year set by AESAN, and ending on 1 January 2015 with an ending tariff rate of 0-5%.

**TABLE 22**  
**Myanmar's Unprocessed Agricultural Products**

List	Number of Tariff Lines	Percentage
Immediate Inclusion	305	51.6
Temporary Exclusion	265	44.8
Sensitive	21	3.6
<b>Total</b>	<b>591</b>	<b>100.0</b>

*Source: ASEAN Secretariat*

## **Conclusion**

Myanmar stands to benefit from its membership in ASEAN. Myanmar would be able to participate in all areas of ASEAN economic co-operation gaining technology; enjoying better quality and lower cost products from other ASEAN suppliers; more choice and variety of manufactured goods; opportunity for a bigger export market; increased export competitiveness through greater efficiency in the allocation of resources; and more FDI inflows due to the increased confidence of foreign investors. All these benefits will generate greater income and welfare for its people. In addition, all these activities will prepare Myanmar towards globalisation.



# ***ASEAN Trade and the Impact of the Financial Crisis***

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Ever since the Second Volume of the AFTA Reader, we have included the latest information on ASEAN trade. This Volume of the AFTA Reader is no different. We have included data on ASEAN trade for the period from 1996 to 1997 covering seven ASEAN Member Countries - Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam. In addition, trade figures for the first quarter of 1998 are also available for the first seven ASEAN Countries.

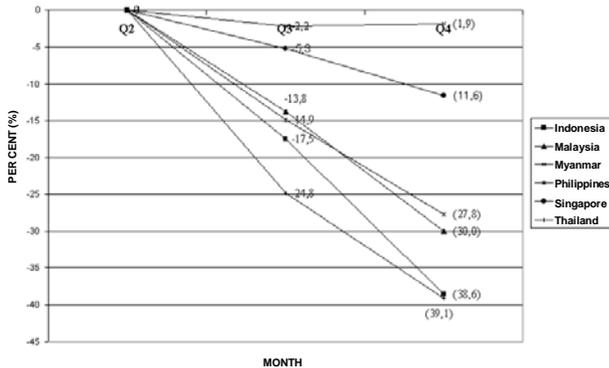
Since mid-1997 coincided with the beginning of the massive devaluation of regional currencies, the focus of this section is on the impact of the crisis on ASEAN's trade performance. The following issues are discussed in detail in this section:

- (i) Has the currency devaluation affected ASEAN's trade (exports and imports)? A priori we should expect acceleration of ASEAN exports and deceleration of imports from the devaluation.
- (ii) Is there a difference between the impact on intra-ASEAN and extra-ASEAN trade? ASEAN currencies have depreciated dramatically against the currencies of the rest of the world but have remained relatively constant against each other. Hence, the impact of exports and imports should be more pronounced for our trade with the rest of the world.

- (iii) How has ASEAN exports fared in our major markets: US, Japan, and EU?
- (iv) Has the trade balance improved?

Figure 5 shows the sharp falls in the value of ASEAN currencies in the months following the devaluation of the baht on 2 July 1997. By the first quarter of 1998, most ASEAN currencies had fallen by around 30%-40% from their levels at the end of June 1997. Since the currency devaluation started only during the 3<sup>rd</sup> quarter of 1997, we should expect the impact of the devaluation to have been felt during and immediately after that period. We need to compare whether there has been a significant change in trade values in the second half of 1997 compared to their average values in the past.

**Figure 5**  
**QUARTERLY CHANGES IN EXCHANGE RATE**



Source: United Nations.

## Growth of Total ASEAN Exports

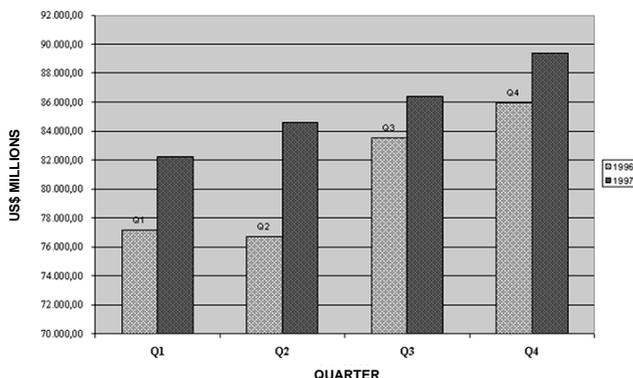
Total ASEAN exports for seven ASEAN Members grew from US\$ 330.6 billion to US\$ 351.6 billion in 1997 representing an increase of 6.34%. This represents a significant downturn from the average annual growth of 16.5% of ASEAN exports during the 1993-96 period.

**Table 23**  
**ASEAN EXPORTS, 1996-97**  
**(US \$ Million)**

COUNTRY	1996	1997	CHANGE	CHANGE (%)
Brunei Darussalam	2,493.25	2,714.14	220.89	8.86
Indonesia	53,844.56	51,274.26	(2,570.30)	(4.77)
Malaysia	74,246.65	77,457.67	3,211.02	4.32
Philippines	19,535.04	25,227.72	5,692.68	29.14
Singapore	117,349.39	128,174.29	10,824.90	9.22
Thailand	55,894.70	57,822.05	1,927.35	3.45
Vietnam	7,255.87	8,899.99	1,644.12	22.66
<b>ASEAN</b>	<b>330,619.47</b>	<b>351,570.12</b>	<b>20,950.65</b>	<b>6.34</b>

Source: ASEAN Secretariat.

**Figure 6**  
**ASEAN EXPORTS, 1996-97**



Most of the export growth took place in the first half of 1997. Exports in the second half of 1997 were almost flat compared to the second half of 1996. Since the currency turmoil started affecting ASEAN only in mid-1997, there appears to be a direct correlation between the turmoil and the slowdown in export growth.

The slow growth of total ASEAN exports continued to the first quarter of 1998. Total exports<sup>1</sup> grew from US \$ 84.2 billion in the first quarter of 1997 to US \$ 85.5 billion in the first quarter of 1998 representing a growth of only 1.48%

**TABLE 24**  
**ASEAN EXPORTS, FIRST QUARTER 1997-98**  
**(US \$ Million)**

COUNTRY	1997-Q1	1998-Q1	CHANGE	CHANGE (%)
Brunei Darussalam	630.54	677.99	47.45	7.52
Indonesia	12,404.76	12,515.94	111.18	0.90
Malaysia	19,709.18	18,985.52	(723.66)	(3.67)
Philippines	5,505.70	6,816.20	1,310.50	23.80
Singapore	29,819.83	32,288.46	2,468.63	8.28
Thailand	14,163.55	11,783.7 <sup>2</sup>	(2,379.85)	(16.8)
Vietnam	2,014.10	2,426.40	412.30	20.47
<b>ASEAN</b>	<b>84,247.67</b>	<b>85,494.22</b>	<b>1,246.55</b>	<b>1.48</b>

Source: ASEAN Secretariat.

### **Growth of Intra-ASEAN Exports**

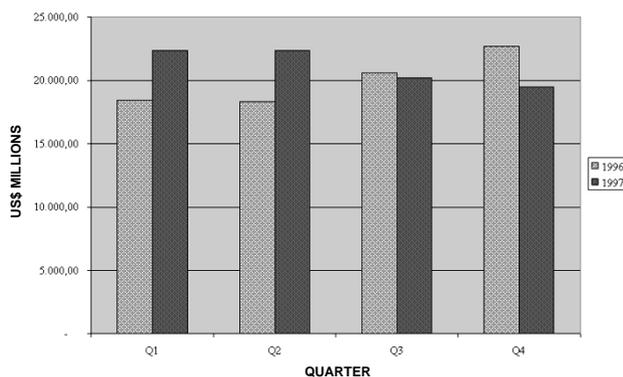
Intra-ASEAN exports (in US dollar terms) grew by only 4.65% from US from US\$ 82.4 billion in 1996 to US\$ 86.3 billion in 1997. This growth was actually lower than the expansion of total ASEAN exports. The 4.65% growth is a big decline from the 28.8% average growth of intra-ASEAN exports achieved during the 1993-96 period. As a consequence, intra-ASEAN exports accounted for approximately 24.5% of total ASEAN exports.

**TABLE 25**  
**INTRA-ASEAN EXPORTS, 1996-97**  
**(US \$ Million)**

COUNTRY	1996	1997	CHANGE	CHANGE (%)
Brunei Darussalam	446.38	496.41	50.03	11.21
Indonesia	8,238.24	8,785.55	547.31	6.64
Malaysia	22,668.11	23,163.22	495.11	2.18
Philippines	2,969.58	3,434.82	465.24	15.67
Singapore	33,951.94	35,348.90	1,396.96	4.11
Thailand	11,714.09	13,190.12	1,476.03	12.60
Vietnam	2,431.48	1,832.88	(598.60)	(24.62)
<b>ASEAN</b>	<b>82,419.82</b>	<b>86,251.90</b>	<b>3,832.08</b>	<b>4.65</b>

Source: ASEAN Secretariat.

**Figure 7**  
**INTRA-ASEAN EXPORTS, 1996-97**



The slowdown in intra-ASEAN exports was felt even more strongly in the first quarter of 1998. Intra-ASEAN exports declined dramatically from US \$ 23.1 billion in the first quarter of 1997 to US \$ 17.4 billion in 1998 representing a reduction of 24.6%. The biggest reductions were experienced by Thailand (-50.8%), Malaysia (-40%), Vietnam (-39.6%) and Brunei Darussalam (-35.8). Only Indonesia experienced a sizeable increase in intra-ASEAN exports during the first quarter of 1998.

**Table 26**  
**INTRA-ASEAN EXPORTS, FIRST QUARTER 1997-98**  
**(US \$ Million)**

COUNTRY	1997-Q1	1998-Q1	CHANGE	CHANGE (%)
Brunei Darussalam	99.98	64.19	(35.79)	(35.80)
Indonesia	1,961.49	2,621.74	660.25	33.66
Malaysia	6,987.33	4,195.57	(2,791.76)	(39.95)
Philippines	771.97	814.19	42.22	5.47
Singapore	8,614.97	7,346.49	(1,268.48)	(14.72)
Thailand	3,894.06	1,914.6	(1,979.52)	(50.83)
Vietnam	786.06	475.10	(310.96)	(39.56)
<b>ASEAN</b>	<b>23,115.86</b>	<b>17,431.88</b>	<b>(5,683.99)</b>	<b>(24.59)</b>

Source: ASEAN Secretariat.

### **Growth of Total Imports**

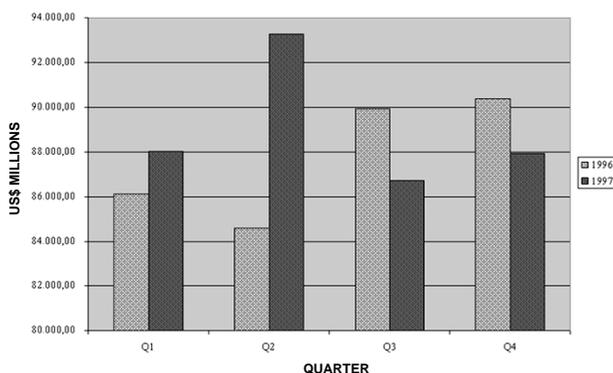
Using figures for the 7 biggest ASEAN importers, we find that imports in US dollar terms grew by only 3.13% from US \$ 362.1 billion in 1996 to US \$ 373.5 billion in 1997. In fact, ASEAN started importing less beginning in the third quarter of 1997 and this trend continued to the fourth quarter of the year. Brunei Darussalam and Thailand both experienced a contraction in their imports for the year. These probably reflect the higher cost of foreign goods because of the depreciation of domestic currencies, the slowing down of economic activity, as well as the significant hike in the cost of credit.

**Table 27**  
**ASEAN IMPORTS, 1996-97**  
**(US \$ Million)**

COUNTRY	1996	1997	CHANGE	CHANGE (%)
Brunei Darussalam	4,434.84	2,310.70	(2,124.14)	(47.90)
Indonesia	46,618.48	47,901.72	1,283.24	2.75
Malaysia	75,303.12	76,988.27	1,685.15	2.24
Philippines	28,762.49	35,932.53	7,170.04	24.93
Singapore	123,411.65	135,972.71	12,561.06	10.18
Thailand	72,445.58	63,087.75	(9,357.83)	(12.92)
Vietnam	11,143.63	11,271.00	127.37	1.14
<b>ASEAN</b>	<b>362,119.79</b>	<b>373,464.68</b>	<b>11,344.90</b>	<b>3.13</b>

Source: ASEAN Secretariat.

**Figure 8**  
**ASEAN IMPORTS, 1996-97**



While total imports in dollar terms still grew for the whole year of 1997 compared to 1996, the slowdown in economic activity in 1998 managed to dampen total import demand. Total imports contracted from US\$ 90.8 billion in the first quarter of 1997 to US\$ 75.4 billion in the first quarter of 1998 representing a decline of 16.95%. Major contractions were felt in Thailand (-46.4%), Brunei Darussalam (-39.7%), Indonesia (-32.4%) and Malaysia (-12.6%).

**Table 28**  
**ASEAN IMPORTS, FIRST QUARTER 1997-98**  
**(US \$ Million)**

COUNTRY	1997-Q1	1998-Q1	CHANGE	CHANGE (%)
Brunei Darussalam	541.48	326.31	(215.17)	(39.74)
Indonesia	10,660.92	7,205.57	(3,455.35)	(32.41)
Malaysia	18,809.18	16,447.96	(2,361.22)	(12.55)
Philippines	8,399.38	8,036.74	(362.64)	(4.32)
Singapore	32,094.97	31,144.58	(950.38)	(2.96)
Thailand	17,526.3	9,394.34	(8,131.99)	(46.4)
Vietnam	2,755.73	2,842.20	86.47	3.14
<b>ASEAN</b>	<b>90,787.98</b>	<b>75,397.70</b>	<b>(15,390.28)</b>	<b>(16.95)</b>

Source: ASEAN Secretariat.

### Major Markets

In 1997, ASEAN exports expanded in three important markets: the US, the People's Republic of China and Republic of Korea. However, exports contracted in two important markets: Japan and the EU.

ASEAN exports to the US grew by 17.7% from US\$ 59.5 billion to US \$ 70.0 billion in 1997. Exports to China expanded even more (in percentage and absolute terms) by 62.0% from US \$ 18.0 billion in 1996 to US \$ 29.2 billion in 1997. And in spite of the economic crisis in Korea, ASEAN exports expanded by 12.9% from US \$ 9.4 billion in 1996 to US \$ 10.7 billion in 1997.

The reduction in exports to Japan was expected given the continuing problems in stimulating the Japanese economy. ASEAN exports fell by 2.6% from US \$43.2 billion in 1996 to US \$ 42.0 billion in 1997. However, the downturn in ASEAN exports to the EU was probably unexpected since growth in the EU together with the US seemed to be strong. Nevertheless, ASEAN exports contracted by 1.8% as it fell from US \$ 46.9 billion in 1996 to US \$ 46.1 billion in 1997.

**Table 29**  
**EXPORTS TO MAJOR ASEAN MARKETS, 1996-97**  
**(US \$ Million)**

COUNTRY	1996	1997	CHANGE	CHANGE (%)
Australia	6,106.0	6,418.4	312.4	5.1
Canada	1,988.2	1,881.9	(106.3)	(5.3)
European Union	46,926.0	46,086.7	(839.3)	(1.8)
India	3,722.8	4,473.2	750.4	20.2
Japan	43,150.3	42,008.6	(1,141.8)	(2.6)
New Zealand	812.5	773.8	(38.7)	(4.8)
People's Republic of China*	18,045.1	29,237.1	11,192.0	62.0
Republic of Korea	9,446.7	10,667.8	1,221.1	12.9
Russia	3,169.2	876.1	(2,293.2)	(72.4)
United States	59,515.5	70,030.4	10,514.9	17.7

\* Includes Hongkong

Source: ASEAN Secretariat.

**Table 30**  
**EXPORTS TO MAJOR ASEAN MARKETS, FIRST QUARTER 1997-98**  
**(US \$ Million)**

COUNTRY	1997-Q1	1998-Q1	CHANGE	CHANGE (%)
Australia	1,297.80	1,529.57	231.78	17.86
Canada	319.85	364.88	45.03	14.08
European Union	8,757.61	9,984.38	1,226.77	14.01
India	864.84	1,047.42	182.58	21.11
Japan	8,599.89	7,886.41	(713.48)	(8.30)
New Zealand	180.88	155.20	(25.68)	(14.20)
People's Republic of China*	5,632.77	6,555.00	922.22	16.37
Republic of Korea	2,832.83	2,172.03	(660.80)	(23.33)
Russia	189.30	204.18	14.88	7.86
United States	12,881.66	13,083.97	202.31	1.57

\* Includes Hongkong

Source: ASEAN Secretariat.

### **Trade Balance**

Nevertheless, the fall in imports triggered a huge turnaround in the trade balance of the ASEAN Countries. The trade deficit narrowed from US

\$ 31.5 billion in 1996 to US \$ 21.9 billion in 1997. In fact, a trade surplus began to accumulate beginning the 3<sup>rd</sup> quarter of 1997. By the first quarter of 1998, ASEAN Countries had a trade surplus of US \$ 10.1 billion compared with a deficit of US \$ 6.5 billion in the first quarter of 1997.

**Table 31**  
**TRADE BALANCE OF ASEAN COUNTRIES, 1996-97**  
**(US \$ Million)**

COUNTRY	1996	1997
Brunei Darussalam	(1,941.59)	403.44
Indonesia	7,226.08	3,372.54
Malaysia	(1,056.47)	469.40
Philippines	(9,227.45)	(10,704.81)
Singapore	(6,062.26)	(7,798.43)
Thailand	(16,550.88)	(5,265.70)
Vietnam	(3,887.76)	(2,371.01)
<b>ASEAN</b>	<b>(31,500.32)</b>	<b>(21,894.57)</b>

Source: ASEAN Secretariat.

**Table 32**  
**TRADE BALANCE OF ASEAN COUNTRIES, FIRST QUARTER 1997-98**  
**(US \$ Million)**

COUNTRY	1997-Q1	1998-Q1
Brunei Darussalam	89.06	351.68
Indonesia	1,743.84	5,310.37
Malaysia	900.00	2,537.56
Philippines	(2,893.68)	(1,220.54)
Singapore	(2,275.13)	1,143.88
Thailand	3,362.78)	2,389.36
Vietnam	(741.62)	(415.80)
<b>ASEAN</b>	<b>(6,540.32)</b>	<b>10,096.52</b>

Source: ASEAN Secretariat.

The weak export performance reflects supply-side bottlenecks and weakness in demand from some of ASEAN's major trading partners, particularly, those from East Asia. Of particular concern is the lack of trade financing for some ASEAN Countries due to their weakened banking system. These bottlenecks have to be addressed if exports are to be an engine of recovery.

With the ASEAN currencies depreciating dramatically against the currencies of the rest of the world but remaining relatively constant against each other, the incentives for exporting to countries outside of the region compared to other ASEAN Countries have risen. This is reflected in the slower growth of intra-ASEAN exports compared to total exports. Hence, if the growth momentum of intra-regional trade is to be maintained, policymakers have to accelerate the timetable for implementing AFTA.



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<sup>1</sup> We have first quarter 1998 trade figures only for Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Vietnam.

<sup>2</sup> This excludes Thailand's exports to Laos, Myanmar and Vietnam.

# **Liberalisation of Trade in Services**

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The Uruguay Round (UR) negotiations had included trade in services for the first time. The resulting General Agreement on Trade in Services (GATS), which was one of the important outcomes of the UR negotiations, established a multilateral framework of principles and rules for trade in services as well as for its progressive liberalisation. The inclusion of trade in services reflected its growing importance in global trade. In 1997, global trade in services was valued at US \$ 1.3 trillion.

The services sector make up a significant proportion of the economies of the ASEAN Members. It is more than 60% of Singapore's economy; close to half for the Philippines and Thailand; and a little more than 40% for most other ASEAN countries.

**Table 33**  
**SIZE OF SERVICES SECTOR, % OF GDP IN 1997**

COUNTRY	SHARE OF GDP
Brunei Darussalam	n.a.
Indonesia	40.1
Laos	26.5
Malaysia	40.6
Myanmar	31.0
Philippines	49.2
Singapore	63.8 <sup>1</sup>
Thailand	48.9
Vietnam	42.6

Source: World Bank.

In addition, ASEAN Countries have become major exporters and importers of commercial services. In 1997, Singapore exported US \$ 30.1 billion worth of services making it the 12<sup>th</sup> largest exporter in the world. In the same year, Singapore and Thailand imported US \$ 18.9 billion and US \$ 17.4 billion worth of services making them the 18<sup>th</sup> and 20<sup>th</sup> largest importers respectively.<sup>2</sup>

ASEAN Cooperation in services was initiated to strengthen the capacities of services suppliers in the region. At the Fifth ASEAN Summit in Bangkok, Thailand on 15 December 1995, the ASEAN Leaders agreed that ASEAN should initiate new areas of cooperation in services. As a result, the ASEAN Framework Agreement on Services (AFAS) was signed on 15 December 1995 by the Economic Ministers.

The Agreement called for:

- (a) enhancing cooperation in services amongst Member States in order to improve the efficiency and competitiveness, diversify production capacity and supply and distribution of services of their services suppliers within and outside ASEAN;
- (b) eliminating substantial restrictions to trade in services amongst Member States; and
- (c) liberalising trade in services by expanding the depth and scope of liberalisation beyond those undertaken by Member States under the GATS with the aim to realising a free trade area in services.

The preferential liberalisation of trade in services is consistent with WTO rules. Article V of the GATS allows preferential arrangements among members of a regional integration agreement provided that the arrangement has substantial sectoral coverage and provides for the absence or elimination of substantially all discrimination among its members.

The ASEAN Leaders agreed that Member Countries should enter into negotiations of specific commitments on market access, national treatment

and additional commitments covering all services sectors and all modes of supply. The ASEAN Leaders further agreed that the first round of negotiations shall begin on 1 January 1996 and conclude not later than 31 December 1998 and the negotiations shall initially focus on financial services, maritime transport, telecommunications, air transport, tourism, construction and business services.

### **Negotiation Process**

There are four ways in which a foreign service supplier can supply services. These four modes of supply constitute the definition of trade in services (in Article I of the GATS). Trade in services is defined as the supply of a service:

1. from the territory of one Member into the territory of any other Member;

This is known as **cross-border supply** and refers to the possibility for non-resident service suppliers to supply services cross-border into the territory of a Member Country.

2. in the territory of one Member to the service consumer of any other Member;

This is known as **consumption abroad** and refers to the possibility for the Member Country's residents to purchase services in the territory of another Member.

3. by a service supplier of one Member, through commercial presence in the territory of any other Member;

This is known as **commercial presence** and refers to the opportunities for foreign service suppliers to establish, operate or expand a commercial presence in the Member Country's territory, such as a branch, agency, or wholly-owned subsidiary.

4. by a service supplier of one Member, through presence of natural persons of a Member in the territory of any other Member.

This is known as **presence of natural persons** and refers to the possibilities offered for the entry and temporary stay in the Member Country's territory of foreign individuals in order to supply a service.

There are two major kinds of impediments to the ability of foreign service suppliers to provide services. The first type of restriction applies to market access and the second type of restriction applies to national treatment.

The goal of the negotiation process is to obtain more favourable commitments on market access, national treatment and other commitments in these modes of supply than those contained in the GATS (GATS-plus commitments).

### ***Initial Package of Commitments***

As a result of the mandate from the ASEAN Leaders, the Senior Economic Official Meeting (SEOM) established a Coordinating Committee on Services (CCS) to implement the ASEAN Framework Agreement on Services. SEOM also tasked the CCS to develop the modality to manage the negotiations of the identified seven services sectors and to devise a reporting mechanism on the progress of negotiations.

The CCS created seven sectoral working groups to enable sectoral experts to exchange information on policy regimes in their respective areas and to conduct the negotiations. The negotiations were undertaken bilaterally, through request and offers, as well as within sectoral groups. Any commitments negotiated by Member Countries must be extended to all other ASEAN Members (ASEAN-MFN basis).

The CCS further agreed to conclude two packages of commitments with the first package of commitments to be completed within a time frame

of 18 months, i.e. 30 June 1997. The final package of commitments was concluded on 31 December 1998.

The initial package of commitments was completed as scheduled on 30 June 1998. The ASEAN Economic Ministers (AEM) subsequently endorsed the initial package of commitments during the 29<sup>th</sup> AEM held in Kuala Lumpur, Malaysia on 16 October 1997. The ASEAN Economic Ministers also signed a Protocol to Implement the Initial Package of Commitments during the Second Informal ASEAN Summit held in Kuala Lumpur, Malaysia on 15 December 1997. The Protocol has been ratified by all Member Countries, and hence, the initial package of commitments is now legally in force.

The following offers were made in the initial package of commitments:

1. Brunei Darussalam, Malaysia and Singapore have made offers in Air Transport;
2. Philippines has made offers in Business Services;
3. Brunei Darussalam, Indonesia, Malaysia and Thailand have made offers in Maritime Transport;
4. Vietnam made offers in telecommunications; and
5. All Member Countries made offers in Tourism.

Subsequently, the ASEAN Countries concluded a second package of commitments, which was approved by the 30<sup>th</sup> ASEAN Economic Ministers during their meeting in Makati City on 7 October 1998. Together with the initial package of commitments, ASEAN Member Countries have made commitments in all the priority sectors identified by the 5<sup>th</sup> ASEAN Summit.

Table 34 gives details of the sectors offered under both the initial and second package of commitments under the ASEAN Framework Agreement on Services.

Table 34  
PACKAGE OF SERVICES COMMITMENTS

SECTOR	COUNTRY	SUBSECTOR COMMITMENTS
<b>AIR TRANSPORT</b>		
	Brunei Darussalam	Aircraft repair and maintenance services.
	Indonesia	Computer reservation system
	Laos	Computer reservation system; Selling and marketing of air transport services.
	Malaysia	Computer reservation system; Selling and marketing of air transport services.
	Myanmar	Aircraft repair and maintenance service.
	Philippines	Computer reservation system.
	Singapore	Selling and marketing of air transport services.
	Thailand	Selling and marketing of air transport services; Computer reservation system services.
	Vietnam	Aircraft repair and maintenance services; Selling and marketing of air transport services.
<b>BUSINESS SERVICES</b>		
	Brunei Darussalam	Architectural services
	Indonesia	Advisory and consultative services related to engineering; Engineering design services for industrial processes and production; Project management services other than for construction; Consultancy services related to the installation of computer hardware; Software implementation services; Interdisciplinary R & D limited to industrial activities; Technical testing and analysis services; Services incidental to manufacturing; Maintenance and repair of equipment (not including maritime vessel, aircraft or other transport equipment.
	Laos	Architectural services; Engineering services.
	Malaysia	Wholesale and retail trade businesses; Engineering services.
	Myanmar	Market research service; Marketing management consulting service.

SECTOR	COUNTRY	SUBSECTOR COMMITMENTS
	Philippines	Architectural services; Environmental (urban) planning services; Landscape architectural services; Interior (specialty) design services; Engineering services covering civil engineering, electrical engineering, geodetic engineering, mechanical engineering, sanitary engineering and electronics and communication engineering; Auditing services covering financial auditing and accounting review.
	Singapore	Engineering services covering civil engineering, production engineering, mechanical engineering, electrical engineering, electronic engineering, aeronautical engineering, marine engineering, naval architectural engineering, industrial engineering, chemical engineering.
	Thailand	Research and development on natural sciences; Research and development on social sciences and humanities; Management consulting services.
	Vietnam	Accounting and auditing; Taxation services; Engineering services; Legal services.
<b>CONSTRUCTION</b>		
	Brunei Darussalam	Construction and related engineering services
	Indonesia	Building completion and finishing work.
	Laos	Construction work for buildings; Construction work for civil engineering.
	Malaysia	Construction works.
	Myanmar	Assembly and erection of prefabricated construction.
	Philippines	Private construction services.
	Singapore	Leasing or rental services concerning construction machinery and equipment services without an operator.
	Thailand	Pre-erection work at construction work; Assembly and erection of prefabricated construction; Special trade construction work; Building completion and finishing work.

SECTOR	COUNTRY	SUBSECTOR COMMITMENTS
	Vietnam	Pre-erection work at construction sites; Construction work for commercial buildings; Construction work for public entertainment buildings; Construction work for hotel, restaurant and similar buildings; Construction work for civil engineering; Installation work; Building completion and finishing work.
<b>FINANCIAL SERVICES</b>		
	Brunei Darussalam	Transfer of financial information, financial data processing and related software.
	Indonesia	Banking services
	Laos	Securities brokering services; Payments and money transmission services.
	Malaysia	Advisory, intermediation and other auxiliary financial services, including credit reference and analysis, investment advice on acquisitions, corporate restructuring and strategy; Operational headquarters (OHQ); Direct insurance (life and non-life).
	Myanmar	Foreign bank's representative offices services.
	Philippines	<u>Commercial Banking</u> Acceptance of deposits and other repayable funds from the public; Lending of all types, including consumer credit, mortgage credit and financing of commercial transactions; All payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers draft; Guarantees and commitments; Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following - money market instruments (bank's own promissory notes, repurchase agreements, and certificates of assignment/participation with recourse; Foreign exchange; derivative products including but not limited to futures and options; Exchange rate and interest rate instruments,

SECTOR	COUNTRY	SUBSECTOR COMMITMENTS
	Singapore	<p>including products such as swaps, forward rate agreements; Other allowable negotiable instruments and financial assets; participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues; Asset management, such as cash or portfolio management, all forms of collective investment management, custodial, depository and trust services. Lending of all types including consumer credit, mortgage credit, factoring and financing of commercial transaction.</p> <p>Securities companies (securities brokerage, securities dealing, investment advisory service and securities underwriting); Asset management companies; Collective investment schemes.</p> <p>Insurance: Life, accident and health insurance services; Non-life insurance; Reinsurance and retrocession; Services auxiliary to insurance including brokering and agency services.</p> <p>Banking: Acceptance of deposits; Lending of all types; Financial leasing services; payment and money transmission services.</p>
	Thailand	
	Vietnam	
<b>MARITIME TRANSPORT</b>		
	Brunei Darussalam	<p>International freight transport; International passenger transport.</p> <p>International passenger transport excluding cabotage; International freight transport excluding cabotage; Maritime cargo handling services.</p> <p>Freight transportation to cover frozen or refrigerated goods, bulk liquids or gases, containerised freight and other freight; Storage and warehousing services to cover frozen or refrigerated goods, bulk liquids or gases, and other goods, including cotton, grain, wool, tobacco, other farm products, and other household goods.</p>
	Indonesia	
	Laos	

SECTOR	COUNTRY	SUBSECTOR COMMITMENTS
	Malaysia Myanmar	Maritime freight forwarding services. Vessel and refloating service (not applicable in harbour limit).
	Philippines	International Transport (passenger and freight) except cabotage transport and government-owned cargoes.
	Singapore	Maritime auxiliary service: classification societies.
	Thailand	Freight transport less cabotage transport; Customs clearance services.
	Vietnam	International freight transport less cabotage; International passenger transport less cabotage; Maritime agency services.
<b>TELECOMMUNICATIONS</b>		
	Brunei Darussalam Indonesia	Telex services; Telegraph services. <u>Local, Long Distance and International:</u> Public switched telephone services; Circuit switched public data network services; Teleconferencing services. Packet-switched public data network services; Telex services; Telegraph services; Domestic mobile cellular services; Internet access services; Domestic regional and national paging services; Domestic public payphone services.
	Laos	Public pay phone services; Electronic message and information services.
	Malaysia	Data and transmission services; Mobile data services; Telex and telegraph services; Basic telecommunications covering voice service (wired or wireless), packet-switched data transmission services (including frame-relay services), circuit switched data transmission services, facsimile service, private leased circuit service, domestic/ international satellite services and satellite links/capacities (inclusive of mobile satellite), satellite earth station, international switching and other international gateway, mobile services analogue/digital cellular, paging services, trunked radio services and video transport services..

SECTOR	COUNTRY	SUBSECTOR COMMITMENTS
	Myanmar	Communication equipment maintenance service.
	Philippines Singapore	Paging services. Store and retrieve VAN services (electronic mail, voice mail, on-line information and database retrieval, electronic data interchange, on-line information and/or data processing, store and retrieve file transfer); Voice information facsimile mailbox and multimedia mailbox.
	Thailand	Telecommunications terminal equipment leasing services; domestic VSAT.
	Vietnam	Electronic mail; Voice mail services; Electronic data interchange services; Telex services; Telegraph services.
<b>TOURISM</b>		
	Brunei Darussalam Indonesia	Budget hotel; resort hotel/chalets. International hotel operator; Tourism consultancy services; Hotels; Tourist resorts (including hotels and marinas); Golf courses and other facilities.
	Laos	International hotel operation; Hotel lodging services; Beverage serving services without entertainment.
	Malaysia	Convention centre (over 3000 participants); theme parks.
	Myanmar	Theme parks; International hotel operations; Hotel management; Tourism services; Amusement parks.
	Philippines Singapore	Pension house; Tourist inn; Apartels. Travel agency and tour operators services.
	Thailand	Motel lodging services; Holiday centre and holiday home services; Camping and caravan site services; Theme parks and amusement parks; Marina facilities; Convention centre of over 2000 participants.
	Vietnam	International hotel operation; Tourist resort.

# **ASEAN Intellectual Property Cooperation**

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At the Fifth ASEAN Summit in December 1995 in Bangkok, Thailand, Member Countries signed the ASEAN Framework Agreement on Intellectual Property Cooperation. A Programme of Action (1996-1998) to carry out the implementation of the activities contained in the Framework Agreement has been adopted. Among the activities included in the programme were measures to enhance and strengthen intellectual property enforcement, protection, administration, legislation and activities to promote public awareness as well as private sector participation. Recognising the different levels of intellectual property development in Member Countries, the programme to explore the possibility of setting up an ASEAN Trademark System and an ASEAN Patent System will be a long term objective and it can extend beyond 1998. The participation in this programme of Member Countries is voluntary.

An ASEAN Working Group on Intellectual Property Cooperation (AWGIPC) has been established to implement the activities of the Framework Agreement and to serve as a regular forum for consultations to monitor regional and international developments on intellectual property.

In the pursuit of a regional Trademarks system, ASEAN is considering three options, namely:

1. a common form for national filing;
2. a regional filing system; or
3. a regional registration system.

As a first step towards the setting up of regional Patent system, a survey on practices, patent granting process and fees of ASEAN Member Countries is being conducted.

In addition to improving the efficiency of intellectual property rights administration of Member Countries through new legislation, computerisation, enforcement and human resource development, ASEAN also recognised the important role played by the private sector as well as the public at large in the inculcation of IPR awareness. This provision is enshrined in the ASEAN Framework Agreement on Intellectual Property Cooperation. Accordingly, the private sector ASEAN Intellectual Property Association (AIPA) has been established in December 1996 in Kuala Lumpur, Malaysia. AIPA was granted the status of an ASEAN-affiliated NGO in March 1997.

At the same time, ASEAN is also pursuing intellectual property rights cooperative activities with the World Intellectual Property Organisation (WIPO), the European Union (EU) and Japan. The objectives of these cooperative activities include measures to:

1. provide specific and systematic training programme for ASEAN intellectual property rights and enforcement officials;
2. exchange views and experiences through visits by intellectual property rights enforcement agencies in the Asia-Pacific region on practical problems and solutions in the enforcement system;
3. organise seminars or symposia where speakers from developed countries could be invited to present their experience on the practical process adopted by their respective countries in the implementation of their commitments in the Trade-related Intellectual Property Rights (TRIPs) Agreement;
4. provide information on work undertaken by non-ASEAN countries in the areas relating to the protection of geographical indications, industrial designs and layout of integrated circuits; and

5. provide assistance on collective administration.

The following are other developments in intellectual property in the ASEAN region.

### ***Copyright and Related Rights***

Brunei Darussalam is in the process of drafting her legislation on copyright with the assistance of WIPO. It is now being considered by the relevant authorities. Indonesia enacted laws to amend the copyright laws of 1982 and 1987. The amendment to the copyright law has broadened the scope of protection to include neighbouring rights such as performers, producer of phonograms and broadcasting organisations. Malaysia made the latest amendments to the Copyright Act 1987 to promote the Multimedia Super Corridor (MSC), to give adequate legal protection and also to take into account recent international developments in respect of certain copyright works such as educational works, entertainment products and information. These amendments include broadcast, author of broadcast and derivative works. Singapore has amended its Copyright Act to conform to the TRIPs Agreement. The Bill to give effect to this was passed by the Singapore Parliament on 19 February 1998. Copyright in Vietnam is covered under the Civil Code 1995. The Governmental Decree No. 76/CP of 29 November 1996 serves as a guide in the implementation of the provisions on copyright under the Civil Code. The Philippines has passed into law the Intellectual Property Code of the Philippines which came into effect on 1 January 1998, amending the Copyright Law to meet the TRIPs requirement and incorporating provisions of the WIPO Copyright Treaty and the WIPO Performers' and Phonogram Treaty in anticipation of possible accession to these treaties. Rules and regulations to implement the IP Code are in progress. Thailand already complied with the copyright provisions of the TRIPs Agreement and several aspects exceeded TRIPs, in particular, the performers' and the broadcasters' rights.

## **Trademarks**

Brunei Darussalam has updated and amended its Trademarks Law, which would be in place by next year. Indonesia amended her Trademarks Law to address the need for more effective protection of well known marks. The new law also adds provisions on geographical indication, which is also in line with the TRIPs standards. The Lao PDR's existing Decree of the Prime Minister on Trademarks is fully harmonised with TRIPs as it is based on the model law provided by WIPO. In Malaysia, service marks have been introduced since 1 December 1997. Other areas relating to geographical indications and well known marks are being undertaken. The Philippines has passed into law the IP Code, amending the Trademarks Law to meet the TRIPs requirement including single filing dates requirements and protection of well known marks. The rules and regulations to implement the IP Code are in progress. Thailand is now revising the Trademarks Law. In Singapore, a new TRIPs-consistent Trademark legislation geared towards a more expeditious and simplified process for trademarks application is being drafted. In Vietnam, Civil Code 1995 deals with the protection of trademarks and industrial designs. The Governmental Decree No. 63/CP dated October 24, 1996, stipulated detailed regulations implementing the provisions of the Civil Code concerning the protection of trademarks and industrial designs.

## **Protection of Designs including Textile Designs**

Brunei Darussalam is considering the Hong Kong Registered Act with few amendments to suit local conditions. In Vietnam the protection of industrial designs has the same status as trademarks. For Malaysia, the Parliament has approved the Industrial Design Act 1996 in July 1997. In Thailand, designs are presently protected in both the patent law in terms of industrial designs and the copyright law. Thailand is studying the pros and cons of having one system on designs rather than the present fragmented approach. Singapore is contemplating a new legislation, which will provide an independent registration system for designs. The new system will be TRIPs-consistent.

## Annex A

### **ASEAN Framework Agreement on Services**

The Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand, and the Socialist Republic of Vietnam, Member States of the Association of South East Asian Nations (hereinafter referred to as “ASEAN”);

**RECOGNISING** the Singapore Declaration of 1992 which provides that ASEAN shall move towards a higher plane of economic cooperation to secure regional peace and prosperity;

**RECALLING** that the Heads of Government, at the Fourth Summit held in Singapore on 27-28 January 1992 declared that an ASEAN Free Trade Area (AFTA) shall be established in the region;

**NOTING** that the Framework Agreement on Enhancing ASEAN Economic Cooperation signed in Singapore on 28 January 1992 provides that ASEAN Member States shall explore further measures on border and non-border areas of cooperation to supplement and complement the liberalisation of trade;

**RECOGNISING** that intra-ASEAN economic cooperation will secure a liberal trading framework for trade in services which would strengthen and enhance trade in services among ASEAN Member States;

**DESIRING** to mobilise the private sector in the realisation of economic development of ASEAN Member States in order to improve the efficiency and competitiveness of their service industry sector;

**REITERATING** their commitments to the rules and principles of the General Agreement on Trade in Services (hereinafter referred to as “GATS”) and noting that Article V of GATS permits the liberalising of trade in services between or among the parties to an economic integration agreement;

**AFFIRMING** that ASEAN Member States shall extend to one another preference in trade in services;

**HAVE AGREED AS FOLLOWS:**

#### **ARTICLE 1**

##### **Objectives**

The objectives of the Member States under the ASEAN Framework Agreement on Services (hereinafter referred to as “this Framework Agreement”) are:

- a) to enhance cooperation in services amongst Member States in order to improve the efficiency and competitiveness, diversify production capacity and supply and distribution of services of their service suppliers within and outside ASEAN;
- b) to eliminate substantially restrictions to trade in services amongst Member States; and
- c) to liberalise trade in services by expanding the depth and scope of liberalisation beyond those undertaken by Member States under the GATS with the aim to realising a free trade area in services.

## **ARTICLE 2**

### **Areas of Cooperation**

1. All Member States shall participate in the cooperation arrangements under this Framework Agreement. However, taking cognizance of paragraph 3 of Article 1 of this Framework Agreement on Enhancing ASEAN Economic Cooperation, two or more Member States may proceed first if other Member States are not ready to implement these arrangements.
2. Member States shall strengthen and enhance existing cooperation efforts in service sectors and develop cooperation in sectors that are not covered by existing cooperation arrangements, through inter alia:
  - a) establishing or improving infrastructural facilities;
  - b) joint production, marketing and purchasing arrangements;
  - c) research and development; and
  - d) exchange of information.
3. Member States shall identify sectors for cooperation and formulate Action Plans, Programmes and Understandings that shall provide details on the nature and extent of cooperation.

## **ARTICLE 3**

### **Liberalisation**

Pursuant to Article 1 (c), Member States shall liberalise trade in services in a substantial number of sectors within a reasonable time-frame by:

- a) eliminating substantially all existing discriminatory measures and market access limitations amongst Member States; and
- b) prohibiting new or more discriminatory measures and market access limitations.

## **ARTICLE 4**

### **Negotiation of Specific Commitments**

1. Member States shall enter into negotiations on measures affecting trade in specific service sectors. Such negotiations shall be directed towards achieving commitments which are beyond those inscribed in each Member State's schedule of specific commitments under the GATS and for which Member States shall accord preferential treatment to one another on an MFN basis.
2. Each Member State shall set out in a schedule, the specific commitments it shall undertake under paragraph 1.
3. The provisions of this Framework Agreement shall not be so construed as to prevent any Member State from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zones of services that are both locally produced and consumed.

## **ARTICLE 5**

### **Mutual Recognition**

1. Each Member State may recognise the education or experience obtained, requirements met, or licenses or certifications granted in another Member State, for the purpose of licensing or certification of service suppliers. Such recognition may be based upon an agreement or arrangement with the Member State concerned or may be accorded autonomously.
2. Nothing in paragraph 1 shall be so construed as to require any Member State to accept or to enter into such mutual recognition agreements or arrangements.<sup>1</sup>

## **ARTICLE 6**

### **Denial of Benefits**

The benefits of this Framework Agreement shall be denied to a service supplier who is a natural person of a non-Member State or a juridical person owned or controlled by persons of a non-Member State constituted under the laws of a Member State, but not engaged in substantive business operations in the territory of Member State(s)

## **ARTICLE 7**

### **Settlement of Disputes**

1. The Protocol on Dispute Settlement Mechanism for ASEAN shall generally be referred to and applied with respect to any disputes arising from, or any differences between Member States concerning the interpretation or application of, this Framework Agreement or any arrangements arising therefrom.
2. A specific dispute settlement mechanism may be established for the purposes of this Framework Agreement which shall form an integral part of this Framework Agreement.

## **ARTICLE 8**

### **Supplementary Agreements or Arrangements**

Schedules of specific commitments and Understandings arising from subsequent negotiations under this Framework Agreement and any other agreements or arrangements, Action Plans and Programmes arising thereunder shall form an integral part of this Framework Agreement.

## **ARTICLE 9**

### **Other Agreements**

1. This Framework Agreement or any action taken under it shall not affect the rights and obligations of the Member States under any existing agreements<sup>2</sup> to which they are parties.

<sup>1</sup> These agreements or arrangements are concluded for Member State only. In the event a Member State wishes to join such agreements or arrangements, it should be given equal opportunity to do at any time.

<sup>2</sup> Existing Agreements are not affected as these have been notified in the MFN Exemption List of the GATS.

2. Nothing in this Framework Agreement shall affect the rights of the Member States to enter into other agreements not contrary to the principles, objectives and terms of this Framework Agreement.
3. Upon the signing of this Framework Agreement, Member States shall promptly notify the ASEAN Secretariat of any agreements pertaining to or affecting trade in services to which that Member is a signatory.

#### **ARTICLE 10**

##### **Modification of Schedules of Specific Commitments**

1. A Member State may modify or withdraw any commitment in its schedule of specific commitments, at any time after three years from the date on which that commitment entered into force provided:
  - a) that it notifies other Member States and the ASEAN Secretariat of the intent to modify or withdraw a commitment three months before the intended date of implementation of the modification or withdrawal; and
  - b) that it enters into negotiations with an affected Member State to agree to necessary compensatory adjustment.
2. In achieving a compensatory adjustment, Member States shall ensure that the general level of mutually advantageous commitment is not less favourable to trade than that provided for in the schedules of specific commitments prior to such negotiations.
3. Compensatory adjustment shall be made on an MFN basis to all other Member States.
4. The SEOM with the endorsement of the AEM may draw up additional procedures to give effect to this Article.

#### **ARTICLE 11**

##### **Institutional Arrangements**

1. The SEOM shall carry out such functions to facilitate the operation of this Framework Agreement and further its objectives, including the Organisation of the conduct of negotiations, review and supervision of the implementation of this Framework Agreement.
2. The ASEAN Secretariat shall assist SEOM in carrying out its functions, including providing the support for supervising, coordinating and reviewing the implementation of this Framework Agreement.

#### **ARTICLE 12**

##### **Amendments**

The provisions of this Framework Agreement may be amended through the consent of all the Member States and such amendments shall become effective upon acceptance by all Member States.

**ARTICLE 13**  
**Accession of New Members**

New Members of ASEAN shall accede to this Framework Agreement on terms and conditions agreed between them and signatories to this Framework Agreement.

**ARTICLE 14**  
**Final Provision**

1. The terms and definitions and other provisions of the GATS shall be referred to and applied to matters arising under this Framework Agreement for which no specific provision has been made under it.
2. This Framework Agreement shall be deposited with the Secretary-General of ASEAN, who shall promptly furnish a certified copy thereof to each Member State.
3. This Framework Agreement shall enter into force upon the deposit of instruments of ratification or acceptance by all signatory governments with the Secretary-General of ASEAN.

**IN WITNESS WHEREOF**, the undersigned, being duly authorised by their respective Governments, have signed the ASEAN Framework Agreement on Services.

**DONE at Bangkok, this 15th day of December 1995** in a single copy in the English Language.



**Annex B****ASEAN Framework Agreement on Intellectual Property Cooperation**

The Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Vietnam, Member States of the Association of South East Asian Nations (hereinafter referred to as “ASEAN”);

**RECOGNISING** the important role of intellectual property rights in the conduct of trade and the flow of investment among the Member States of ASEAN and the importance of cooperation in intellectual property in the region;

**DESIRING** to foster closer cooperation in the field of intellectual property and related fields in order to provide a firm basis for economic progress, the expeditious realization of the ASEAN Free Trade Area and prosperity among the Member States of ASEAN;

**RECOGNISING** the need to promote closer cooperation and understanding among the countries in the region in the field of intellectual property and related fields to contribute to regional dynamism, synergy and growth;

**HAVE AGREED AS FOLLOWS:**

**ARTICLE 1**  
**Objectives**

1. Member States shall strengthen their cooperation in the field of intellectual property through an open and outward looking attitude with a view to contributing to the promotion and growth of regional and global trade liberalisation.
2. Member States shall promote cooperation in the field of intellectual property among government agencies as well as among the private sectors and professional bodies of ASEAN.
3. Member States shall explore appropriate intra-ASEAN cooperation arrangements in the field of intellectual property, contributing to the enhancement of ASEAN solidarity as well as to the promotion of technological innovation and the transfer and dissemination of technology.
4. Member States shall explore the possibility of setting up of an ASEAN patent system, including an ASEAN Patent Office, if feasible, to promote the region-wide protection of patent bearing in mind developments on regional and international protection of patent.
5. Member States shall explore the possibility of setting up of an ASEAN trademark system, including an ASEAN Trademark Office, if feasible, to promote the region-wide protection of trademark bearing in mind developments on regional and international protection of trademarks.
6. Member States shall have consultations on the development of their intellectual property regimes with a view to creating ASEAN standards and practices which are consistent with international standards.

## ARTICLE 2

### Principles

1. Member States shall abide by the principle of mutual benefits in the implementation of measures or initiatives aimed at enhancing ASEAN intellectual property cooperation.
2. Member States, being mindful of the international conventions on intellectual property rights to which they are parties, and the international obligations assumed under the provisions of the Agreement on Trade Related Aspects of Intellectual Property Rights, shall implement intra-ASEAN intellectual property arrangements in a manner in line with the objectives, principles, and norms set out in such relevant conventions and the Agreement on TRIPS.
3. Member States shall strive to implement intra-ASEAN intellectual property cooperation arrangements which are beneficial to creators, producers and users of intellectual property and in a manner conducive to social and economic welfare.
4. Member States shall recognise and respect the protection and enforcement of intellectual property rights in each Member State and the adoption of measures necessary for the protection of public health and nutrition and the promotion of the public interests in sectors of vital importance to the Member State's socio economic and technological development, which are consistent with their international obligations.
5. Member States are conscious of and understand the necessity for each Member State to adopt appropriate measures to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain-trade or adversely affect the international transfer of technology.

## ARTICLE 3

### Scope of Cooperation

1. Cooperation shall include, inter alia, the fields of copyright and related rights, patents, trademarks, industrial designs, geographical indications, undisclosed information and lay-out designs of integrated circuits.
2. Cooperative activities under this Agreement shall aim, among others, to strengthen ASEAN intellectual property administration; to enhance ASEAN cooperation in intellectual property enforcement and protection; and to explore the possibility of setting up the ASEAN patent and trademark systems.
3. Cooperative activities under this Agreement shall include, inter alia;
  - 3.1 Activities to enhance intellectual property enforcement and protection:
    - a) Effective protection and enforcement of intellectual property rights;
    - b) Cross border measures cooperation;
    - c) Networking of judicial authorities and intellectual property enforcement agencies.
  - 3.2 Activities to strengthen ASEAN intellectual property administration such as:
    - a) automation to improve the administration of intellectual property; and
    - b) the creation of an ASEAN database on intellectual property registration.

- 3.3 Activities to strengthen intellectual property legislation such as:
    - a) comparative study of the procedures, practices and administration of ASEAN intellectual property offices; and
    - b) activities related to the implementation of the TRIPS Agreement and other recognised international intellectual property conventions.
  - 3.4 Activities to promote human resources development such as:
    - a) Networking of intellectual property training facilities or centres of excellence on intellectual property and to explore the possibility of establishing a regional training institute for intellectual property or other appropriate structures; and
    - b) Exchange of intellectual property personnel and experts.
  - 3.5 Activities to promote public awareness of intellectual property rights.
  - 3.6 Activities to promote private sector cooperation in intellectual property such as to explore the possibility of:
    - a) The establishment of an ASEAN Intellectual Property Association; and
    - b) Providing arbitration services or other alternative dispute solution mechanisms for the resolution of intellectual property disputes.
  - 3.7 Information exchange on intellectual property issues.
  - 3.8 Other cooperative activities as determined by Member States.
4. Details and the modalities to implement the cooperative activities are to be formulated in the form of a program of action on intellectual property under this framework Agreement.

#### **ARTICLE 4** **Review of Cooperative Activities**

An ASEAN mechanism shall be established, comprising representatives from Member States, to review the cooperative activities under this Agreement. It shall meet on a regular basis to review the progress of the cooperative activities and any arrangement arising therefrom and to submit its findings and recommendations to the ASEAN Senior Economic Officials Meeting (SEOM). The ASEAN Secretariat shall give necessary secretariat support to the mechanism.

#### **ARTICLE 5** **Consultations**

1. Any differences between the member States concerning the interpretation or application of this Agreement shall, as far as possible, be settled amicably between the parties.
2. Member States shall accord adequate opportunity for consultations regarding any representations made by other Member States in relation to the differences between them. If such differences cannot be settled amicably, they shall be dealt with by the SEOM and finally by the ASEAN Economic Ministers Meeting.

## **ARTICLE 6**

### **General Provisions**

Nothing in this Agreement shall prejudice any existing or future bilateral or multilateral agreement entered into by any Member State or the national laws of each Member State relating to the protection and enforcement of intellectual property rights.

## **ARTICLE 7**

### **Funding**

Activities under this Agreement will be subject to the availability of funds. Expenses incurred as a result of any activity undertaken by a Member State to fulfil the objectives of this Agreement shall be borne by the Member State concerned unless all Member States decide otherwise.

## **ARTICLE 8**

### **Final Provisions**

1. The respective Governments of Member States shall undertake the appropriate measures to fulfil the agreed obligations arising from this Agreement.
2. Any amendment to this Agreement shall be made by consensus and shall become effective upon acceptance by all Member States. No reservation shall be made with respect to any of the provisions of this Agreement.
3. This Agreement shall be deposited with the Secretary-General of ASEAN who shall promptly furnish a certified copy thereof to each Member State.
4. This Agreement shall enter into force upon the deposit of instruments of ratification or acceptance by all signatory governments with the Secretary-General of ASEAN.

**IN WITNESS WHEREOF**, the undersigned, being duly authorised by their respective Governments, have signed this ASEAN Framework Agreement on Intellectual Property Cooperation.

**DONE** at **Bangkok**, this **15th day of December 1995** in a single copy in the English Language.



## **Annex C**

### **Protocol on Dispute Settlement Mechanism**

The Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Vietnam, Member States of the Association of South East Asian Nations (ASEAN);

**RECALLING** the Framework Agreement on Enhancing ASEAN Economic Cooperation signed in Singapore on 28 January 1992, as amended by the Protocol to Amend the Framework Agreement on Enhancing ASEAN Economic Cooperation signed in Bangkok on 15 December 1995 (the “Agreement”);

**RECOGNIZING** the need to expand Article 9 of the Agreement to strengthen the mechanism for the settlement of disputes in the area of ASEAN economic cooperation;

**HAVE AGREED AS FOLLOWS :**

#### **ARTICLE 1**

##### **Coverage and Application**

1. The rules and procedures of this Protocol shall apply to disputes brought pursuant to the consultation and dispute settlement provisions of the Agreement as well as the agreements listed in Appendix 1 and future ASEAN economic agreements (the “covered agreements”).
2. The rules and procedures of this Protocol shall apply subject to such special or additional rules and procedures on dispute settlement contained in the covered agreements. To the extent that there is a difference between the rules and procedures of this Protocol and the special or additional rules and procedures in the covered agreements, the special or additional rules and procedures shall prevail.
3. The provisions of this Protocol are without prejudice to the rights of Member States to seek recourse to other fora for the settlement of disputes involving other Member States. A Member State involved in a dispute can resort to other fora at any stage before the Senior Economic Officials Meeting (“SEOM”) has made a ruling on the panel report.

#### **ARTICLE 2**

##### **Consultations**

1. Member States shall accord adequate opportunity for consultations regarding any representations made by other Member States with respect to any matter affecting the implementation, interpretation or application of the Agreement or any covered agreement. Any differences shall, as far as possible, be settled amicably between the Member States.
2. Member States which consider that any benefit accruing to them directly or indirectly, under the Agreement or any covered agreement is being nullified or impaired, or that the attainment of any objective of the Agreement or any covered agreement is being impeded as a result of failure of another Member State to carry out its obligations under the Agreement or any covered agreement, or the

existence of any other situation may, with a view to achieving satisfactory settlement of the matter, make representations or proposals to the other Member State concerned, which shall give due consideration to the representations or proposals made to it.

3. If a request for consultations is made, the Member State to which the request is made shall reply to the request within ten (10) days after the date of its receipt and shall enter into consultations within a period of no more than thirty (30) days after the date of receipt of the request, with a view to reaching a mutually satisfactory solution.

### **ARTICLE 3**

#### **Good Offices, Conciliation or Mediation**

1. Member States which are parties to a dispute may at any time agree to good offices, conciliation or mediation. They may begin at any time and be terminated at any time. Once procedures for good offices, conciliation or mediation are terminated, a complaining party may then proceed to raise the matter to SEOM.
2. If the parties to a dispute agree, procedures for good offices, conciliation or mediation may continue while the dispute proceeds.

### **ARTICLE 4**

#### **Senior Economic Officials Meeting**

1. If the consultations fail to settle a dispute within sixty (60) days after the date of receipt of the request for consultations, the matter shall be raised to the SEOM.
2. The SEOM shall:
  - a) establish a panel; or
  - b) where applicable, raise the matter to the special body in charge of the special or additional rules and procedures for its consideration.
3. Notwithstanding Article 4 paragraph 2, if the SEOM considers it desirable to do so in a particular case, it may decide to deal with the dispute to achieve an amicable settlement without appointing a panel. This step shall be taken without any extension of the thirty (30)-day period in Article 5 paragraph 2.

### **ARTICLE 5**

#### **Establishment of Panel**

1. The function of the panel is to make an objective assessment of the dispute before it, including an examination of the facts of the case and the applicability of and conformity with the sections of the Agreement or any covered agreement, and make such other findings as will assist the SEOM in making the rulings provided for under the Agreement or any covered agreement.

2. The SEOM shall establish a panel no later than thirty (30) days after the date on which the dispute has been raised to it.
3. The SEOM shall make the final determination of the size, composition and terms of reference of the panel.

#### **ARTICLE 6**

##### **Function of the Panel**

1. The panel shall, apart from the matters covered in Appendix 2, regulate its own procedures in relation to the rights of parties to be heard and its deliberations.
2. The panel shall submit its findings to the SEOM within sixty (60) days of its formation. In exceptional cases, the panel may take an additional ten (10) days to submit its findings to SEOM. Within this time period, the panel shall accord adequate opportunity to the parties to the dispute to review the report before submission.
3. The panel shall have the right to seek information and technical advice from any individual or body which it deems appropriate. A Member State should respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate.
4. Panel deliberations shall be confidential. The reports of panels shall be drafted without the presence of the parties to the dispute in the light of the information provided and the statements made.

#### **ARTICLE 7**

##### **Treatment of Panel Result**

The SEOM shall consider the report of the panel in its deliberations and make a ruling on the dispute within thirty (30) days from the submission of the report by the panel. In exceptional cases, SEOM may take an additional ten (10) days to make a ruling on the dispute. SEOM representatives from Member States which are parties to a dispute can be present during the process of deliberation but shall not participate in the ruling of SEOM. SEOM shall make a ruling based on simple majority.

1. If no satisfactory compensation has been agreed within 20 (twenty) days after the date of expiry of the reasonable period of time, any party having invoked the dispute settlement procedures may request authorization from the AEM to suspend the application to the Member State concerned of concessions or other obligations under the Agreement or any covered agreements.
2. However, neither compensation nor the suspension of concessions or other obligations is preferred to full implementation of a recommendation to bring a measure into conformity with the Agreement or any covered agreements.

#### **ARTICLE 10**

##### **Maximum Time-Frame**

Member States agree that the total period for the disposal of a dispute pursuant to Articles 2, 4, 5, 6, 7, 8 and 9 of this Protocol shall not exceed two hundred and ninety (290) days.

**ARTICLE 11**  
**Responsibilities of the Secretariat**

1. The ASEAN Secretariat shall have the responsibility of assisting the panels, especially on the historical and procedural aspects of the matters dealt with, and of providing secretarial and technical support.
2. The ASEAN Secretariat shall have the responsibility of monitoring and maintaining under surveillance the implementation of the SEOM's ruling and AEM's decision as the case may be.
3. The ASEAN Secretariat may offer good offices, conciliation or mediation with the view to assisting Members to settle a dispute.

**ARTICLE 12**  
**Final Provisions**

1. This Protocol shall be deposited with the Secretary-General of ASEAN who shall promptly furnish a certified copy thereof to each Member State.
2. This Protocol shall enter into force upon the deposit of instruments of ratification or acceptance by all signatory governments with the Secretary-General of ASEAN.

**IN WITNESS WHEREOF**, the undersigned, being duly authorized thereto by their respective Governments, have signed the Protocol on Dispute Settlement Mechanism.

**DONE** at Manila, this 20th day of November 1996 in a single copy in the English Language.

**APPENDIX 1**  
**COVERED AGREEMENTS**

1. Multilateral Agreement on Commercial Rights of Non-Scheduled Services among ASEAN, Manila, 13 March 1971.
2. Agreement on ASEAN Preferential Trading Arrangements, Manila, 24 February 1977.
3. Memorandum of Understanding on the ASEAN Swap Arrangements, Kuala Lumpur, 5 August 1977.
4. Supplementary Agreement to the Memorandum of Understanding on the ASEAN Swap Arrangement, Washington D.C., 26 September 1978.
5. Second Supplementary Agreement to the Memorandum of Understanding on the ASEAN Swap Arrangement, Denpasar, Bali, 9 September 1979.
6. Agreement on the ASEAN Food Security Reserve, New York, 4 October 1979.
7. Basic Agreement on ASEAN Industrial Projects, Kuala Lumpur, 6 March 1980.
8. Supplementary Agreement of the Basic Agreement on ASEAN Industrial Projects ASEAN Urea Project (Indonesia), Kuala Lumpur, 6 March 1980.
9. Supplementary Agreement of the Basic Agreement on ASEAN Industrial Projects ASEAN Urea Project (Malaysia), Kuala Lumpur, 6 March 1980.
10. Amendments to the Memorandum of Understanding on the ASEAN Swap Arrangement Colombo, Sri Lanka, 16 January 1981.
11. Basic Agreement on ASEAN Industrial Complementation, Manila, 18 June 1981.

12. Third Supplementary Agreement to the Memorandum of Understanding on the ASEAN Swap Arrangement, Bangkok, 4 February 1982.
13. ASEAN Ministerial Understanding on Plant Quarantine Ring, Kuala Lumpur, 8-9 October 1982.
14. ASEAN Ministerial Understanding on the Standardization of Import and Quarantine Regulation on Animal and Animal Products, Kuala Lumpur, 8-9 October 1982.
15. Protocol to Amend the Agreement on the ASEAN Food Security Reserve, Bangkok, 22 October 1982.
16. ASEAN Customs Code of Conduct, Jakarta, 18 March 1983.
17. ASEAN Ministerial Understanding on Fisheries Cooperation, Singapore, 20-22 October 1983.
18. Basic Agreement on ASEAN Industrial Joint Ventures, Jakarta, 7 November 1983.
19. ASEAN Ministerial Understanding on ASEAN Cooperation in Agricultural Cooperatives, Manila, 4-5 October 1984.
20. ASEAN Ministerial Understanding on Plant Pest Free Zone, Manila, 4-5 October 1984.
21. Agreement on ASEAN Energy Cooperation, Manila, 24 June 1986.
22. ASEAN Petroleum Security Agreement, Manila, 24 June 1986.
23. Agreement on the Preferential Shortlisting of ASEAN Contractors, Jakarta, 20 October 1986.
24. Supplementary Agreement to the Basic Agreement on ASEAN Industrial Joint Ventures, Singapore, 16 June 1987.
25. Fourth Supplementary Agreement to the Memorandum of Understanding on the ASEAN Swap Arrangement, Kathmandu, Nepal, 21 January 1987.
26. Protocol on Improvements on Extensions of Tariff Preferences under the ASEAN Preferential Trading Arrangement, Manila, 15 December 1987.
27. Memorandum of Understanding on Standstill and Rollback on Non-Tariff Barriers among ASEAN Countries, Manila, 15 December 1987.
28. Revised Basic Agreement on ASEAN Industrial Joint Ventures, Manila, 15 December 1987.
29. Agreement Among the Government of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore, and the Kingdom of Thailand for the Promotion and Protection of Investments, Manila, 15 December 1987.
30. Protocol on Improvements on Extension of Tariff Preferences under the ASEAN Preferential Trading Arrangement, Manila, 15 December 1987.
31. Agreement on the Establishment of the ASEAN Tourism Information Centre, Kuala Lumpur, 26 September 1988.
32. Financial Regulations of the ASEAN Tourism Information Centre, Kuala Lumpur, 26 September 1988.
33. Memorandum of Understanding Brand-to-Brand Complementation on the Automotive Industry Under the Basic Agreement on ASEAN Industrial Complementation (BAAIC), Pattaya, Thailand, 18 October 1988.
34. Protocol to Amend the Revised Basic Agreement on ASEAN Industrial Joint Ventures, 1 January 1991.
35. Supplementary Agreement to the Basic Agreement on ASEAN industrial Projects - ASEAN Potash Mining Projects (Thailand), Kuala Lumpur, 20 July 1991.
36. Agreement on the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area, Singapore, 28 January 1992.
37. Second Protocol to Amend the Revised Basic Agreement on ASEAN Industrial Joint Ventures, Manila, 23 October 1992.
38. Ministerial Understanding on ASEAN Cooperation in Food, Agriculture and Forestry, Bandar Seri Begawan, 28-30 October 1993.
39. Memorandum of Understanding on ASEAN Cooperation and Joint Approaches in Agriculture and Forest Products Promotion Scheme, Langkawi, Malaysia, 1994.
40. Third Protocol to Amend the Revised Basic Agreement on ASEAN Industrial Joint Ventures, 2 March 1995.
41. Protocol to Amend the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the

- ASEAN Free Trade Area (AFTA), Bangkok, 15 December 1995.
42. Protocol to Amend the Agreement on ASEAN Preferential Trading Arrangements, Bangkok, 15 December 1995.
  43. ASEAN Framework Agreement on Services, Bangkok, 15 December 1995.
  44. ASEAN Framework Agreement on Intellectual Property Cooperation, Bangkok, 15 December 1995.
  45. Protocol Amending the Agreement on ASEAN Energy Cooperation, Bangkok, 15 December 1995.
  46. Basic Agreement on ASEAN Industrial Cooperation, Singapore, 26 April 1996.
  47. Protocol to Amend the Agreement Among the Government of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore, and the Kingdom of Thailand for the Promotion and Protection of Investments, Jakarta, 12 September 1996.

## APPENDIX 2 WORKING PROCEDURES OF THE PANEL

### I. Composition of Panels

1. Panels shall be composed of well-qualified governmental and/or non-governmental individuals, including persons who have served on or presented a case to a panel, served in the Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a Member State. In the nomination to the panels, preference shall be given to individuals who are nationals of ASEAN Member States.
2. Panel members should be selected with a view to ensuring the independence of the members, a sufficiently diverse background and a wide spectrum of experience.
3. Nationals of Member States whose governments are parties to the dispute shall not serve on a panel concerned with that dispute, unless the parties to the dispute agree otherwise.
4. To assist in the selection of panelists, the Secretariat shall maintain an indicative list of governmental and non-governmental individuals possessing the qualifications outlined in paragraph 1, from which panelists may be drawn as appropriate. Members may periodically suggest names of governmental and non-governmental individuals for inclusion on the indicative list, providing relevant information on their knowledge of international trade and of the sectors or subject matter of the covered agreements, and those names shall be added to the list upon approval by the SEOM. For each of the individuals on the list, the list shall indicate specific areas of experience or expertise of the individuals in the sectors or subject matter of the covered agreements.
5. Panels shall be composed of three panelists unless the parties to the dispute agree, within 10 days from the establishment of the panel, to a panel composed of five panelists. Members shall be informed promptly of the composition of the panel.
6. The Secretariat shall propose nominations for the panel to the parties to the dispute. The parties to the dispute shall not oppose nominations except for compelling reasons.
7. If there is no agreement on the panelists within 20 days after the date of the establishment of a panel, at the request of either party, the Secretary-General, in consultation with the SEOM Chairman, shall determine the composition of the panel by appointing the panelists whom the Secretary-General considers most appropriate in accordance with any relevant special or additional rules or procedures of the covered agreement or covered agreements which are at issue in the dispute, after consulting with the parties to the dispute. The SEOM Chairman shall inform the Members of the composition of the panel thus formed no later than 10 days after the date the Chairman receives such a request.
8. Member States shall undertake, as a general rule, to permit their officials to serve as panelists.
9. Panelists shall serve in their individual capacities and not as government representatives, nor as representatives of any organization. Member States shall therefore not give them instructions nor seek to influence them as individuals with regard to matters before a panel.

## II. Panel Proceedings

1. In its proceedings the panel shall follow the relevant provisions of this Protocol. In addition, the following working procedures shall apply.
2. The panel shall meet in closed session. The parties to the dispute, and interested parties, shall be present at the meetings only when invited by the panel to appear before it.
3. The deliberations of the panel and the documents submitted to it shall be kept confidential. Nothing in this Protocol shall preclude a party to a dispute from disclosing statements of its own positions to the public. Member States shall treat as confidential information submitted by another Member State to the panel which that Member State has designated as confidential. Where a party to a dispute submits a confidential version of its written submissions to the panel, it shall also, upon request of a Member State, provide a non-confidential summary of the information contained in its submissions that could be disclosed to the public.
4. Before the first substantive meeting of the panel with the parties, the parties to the dispute shall transmit to the panel written submissions in which they present the facts of the case and their arguments.
5. At its first substantive meeting with the parties, the panel shall ask the party which has brought the complaint to present its case. Subsequently, and still at the same meeting, the party against which the complaint has been brought shall be asked to present its point of view.
6. Formal rebuttals shall be made at a second substantive meeting of the panel. The party complained against shall have the right to take the floor first to be followed by the complaining party. The parties shall submit, prior to that meeting, written rebuttals to the panel.
7. The panel may at any time put questions to the parties and ask them for explanations either in the course of a meeting with the parties or in writing.
8. The parties to the dispute shall make available to the panel a written version of their oral statements.
9. In the interest of full transparency, the presentations, rebuttals and statements referred to in paragraphs 5 to 9 shall be made in the presence of the parties. Moreover, each party's written submissions, including any comments on the descriptive part of the report and responses to questions put by the panel, shall be made available to the other party or parties.
10. Any additional procedures specific to the panel.



## **Annex D**

### **ASEAN Agreement on Customs**

The Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Vietnam of the Association of Southeast Asian Nations (hereinafter referred to as “ASEAN”);

**NOTING** the Framework Agreement on Enhancing ASEAN Economic Cooperation of 28 January 1992 which provides that Member States shall explore further measures on border and non-border areas for cooperation to supplement and complement the liberalisation of trade;

**MINDFUL** that in 1992 the ASEAN Heads of Government declared that an ASEAN Free Trade Area (hereinafter referred to as “AFTA”) shall be established in the region and that in 1995 they agreed to accelerate its implementation to year 2003;

**RECALLING** that in 1995, the ASEAN Heads of Governments adopted, in the Bangkok Summit Declaration, the Agenda for Greater Economic Integration which includes, among others, the harmonisation of tariff nomenclature, and the implementation of the GATT Valuation System by 1997;

**RECOGNISING** that, further to the creation of the green lane system, the Seventh AFTA Council also agreed to the harmonisation of Customs procedures;

**MINDFUL** of the different levels of Customs and economic development, and diverse cultural backgrounds of ASEAN Member States;

**REITERATING** the commitment to the principles of the General Agreement on Tariffs and Trade 1994 (hereinafter known as “GATT”), the Agreement Establishing the World Trade Organisation (hereinafter known as “WTO”) and the World Customs Organisation (hereinafter known as “WCO”);

**RECALLING** the former ASEAN Customs Code of Conduct signed in Jakarta on 18 March 1983 and the revised Code of Conduct signed on 18 July 1995;

**DESIRING** to promote intra-ASEAN trade and investments by ensuring the smooth cross-border flow of goods and services within the region;

**MINDFUL** of the need to further strengthen enforcement and prevention among Customs Administration of ASEAN, particularly to combat, among others, the illicit trafficking of narcotics and psychotropic substances;

**RECOGNISING** the need to provide a basis in Customs on general rules and procedures which will ensure the smooth implementation of ASEAN economic agreements and arrangements, in particular the ASEAN Free Trade Area;

**DESIRING** to formulate a framework to deepen and broaden cooperation in Customs in ASEAN and to chart the future activities in this area.

**HAVE AGREED AS FOLLOWS :**

## **ARTICLE 1**

### **Objectives**

The objectives of this Agreement are:

- a) to simplify and harmonise Customs valuation, tariff nomenclature and Customs procedures;
- b) to ensure consistency, transparency and fair application of Customs laws and regulations, procedures and other administrative guidelines within each ASEAN Member State;
- c) to ensure efficient administration and expeditious clearance of goods to facilitate intra-regional trade and investments;
- d) to explore other appropriate intra-ASEAN cooperation arrangements in the field of Customs, particularly in the prevention and repression of all forms of smuggling and other Customs frauds.

## **ARTICLE 2**

### **Principles**

Member States will be guided by the following principles under this Agreement:

- a) Consistency. Member States will ensure the continuous consistent application of Customs laws and regulations, procedures, administrative guidelines and other rulings within each ASEAN Member State;
- b) Appeals. Member States will ensure the availability to traders of readily accessible means of review of Customs decisions in ASEAN;
- c) Simplicity. Member States will endeavour to ensure the simplification of Customs procedures and requirements within ASEAN;
- d) Transparency. Member States will make all laws, regulations, procedures and administrative notifications pertaining to Customs administration in their economies publicly available in a prompt, transparent and readily accessible manner;
- e) Efficiency. Member States will ensure the efficient and effective administration and expeditious clearance of goods to facilitate intra-ASEAN trade and investment;
- f) Mutual Assistance and Cooperation. Member States will endeavour their utmost cooperation and mutual assistance between Customs Authorities.

## **ARTICLE 3**

### **General Provisions**

1. The provisions of this Agreement shall apply to all Member States and all goods traded within ASEAN in accordance with their national laws, rules and regulations.
2. Goods eligible for preferential concessions whether tariff or non-tariff under any ASEAN economic arrangement shall be subject to the Rules of Origin for the CEPT for AFTA.

#### **ARTICLE 4**

##### **Tariff Nomenclature**

1. The ASEAN Harmonised Tariff Nomenclature shall be based on the 6-digit Harmonised Commodity Description and Coding System (HS) of the WCO and the amendments thereto.
2. Member States shall, for tariff purposes, use a common tariff nomenclature at the 8-digit level. The ASEAN Harmonised Tariff Nomenclature beyond the 8- digit level may be used for statistical and other purposes.
3. Member States may amend the ASEAN Harmonised Tariff Nomenclature in accordance with Article 10 of this Agreement.

#### **ARTICLE 5**

##### **Customs Valuation**

1. Member States shall not use Customs valuation for protective purposes or as a barrier to trade.
2. Member States shall implement the GATT Valuation Agreement, as per the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, on an accelerated schedule.
3. Member States shall adopt a common interpretation of the GATT Valuation Agreement and standardise the systems used to operationalise the Agreement.

#### **ARTICLE 6**

##### **Customs Procedures**

1. Member States shall simplify and harmonise Customs procedures for the efficient and expeditious clearance of products traded in ASEAN.
2. Simplification and harmonisation of Customs procedures in ASEAN shall conform with the standards and recommended practices in the Kyoto Convention, as amended, under the auspices of the Customs Cooperation Council (CCC) or WCO.
3. Nothing shall prevent two or more Member States, desiring to facilitate trade, from granting privileges more than those stipulated in this Agreement. Member States are however, encouraged to extend these privileges to all the other Member States.
4. Member States shall periodically review ASEAN Customs procedures to further simplify and harmonise ASEAN Customs procedures in accordance with Article 10 of this Agreement.

#### **ARTICLE 7**

##### **Other Areas Of Cooperation**

1. Member States shall pursue other areas of Customs cooperation consistent with their respective national laws, rules and regulations and within the limits of the Customs Administration's competence and available resources.

2. Member States shall be encouraged to exchange vital information on the prevention and repression of smuggling, trafficking of narcotics and psychotropic substances, and other Customs frauds. Subject to Paragraph 1 of this Article, ASEAN Customs authorities shall cooperate among themselves in the conduct of investigation relating to smuggling and other Customs frauds.
3. Member States should accommodate any request by other Member States for studies and visits by Customs personnel.
4. Member States shall exchange information on international Customs issues and endeavour to coordinate ASEAN positions thereon in international Customs fora.
5. Member States should explore other activities to further enhance Customs cooperation in the region.

#### **ARTICLE 8** **Appeals**

Subject to national laws and regulations in each ASEAN Member State, any affected person shall have the right to appeal decisions taken by the Customs authorities of Member States.

#### **ARTICLE 9** **Consultations And Settlement Of Disputes**

1. Member States shall, at the written request of a Member State, enter into consultations with a view to seeking a prompt, equitable and mutually satisfactory solution, if that Member State considers that:
  - a) an obligation under this Agreement has not been fulfilled, is not being fulfilled, or may not be fulfilled; or,
  - b) any objective of this Agreement is not being achieved or may be frustrated.
2. Any differences between Member States concerning the interpretation or application of this Agreement shall, as far as possible, be settled amicably between the parties. If a settlement between the parties cannot be reached, the dispute shall be submitted to the ASEAN Directors-General of Customs for settlement. If any such differences cannot be settled, it shall be subjected to the Dispute Settlement Mechanism of ASEAN.

#### **ARTICLE 10** **Institutional Arrangements**

1. The ASEAN Directors-General of Customs, under the purview of the appropriate ASEAN Ministerial body, shall review, amend, supervise and monitor all aspects relating to the implementation of the Agreement.
2. The ASEAN Secretariat shall provide the support for supervising, coordinating and reviewing the implementation of the Agreement and assist the ASEAN Directors-General of Customs in all matters relating thereto.

**ARTICLE 11**  
**Private Sector Participation**

1. Member States, pursuant to Article 6 of the Framework Agreement on Enhancing ASEAN Economic Cooperation (1992) recognise the importance of and encourage, among others, cooperation, consultations with the ASEAN private sector particularly on ways and means to further enhance intra-ASEAN trade facilitation.
2. The Meeting of the ASEAN Directors-General of Customs shall be the forum for such linkages with the private sector.

**ARTICLE 12**  
**Accession Of New Members**

New Members of ASEAN shall accede to this Agreement on terms and conditions agreed between them and existing Members of ASEAN. Accession shall be through the signing and depositing of the instrument of accession to this Agreement with the Secretary-General of ASEAN, who shall promptly furnish each Member State a certified copy thereof.

**ARTICLE 13**  
**Final Provisions**

1. By Agreement of all Member States, the provisions of this Agreement may be reviewed or amended.
2. Annexes may be introduced to this Agreement and shall form an integral part thereof. Any reference to this Agreement is deemed to include also a reference to the Annexes.
3. Member States shall undertake appropriate measures to fulfil the agreed obligations arising from this Agreement.
4. Member States shall make no reservations with respect to any of the provisions of this Agreement.
5. This Agreement shall be deposited with the Secretary General of ASEAN, who shall promptly furnish each Member State a certified copy thereof.
6. This Agreement shall enter into force upon the signing and deposit of instrument of ratification or acceptance by all signatory governments with the Secretary- General of ASEAN.

**IN WITNESS WHEREOF** the undersigned, being duly authorised to sign the Agreement, have signed this ASEAN Agreement on Customs.

**DONE** at Phuket, Thailand, on the 1st day of March 1997, in a single copy in the English Language.



## **Annex D**

### **Protocol on Notification Procedures**

The Governments of Brunei Darussalam, the Republic of Indonesia, Lao People's Democratic Republic, Malaysia, Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Vietnam, Member States of the Association of Southeast Asian Nations (hereinafter referred to as "ASEAN");

**HAVING** regard to the obligations under all ASEAN economic agreements; and

**DESIRING** to promote transparency and to improve the operation of notification procedures under all ASEAN economic agreements;

**HAVE AGREED AS FOLLOWS:**

#### **ARTICLE 1 General Obligation to Notify**

1. Member States shall abide by the notification procedures set out in this Protocol.
2. Member States shall notify any action or measure that they intend to take:
  - a) which may nullify or impair any benefit to other Member States, directly or indirectly under any ASEAN economic agreement; or
  - b) when the action or measure may impede the attainment of any objective of an ASEAN economic agreement.
3. Without affecting the generality of the obligations of Member States under paragraph 2, this notification procedure shall apply, but need not be limited, to changes in the measures as listed in Annex 1 and amendments thereto.
4. The provisions of this Protocol shall not apply to actions taken under emergency or safeguard measures of an ASEAN economic agreement.

#### **ARTICLE 2 Prior Notification of Intent**

1. A Member State shall make a notification before effecting such action or measure referred to in Article 1. Subject to any other notification period provided in an ASEAN economic agreement, notification shall be made at least 60 days before such an action or measure is to take effect.
2. A Member State proposing to apply an action or measure shall provide adequate opportunity for prior discussions with those Member States having an interest in the action or measure concerned.

**ARTICLE 3**  
**ASEAN Bodies to be Notified**

A Member State shall notify SEOM and the ASEAN Secretariat in accordance with Article 2.

**ARTICLE 4**  
**Content of Notification**

In submitting a notification, a Member State shall provide sufficient information regarding the proposed action or measure to be taken, which shall include:

- a) a description of the action or measure to be taken;
- b) the reasons for undertaking the action or measure; and
- c) the intended date of implementation and the duration of the action or measure.

**ARTICLE 5**  
**Confidentiality of Notification**

The contents of the notification and all information relating to it shall be treated with confidentiality.

**ARTICLE 6**  
**Follow-up to Notification**

1. The Member State concerned shall, without discrimination, allow adequate opportunities for other Member States to present their comments in writing and discuss these comments upon request. Discussions entered into by the Member State concerned with other Member States shall be for the purpose of seeking further clarification about the action or measure. The Member State may give due consideration to these written comments and the discussion in the implementation of the action or measure.
2. Other Member States shall present their comments within 15 days of the notification. Failure of a Member State to provide comments within the stipulated time shall not affect its right to seek recourse to a dispute settlement mechanism.
3. The Member State concerned shall furnish the ASEAN Secretariat with a copy of the comments received.

**ARTICLE 7**  
**Role of the ASEAN Secretariat/Central Registry of Notifications**

1. The ASEAN Secretariat shall act as the central registry of notifications, including written comments and results of discussions.
2. The ASEAN Secretariat shall draw the attention of individual Member States to notification requirements, such as those stipulated in Article 4, which remain unfulfilled.

3. The ASEAN Secretariat shall make available information regarding individual notifications on request to any Member State.

### **ARTICLE 8** **Final Provisions**

1. Any amendment to this Protocol shall become effective upon acceptance by all Member States.
2. New Members of ASEAN shall accede to this Protocol by signing and depositing the instrument of accession with the Secretary-General of ASEAN.
3. This Protocol shall be deposited with the Secretary-General of ASEAN who shall promptly furnish a certified copy thereof to each Member State.
4. This Protocol shall enter into force upon the deposit of instruments of ratification or acceptance by all signatory governments with the Secretary-General of ASEAN.

**IN WITNESS WHEREOF**, the undersigned, being duly authorised thereto by their respective Governments, have signed the Protocol on Notification Procedures.

**DONE at Makati, this 8<sup>th</sup> day of October 1998**, in a single copy in the English language.

### **ANNEX I** **LIST OF NOTIFIABLE MEASURES**

- a) CEPT tariffs
- b) CEPT Product List
- c) Quotas
- d) Surcharges
- e) Quantitative restrictions
- f) Other non-tariff measures
- g) Customs valuation
- h) Rules of origin
- i) Technical barriers/SPS
- j) Export taxes
- k) Licensing (import and export)
- l) Foreign exchange controls related to imports and exports
- m) Application of the ASEAN Harmonised Tariff Nomenclature beyond the 8-digit level for tariff purposes
- n) Schedule of specific commitments, list of MFN exemptions and other concessions in the ASEAN Framework Agreement on Services



## Annex F

### **Amended Interpretative Notes of Article 6 (Emergency Measures) of the CEPT Agreement**

ARTICLE 6	AMENDED INTERPRETATIVE NOTES
<p>1. If as a result of the implementation of this Agreement, import of a particular product eligible under the CEPT Scheme is increasing in such a manner as to cause or threaten to cause serious injury to sector producing like or directly competitive products in the importing Member States, the importing Member States may, to the extent and for such time as may be necessary to prevent or remedy such injury, suspend preferences provisionally and without discrimination, subject to Article 6(3) of this Agreement. Such suspension of preferences shall be consistent with the GATT.</p>	<p>1) Products included in the CEPT Scheme shall not be subjected to increase of CEPT rates except under emergency situation as provided in Article 6 of the CEPT Agreement.</p> <p>2) The suspension of CEPT preferences under Article 6 of the CEPT Agreement shall be consistent with Article XIX (Emergency Action on Imports of Particular Products) of GATT 1994 and the WTO Agreement on Safeguards with special reference to the following Articles of the Agreement:</p> <ul style="list-style-type: none"> <li>Article 3: Investigation</li> <li>Article 4: Determination of Safeguard Measures</li> <li>Article 5: Application of Safeguard Measures</li> <li>Article 6: Provisional Safeguard Measures</li> <li>Article 7: Duration and review of Safeguard Measures</li> <li>Article 8: Level of Concessions and Other Obligations.</li> </ul>
<p>2. Without prejudice to existing international obligations, a Member State, which finds it necessary to create or intensify quantitative restrictions or other measures limiting imports with a view to forestalling the threat of or stopping a serious decline of its monetary reserves, shall endeavour to do so in a manner, which safeguards the value of the concessions agreed upon.</p>	
<p>3. Where emergency measures are taken pursuant to this Article, immediate notice of such action shall be given to the Council referred to in Article 7 of this Agreement, and such action may be the subject of consultation as provided for in Article 8 of this Agreement.</p>	<p>1) Where imports of particular products under the CEPT cause or threaten to cause serious injury to sectors producing like or directly competitive products in the importing Member States, the importing Member States may suspend provisionally and without discrimination, and send an immediate notice to the Council through the ASEAN Secretariat.</p>

## Annex G

### **ASEAN Framework Agreement on the Facilitation of Goods in Transit**

#### PREAMBLE

The Members of the Association of South East Asian Nations (hereinafter referred to as “**Contracting Parties**”);

**Inspired** to maintain, further develop and strengthen friendly relations and cooperation between their countries;

**Reiterating** their commitment to foster smooth, rapid and efficient movement of goods between and among Contracting Parties;

**Recalling** the decisions of the First ASEAN Informal Summit held on 30 November 1996 in Jakarta and the Second ASEAN Informal Summit held on 15 December 1997 in Kuala Lumpur, to cooperate in the area of facilitation of goods in transit and to expeditiously study the necessary measures to facilitate the transportation of goods both in transit and inter-State, covering land, maritime and air links, respectively;

**Noting** Article V of the General Agreement on Tariffs and Trade (GATT 1994) on “Freedom of Transit” and other relevant international conventions on goods in transit;

**Agreeing** that the ASEAN Framework Agreement on the Facilitation of Goods in Transit (hereinafter referred to as “**this Agreement**”) provides the most effective arrangement for facilitating inter-State traffic and transit transport among ASEAN countries;

**Undertaking** to encourage and facilitate inter-State traffic and transit transport among the Contracting Parties;

**Have agreed as follows :**

#### **ARTICLE 1 Objectives**

The objectives of this Agreement are :

- a) to facilitate transportation of goods in transit, to support the implementation of the ASEAN Free Trade Area, and to further integrate the region’s economies;
- b) to simplify and harmonize transport, trade and customs regulations and requirements for the purpose of facilitation of goods in transit; and
- c) to establish an effective, efficient, integrated and harmonized transit transport system in ASEAN.

## ARTICLE 2 Principles

The Contracting Parties shall be guided by the following principles under this Agreement :

- a) Most Favoured Nation Treatment : Contracting Parties shall accord to transit transport to or from the territory of any other Contracting Parties treatment no less favourable than the treatment accorded to transit transport to or from any other country;
- b) National Treatment : Contracting Parties shall accord to products which have been in transit through the territory of any other Contracting Party treatment no less favourable than that which would have been accorded to such products had they been transported from their place of origin to their destination without going through the territory of such other Contracting Party;
- c) Consistency : Contracting Parties shall ensure the consistent application of the relevant laws and regulations, procedures, and administration guidelines and other rulings within each Contracting Party;
- d) Simplicity : Contracting Parties shall endeavour to ensure the simplification of all transit transport procedures and requirements in ASEAN;
- e) Transparency : Contracting Parties shall make all laws, regulations, procedures and administrative notifications pertaining to the relevant authorities publicly available in a prompt, transparent and readily accessible manner;
- f) Efficiency : Contracting Parties shall ensure the efficient and effective administration of transit transport to facilitate movement of goods in transit;
- g) Appeals : Contracting Parties shall ensure that an effective mechanism for the review of the decisions by the relevant authorities of Contracting Parties is made available and accessible to users and providers of transit transport within ASEAN; and
- h) Mutual Assistance : Contracting Parties shall endeavour their utmost cooperation and mutual assistance between the concerned agencies involved in the facilitation of goods in transit in ASEAN.

## PART I GENERAL PROVISIONS

### ARTICLE 3 Definitions

For the purposes of this Agreement:

- a) "Transit transport" means transit of goods and means of transport across the territory of one or more Contracting Parties, when the passage across such territory or territories, with or without transshipment, warehousing, breaking bulk or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of one or more Contracting Parties across whose territory the traffic passes;

- b) “Internal transport” means the carriage of goods loaded in the territory of a Contracting Party for unloading at a place within the territory of the same Contracting Party;
- c) “Means of transport” means road vehicles, railway rolling stock, sea and inland waterways craft and aircraft;
- d) “Dangerous goods” means those substances and articles which may affect the interest of environment, health, safety and national security;
- e) “Perishable goods” means fresh, chilled or frozen fish, crustacean, molluscs, fruits, vegetables, chilled or frozen meat or poultry, dairy and dairy products, eggs and egg products, and swine and pork products ; and
- f) “Secretary-General” means Secretary-General of the Association of South East Asian Nations.

#### **ARTICLE 4** **Scope of Application**

1. The provisions of this Agreement shall apply to transit transport.
2. Inter-State transport shall be agreed upon by all the Contracting Parties. For this purpose, the Contracting Parties shall enter into negotiations and expeditiously conclude a separate ASEAN Framework Agreement on the Facilitation of Inter-State Transport.

#### **ARTICLE 5** **Grant of Rights**

1. Subject to the provisions of this Agreement, each Contracting Party shall grant to other Contracting Parties :
  - a) the right of transit transport; and
  - b) the right to load and discharge third countries’ goods destined for or coming from Contracting Parties.
2. The Contracting Parties, through whose territory the transit transport takes place, will endeavour to provide facilities for transit transport in accordance with the provisions of this Agreement.
3. Transit Transport shall not be subject to any unnecessary delays or restrictions and shall be exempt from customs duties, taxes and other charges except charges for specific services rendered in connection with such transport.
4. Goods carried in sealed road vehicles, combination of vehicles or container shall not be subjected to examination at Customs offices en route. However, to prevent abuses such as smuggling and fraud, Customs authorities of either Contracting Party, may in exceptional cases, and particularly when irregularity is suspected, carry out an examination of the goods at such offices or other areas designated by Customs authorities.

**PART II**  
**DESIGNATION OF TRANSIT TRANSPORT ROUTES**

**ARTICLE 6**  
**Designation of Transit Transport Routes and Facilities**

1. The Contracting Parties shall adopt a list of designated transit transport routes to be specified in Protocol 1 of this Agreement.
2. For the benefit of safety, the Contracting Parties shall endeavour to provide in their territories vehicle rest areas on these specified routes at appropriate intervals.

**ARTICLE 7**  
**Frontier Facilities**

1. The Contracting Parties agree to designate frontier posts at border points to be specified in Protocol 2 to facilitate transit transport.
2. The Contracting Parties shall provide adequate facilities and related installations at frontier posts over the transit transport routes.
3. The Contracting Parties shall endeavour to:
  - a) Provide, whenever possible, and within their national jurisdiction, frontier posts which are physically adjacent to those of other Contracting Parties concerned with control areas with checking requirements in order to facilitate the clearance and examination of the means of transport and goods in transit, so that repeated unloading and reloading of these goods may be avoided. Nothing shall prevent two or more Contracting Parties from conducting joint examination at the same place by officials of these Contracting Parties;
  - b) Ensure that adequate manpower resources are made available for the speedy completion and clearance of frontier formalities, such as immigration, customs, health and foreign exchange controls;
  - c) Allow goods in transit to be temporarily stored in approved places;
  - d) Coordinate working hours of adjacent posts; and
  - e) Provide, wherever possible, adequate parking space for containers and for vehicles awaiting goods clearance.
4. The Contracting Parties agree to be guided, wherever possible, by the provisions of the International Convention on Harmonization of Frontier Control of Goods, signed at Geneva on 21 October 1982, in their efforts to harmonise frontier facilities for goods in transit.

**PART III**  
**GENERAL CONDITIONS FOR ROAD TRANSPORT**

**ARTICLE 8**  
**Traffic Regulations**

The Contracting Parties shall endeavour to take appropriate measures to ensure the harmonization of road traffic regulations in force in their territories conform in substance to the provisions of the Convention on Road Traffic, signed at Vienna on 8 November 1968, and the Convention on Road Sign and Signals, signed at Vienna on 8 November 1968.

**ARTICLE 9**  
**Transit Transport Services**

1. Each Contracting Party shall allow the use of means of transport registered in other Contracting Parties to provide transit transport services on its territory in accordance with Article 5 of this Agreement.
2. The type and quantity of road vehicles to be used for transit transport shall be agreed upon between all Contracting Parties, to be specified in Protocol 3, before the transport services are inaugurated. Thereafter, the type and quantity of road vehicles shall be discussed from time to time between the Contracting Parties.

**ARTICLE 10**  
**Road Transport Permits**

The Contracting Parties undertake to harmonize road transport permit requirements in order to facilitate transit transport.

**ARTICLE 11**  
**Technical Requirements of Vehicles**

Means of transport used in road transit transport shall conform to the technical requirements regarding vehicle dimensions, maximum weights and loads, emission standards and related matters to be specified in Protocol 4.

**ARTICLE 12**  
**Mutual Recognition of Inspection Certificates**

1. The Contracting Parties undertake to institute periodic inspection of road vehicles registered in each respective territory and used for transit transport operations.
2. The Contracting Parties shall recognize periodic inspection certificates of road vehicles used for transit transport issued by the other Contracting Parties, in accordance with the Agreement on the Recognition of Commercial Vehicle Inspection Certificates for Goods Vehicles and Public Service Vehicles Issued by ASEAN Member Countries signed at Singapore on 10 September 1998.

**ARTICLE 13**  
**Mutual Recognition of Driving Licenses**

The Contracting Parties shall recognize domestic driving licenses issued by all other Contracting Parties in accordance with the Agreement on the Recognition of Domestic Driving Licenses Issued by ASEAN Countries signed at Kuala Lumpur on 9 July 1985.

**Article 14**  
**Motor Vehicle Third-Party Insurance Scheme**

1. The road vehicle entering the territory of the other Contracting Party shall strictly comply with the laws and regulations related to third-party insurance covering for the insurance of their means of transport to cover third-party liability incurred in the course of transit transport.
2. The Contracting Parties undertake to harmonize or establish a common ASEAN scheme of compulsory motor vehicle third-party liability insurance to be specified in Protocol 5.
3. The ASEAN scheme of compulsory motor vehicle third-party liability insurance shall provide, at least, all the guarantees required by the laws and regulations governing compulsory motor vehicle third-party insurance in the Contracting Parties.

**Article 15**  
**Charges and Other Financial Obligations**

The Contracting Parties endeavour to simplify, consolidate and harmonize charges and other financial obligations which are levied on the means of transport.

**PART IV**  
**GENERAL CONDITIONS FOR RAIL TRANSPORT**

**ARTICLE 16**  
**Connecting and Transit Services**

1. Connecting and transit services on railway lines linking the territories of the Contracting Parties shall be performed at designated interchange stations.
2. Border stations, interchange stations and type and quantity of rolling stock shall be designated in Protocol 6. The Protocol shall also specify basic operational arrangements relating to such matters as technical inspection of rolling stock.
3. The Contracting Parties shall encourage their railways to conclude inter-railway agreements, including arrangements for the acceptance of technical inspection of rolling stock, which are consistent with the provisions of this Agreement and its Protocols.

**PART V**  
**CUSTOMS CONTROL, SANITARY AND PHYTOSANITARY MEASURES**

**ARTICLE 17**  
**Harmonization and Simplification of Customs Procedures**

1. The Contracting Parties shall simplify and, whenever possible, harmonize the customs control procedures of transit transport to ensure compliance with the laws and regulations which the Customs are responsible for enforcing.
2. The Contracting Parties shall facilitate joint customs inspection, wherever possible, of transit transport at their designated frontier points.
3. The Contracting Parties agree to be guided, whenever possible, by the standards and recommended practices of Annex E1 concerning Customs Transit of the International Convention on the Simplification and Harmonization of Customs Procedures, concluded at Kyoto on 18 May 1973, as amended, under the auspices of the World Customs Organization.

**ARTICLE 18**  
**Establishment of a Customs Transit System**

1. The Contracting Parties shall establish a customs transit system for the purposes of facilitating the movement of goods in their territories.
2. The Contracting Parties agree to apply the customs transit system to be specified in Protocol 7.

**ARTICLE 19**  
**Establishment of Sanitary and Phytosanitary Measures**

The Contracting Parties shall establish sanitary and phytosanitary measures to be specified in Protocol 8, to facilitate the movement of goods in their territories and ensure compliance with the laws and regulations which the relevant authorities are responsible for enforcing.

**PART VI**  
**MISCELLANEOUS PROVISIONS**

**ARTICLE 20**  
**Special Provisions on Transport of Dangerous Goods**

Transit transport of dangerous goods to be specified in Protocol 9 shall not be permitted under this Agreement, unless there is a special permit of the Contracting Party in whose territory the transportation is undertaken.

**ARTICLE 21**  
**Special Provisions on Transport of Prohibited and/or Restricted Goods**

Transit transport of goods prohibited and/or restricted in the transit territory of a Contracting Party, to be specified in Protocol 7, shall not be permitted under this Agreement.

**ARTICLE 22**  
**Special Provisions on Transport of Perishable Goods**

Subject to the provisions of this Agreement, the Contracting Parties shall endeavour to facilitate transport of perishable goods.

**ARTICLE 23**  
**Provision of Greater Facilities**

This Agreement does not entail in any way the withdrawal of transit facilities which are greater than those provided for in this Agreement as long as the terms and conditions are consistent with the principles embodied in this Agreement. This Agreement also does not preclude the granting of greater facilities , which may be agreed between Contracting Parties in the future.

**ARTICLE 24**  
**Domestic Legislation**

1. Domestic legislation and regulations relating to transport of goods shall, in so far as this Agreement and its Protocols do not lay down, apply equally and without discrimination to transit transport.
2. The Contracting Parties endeavour to harmonize and simplify their rules, regulations and administrative procedures relating to transit transport in accordance with the provisions of this Agreement.

**ARTICLE 25**  
**Working Groups**

After the signing of this Agreement, related Working Groups shall be established or designated, to conclude the Protocols which shall form integral parts of this Agreement. These are :

Protocol 1	Designation of Transit Transport Routes and Facilities
Protocol 2	Designation of Frontier Posts
Protocol 3	Types and Quantity of Road Vehicles
Protocol 4	Technical Requirements of Vehicles
Protocol 5	ASEAN Scheme of Compulsory Motor Vehicle Third-Party Liability Insurance
Protocol 6	Railways Border and Interchange Stations

Protocol 7	Customs Transit System
Protocol 8	Sanitary and Phytosanitary Measures
Protocol 9	Dangerous Goods

**ARTICLE 26**  
**Compliance with National Laws**

Except where otherwise provided in Agreements between the Contracting Parties, including this Agreement:

- a) means of transport of one Contracting Party including persons and goods shall, when in the territory of the other Contracting Party, comply with national laws and regulations in force in that territory ; and
- b) neither of the Parties shall impose on persons or goods of the other Contracting Party requirements which are more restrictive than those applied by its national laws and regulations on its own means of transport.

**ARTICLE 27**  
**Transparency**

1. The Contracting Parties shall ensure transparency of its respective laws, regulations and administrative procedures which affect the facilitation of transit transport of goods under this Agreement and its Protocols.
2. For this purpose, all Contracting Parties shall deposit with the ASEAN Secretariat, not later than six months after this Agreement has entered into force, their aforementioned laws, regulations and administrative procedures.
3. If the aforementioned documents are not in the English language, their English translation shall also be deposited within one year after this Agreement has entered into force.

**ARTICLE 28**  
**Assistance for Traffic Accidents**

Should the means of transport of one Contracting Party including persons and goods be involved in traffic accidents in the territory of another Contracting Party, the latter shall provide all possible assistance to the means of transport, including persons and goods, and notify the appropriate authorities of the Contracting Party concerned as soon as possible.

**PART VII**  
**INSTITUTIONAL ARRANGEMENTS**

**ARTICLE 29**  
**Institutional Arrangements**

1. A National Transit Transport Coordinating Committee shall be established in each of the Contracting Parties for the effective and efficient coordination and implementation of this Agreement.
2. A Transit Transport Coordinating Board shall be established and composed of senior official nominated from each Contracting Party and a representative of the ASEAN Secretariat, to oversee the overall coordination and implementation of this Agreement. The Board is also authorized to invite and seek the assistance of other relevant ASEAN coordinating bodies, for all matters related to the implementation of this Agreement.
3. The Transit Transport Coordinating Board shall make periodic reports on the implementation of this Agreement, and seek appropriate guidance on significant issues as necessary, from the relevant ASEAN Ministerial bodies.
4. The ASEAN Secretariat shall assist the Transit Transport Coordinating Board in its functions and responsibilities under this Agreement, and in particular, in the monitoring and reporting of the progress of the implementation of this Agreement. The ASEAN Secretariat shall submit evaluation reports to the Transit Transport Coordinating Board, for further action.

**PART VIII**  
**FINAL CLAUSES**

**ARTICLE 30**  
**Dispute Settlement**

The provisions of the ASEAN Protocol on Dispute Settlement Mechanism, done at Manila on 20th day of November 1996, shall apply to consultation and the settlement of disputes under this Agreement.

**ARTICLE 31**  
**Accession of New Members**

New Members of ASEAN shall accede to this Agreement on terms and conditions consistent with it and which have been agreed between them and the existing Members of ASEAN. Accession shall be through the signing and deposit of the Instrument of Accession of this Agreement with the Secretary – General of ASEAN, who shall promptly furnish each Contracting Party a certified true copy thereof.

**ARTICLE 32**  
**Other Agreements in Force**

This Agreement or any actions taken thereto shall not affect the rights and obligations of the

Contracting Parties under any existing agreements or International Conventions to which they are also Contracting Parties.

**ARTICLE 33**  
**Final Provisions**

1. This Agreement is subject to ratification or acceptance by the Contracting Parties.
2. The Instrument of Ratification or Acceptance shall be deposited with the Secretary General of ASEAN who shall promptly inform each Contracting Party of such deposit.
3. This Agreement shall enter into force upon the deposit of Instruments of Ratification or Acceptance by all Contracting Parties with the Secretary General of ASEAN.
4. No reservations may be made to this Agreement either at the time of signature or ratification.
5. Any amendment to the provisions of this Agreement shall be effected by consent of all the Contracting Parties.

**IN WITNESS WHEREOF**, the undersigned, being duly authorized to sign by their respective Governments, have signed the ASEAN Framework Agreement on the Facilitation of Goods in Transit.

**DONE** at Hanoi, Vietnam on the 16<sup>th</sup> day of December 1998, in a single copy in the English language.



## **Annex H**

### **Asean Framework Agreement on Mutual Recognition Arrangements**

The Governments of Brunei Darussalam, 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 and the Socialist Republic of Vietnam, Member States of the Association of Southeast Asian Nations (hereinafter referred to as "ASEAN");

**MINDFUL** that in 1992 the ASEAN Heads of Government declared that an ASEAN Free Trade Area shall be established in the region and that in 1995 they agreed to accelerate its implementation to the year 2003;

**NOTING** the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area signed on 28 January 1992, which provides for the border and non-border areas of cooperation to supplement and complement the liberalisation of trade including, among others, the harmonisation of standards, reciprocal recognition of tests and certification of products;

**RECALLING** that in 1995, the ASEAN Heads of Governments adopted, in the Bangkok Summit Declaration, the Agenda for Greater Economic Integration, which includes, among others, the introduction of greater transparency in standards and conformance, the alignment of national standards with international standards and undertaking projects to facilitate mutual recognition arrangements (hereinafter referred to as "MRAs") to facilitate greater intra-regional trade;

**RECOGNISING** that MRAs for conformity assessment activities could be an important means of eliminating Technical Barriers to Trade and enhancing market access and that such mutual recognition could be of particular interest to small and medium-sized businesses in ASEAN;

**RECOGNISING** further that MRAs could contribute positively in encouraging greater international harmonization of standards and regulations and that any such MRAs would require confidence in the other Member States' capacity and competence to test or assess conformity to a Member State's own requirements;

**MINDFUL** of the different levels of infrastructure for Standards and Conformity Assessment and economic development of ASEAN Member States;

**REITERATING** their commitments under the World Trade Organization Agreement on Technical Barriers to Trade and noting that the Agreement encourages Contracting Parties to enter into negotiations for the conclusion of agreement for the mutual recognition of results of each other's conformity assessment; and

**DESIRING** to formulate a framework agreement to deepen and broaden cooperation on Standards and Conformance in ASEAN and to provide a basis for developing and implementing MRAs in specific product sectors, (hereinafter referred to as "Sectoral MRAs"), to facilitate the realization of the ASEAN Free Trade Area.

**HAVE AGREED AS FOLLOWS :**

## ARTICLE 1

### Definitions

1. General terms concerning conformity assessment used in this Framework Agreement and the Sectoral MRAs shall have the meaning given in the definitions contained in the Guide 2 (1996 edition) of the International Organization for Standardization (ISO) and International Electrotechnical Commission (IEC) with the exception of the following terms which shall contain definitions herein:

**“Conformity Assessment”** means systematic examination to determine the extent to which a product, process or service fulfills specified requirements;

**“Conformity Assessment Body”** means a body whose activities and expertise include performance of all or any stage of the conformity assessment process except for accreditation;

**“Regulatory Authority”** means an entity that exercises a legal right to control the import, use or sale of products within a Member State’s jurisdiction and may take enforcement action to ensure that products marketed within its jurisdiction comply with legal requirements.

2. In addition, the following terms and definitions shall apply to this Framework Agreement and the Sectoral MRAs:

**“Designation”** means the authorisation by a Designating Body of a Conformity Assessment Body to perform conformity assessment activities as specified under this Framework Agreement and the relevant Sectoral MRAs;

**“Designating Body”** means a body appointed by a Member State to a Sectoral MRA, with responsibility to identify and monitor Conformity Assessment Bodies as specified under this Framework Agreement and the relevant Sectoral MRAs.

## ARTICLE 2

### Objectives

The objectives of this Framework Agreement are:

- a) to stipulate the general principles for developing Sectoral MRAs amongst Member States and other related cooperative activities to facilitate elimination of technical barriers to trade within ASEAN; and
- b) to stipulate the general conditions under which each Member State to a Sectoral MRA shall accept or recognize results of conformity assessment procedures, produced by the Conformity Assessment Bodies of the other Member States to the Sectoral MRA in question in assessing conformity to the requirements, as specified in the Sectoral MRA.

## ARTICLE 3

### General Provisions

1. Member States to the Sectoral MRAs shall accept or recognize the conformity assessment results, which have been issued in accordance with the provisions in the Sectoral MRAs, by the listed Conformity Assessment Bodies of other Member States to the Sectoral MRAs.

2. Where sectoral transition arrangements have been specified in the Sectoral MRAs, the above obligations shall apply following the successful completion of those transition arrangements.
3. Member States to the Sectoral MRAs shall ensure that the Designating Bodies specified in the Sectoral MRAs have the power and competence in their respective territories to carry out decisions required of them under this Framework Agreement and the relevant Sectoral MRAs.
4. Member States to the Sectoral MRAs shall ensure that the Conformity Assessment Bodies listed in the Sectoral MRAs fulfill the conditions of eligibility to assess conformity in relation to requirements as specified in the Sectoral MRAs, and shall observe the procedures set out in Article 6 of this Framework Agreement.
5. Member States shall strengthen and enhance existing cooperation efforts in confidence building and develop cooperation in areas that are not covered by existing cooperation arrangements, through *inter alia*:
  - a) harmonization of standards with relevant international standards, particularly those relevant to the Sectoral MRAs;
  - b) establishing or improving of infrastructure in calibration, testing, certification and accreditation to meet relevant international requirements;
  - c) actively participating in relevant arrangements undertaken by specialist regional and international bodies;
  - d) effectively using the existing MRAs developed by regional and international bodies which majority of ASEAN Member States are parties to;
  - e) research and development; and
  - f) exchange of information and training .
6. Member States shall identify sectors for developing MRAs based on the following criteria:
  - a) with special focus on but not limited to the list of 20 priority product groups identified for harmonization of standards;
  - b) the volume of intra-ASEAN trade affected;
  - c) the existence and extent of technical barriers to trade;
  - d) the readiness of technical infrastructure in the majority of Member States, which shall include the existence of Conformity Assessment Bodies that satisfy the procedures and criteria stated in Article 6, clause 1; and
  - e) the interest of the majority of Member States.
7. All Sectoral MRAs are intended to be multilateral agreements in which all Member States are encouraged to participate. However, taking cognizance of paragraph 3 of Article I of the Framework Agreement on Enhancing ASEAN Economic Cooperation signed on 28 January 1992 in Singapore,

two or more Member States may proceed first if other Member States are not ready to participate in the Sectoral MRAs.

8. All documents issued for the purpose of information exchange, verification, provision of evidence and other activities arising from obligations of both the Framework Agreement and Sectoral MRAs, if not in English, shall be accompanied by certified translated copies in English.

#### **ARTICLE 4** **Elements of Sectoral MRA**

1. A Sectoral MRA shall include:
  - a) scope and coverage with respect to products;
  - b) a list of the relevant legislative, regulatory and administrative provisions pertaining to the conformity assessment procedures and technical regulations for the specified products and provisions to update other Member States to the Sectoral MRA on changes; a list of Designating Bodies;
  - c) the procedures and criteria for listing Conformity Assessment Bodies;
  - d) the current list of agreed Conformity Assessment Bodies and a statement of the scope of the conformity assessment and relevant procedures for which each has been accepted;
  - e) a description of the mutual recognition obligations; a sectoral transition arrangement that provides for a specified time period where Member States to a Sectoral MRA require time to implement legislative or regulatory changes to effect the Sectoral MRA;
  - f) a list of contact points, who shall not be members of the relevant Joint Sectoral Committee;
  - g) provisions for the establishment of a Joint Sectoral Committee; and
  - h) additional provisions as required.
2. The Sectoral MRAs may include a statement or arrangement related to mutual acceptance of the standards or technical regulations or mutual recognition of the equivalence of such standards or technical regulations.

#### **ARTICLE 5** **Joint Sectoral Committee**

1. For each Sectoral MRA, a Joint Sectoral Committee shall be established, which shall be responsible for the effective functioning of that Sectoral MRA. The Joint Sectoral Committee shall comprise one official representative designated by each Member State to the Sectoral MRA. The representative shall not be from a Conformity Assessment Body.
2. The Joint Sectoral Committee may consider any matter and take appropriate actions relating to the effective functioning of the Sectoral MRA. In particular it shall be responsible for:

- a) listing, suspension, withdrawal, removal, reinstating and verification of Conformity Assessment Bodies in accordance with the Sectoral MRA;
  - b) amending transition arrangements in the Sectoral MRA;
  - c) providing a forum for discussion of issues that may arise concerning the implementation of the Sectoral MRA; and
  - d) considering ways to enhance the operation of the Sectoral MRA.
3. The Joint Sectoral Committee shall take its decisions by consensus.

## **ARTICLE 6**

### **Listing of Conformity Assessment Bodies**

The following procedures shall apply with regard to the listing of Conformity Assessment Bodies in a Sectoral MRA:

1. Each Designating Body specified in a Sectoral MRA shall identify Conformity Assessment Bodies for listing, in accordance with the procedures and criteria set forth in that Sectoral MRA and shall apply one of the following ways to demonstrate technical competence of the Conformity Assessment Bodies:
  - a) accreditation by an accreditation body that is a signatory to a regional or international MRA, which is conducted in conformance with the relevant ISO/IEC Guides; or
  - b) participation in regional/international mutual recognition arrangements for testing and certification bodies, which are conducted in conformance with the relevant ISO/IEC Guides; or
  - c) regular peer evaluations which are conducted in conformance with the relevant ISO/IEC Guides.
2. The Designating Body shall ensure that identified Conformity Assessment Bodies have adequate knowledge of the applicable technical regulations.
3. All Designating Bodies relevant to the Sectoral MRAs shall forward in writing required details of all Conformity Assessment Bodies that they identified, to the relevant Joint Sectoral Committee and the ASEAN Secretariat for the Committee members' confirmation or opposition.
4. Within 60 days following receipt of a Designating Body's submission, the members of the Joint Sectoral Committee shall indicate their position regarding either their confirmation or their opposition, to the ASEAN Secretariat. No response within 60 days shall be taken as abstention. Upon confirmation, the inclusion of the proposed Conformity Assessment Body or Bodies in the list of accepted Conformity Assessment Bodies shall take effect;
5. If one or more of the Member States to the Sectoral MRA requests verification of the technical competence or compliance of a proposed Conformity Assessment Body, such request shall be made an objective and reasoned manner in writing to the ASEAN Secretariat, which shall forward it to the relevant Joint Sectoral Committee for a decision. The Joint Sectoral Committee may decide that the body concerned be more fully verified in accordance with Article 9 of this Framework Agreement; and
6. The proposed Conformity Assessment Body shall not be included in the list of accepted Conformity

Assessment Bodies in the applicable Sectoral MRA until a decision has been made to include such Conformity Assessment Body.

#### **ARTICLE 7**

##### **Suspension of Listed Conformity Assessment Bodies**

The following procedures shall apply with regard to the suspension of a Conformity Assessment Body listed in a Sectoral MRA:

1. Any Member State to a Sectoral MRA which contests the technical competence or compliance of a listed Conformity Assessment Body shall, through its contact point to submit a proposal to suspend such a Conformity Assessment Body, to the relevant Joint Sectoral Committee and the ASEAN Secretariat. Such contestation shall be exercised when justified in an objective and reasoned manner in writing;
2. The ASEAN Secretariat shall promptly inform the Conformity Assessment Body concerned. The Conformity Assessment Body shall be given an opportunity to present information in order to refute the contestation or to correct the deficiencies which form the basis of the contestation;
3. Any such contestation shall be discussed by the relevant Joint Sectoral Committee, which may decide to suspend the Conformity Assessment Body in question;
4. If the matter has not been resolved by the Joint Sectoral Committee within 21 days of the notice of contestation, the Conformity Assessment Body shall be suspended upon the request of the contesting Member State;
5. Where the Joint Sectoral Committee decides that verification of technical competence or compliance is required, such verification shall be carried out in accordance with Article 9 of this Framework Agreement;
6. Upon the suspension of a Conformity Assessment Body listed in a Sectoral MRA, Member States to the Sectoral MRA are no longer obligated to accept or recognize the results of conformity assessment procedures performed by that Conformity Assessment Body subsequent to suspension. Member States to the Sectoral MRA shall, subject to Article 11, continue to accept the results of conformity assessment procedures performed by that Conformity Assessment Body prior to suspension; and
7. The suspension shall remain in effect until an agreement has been reached by Member States to the Sectoral MRA upon the future status of that Conformity Assessment Body.

#### **ARTICLE 8**

##### **Removal of Listed Conformity Assessment Bodies**

The following procedures shall apply with regard to the removal of a listed Conformity Assessment Body from a Sectoral MRA:

1. A Member State to a Sectoral MRA proposing to remove a Conformity Assessment Body listed in a Sectoral MRA shall, through its contact point for the Sectoral MRA, forward its proposal in an objective and reasoned manner in writing to the relevant Joint Sectoral Committee and the ASEAN Secretariat;

2. Such a Conformity Assessment Body shall be promptly notified by the ASEAN Secretariat and shall be provided a period of at least 30 days from receipt of the notification to provide information in order to refute or to correct the deficiencies which form the basis of the proposed removal;
3. Within 60 days following receipt of the proposal, the members of the Joint Sectoral Committee shall indicate their positions regarding either their confirmation or their opposition to the ASEAN Secretariat. No response within 60 days shall be taken as abstention. Upon confirmation, the removal from the Sectoral MRA of the proposed Conformity Assessment Body or Bodies shall take effect;
4. If the Joint Sectoral Committee finds sufficient grounds based on the evidence submitted, it may decide to carry out a joint verification of the body concerned. Pending completion of the joint verification, the Conformity Assessment Body shall not be removed from the list of Conformity Assessment Bodies in the applicable Sectoral MRA; and
5. Subsequent to the removal of a Conformity Assessment Body listed in a Sectoral MRA, Member States to the Sectoral MRA shall, subject to Article 11, continue to accept the results of conformity assessment procedures performed by that Conformity Assessment Body prior to removal.

#### **ARTICLE 9**

##### **Verification of Technical Competence and Compliance of Conformity Assessment Bodies**

1. The Designating Bodies shall ensure that Conformity Assessment Bodies identified by them will be available for verification of their technical competence and compliance with applicable requirements when required by the relevant Joint Sectoral Committee.
2. Any request for verification of technical competence or compliance of the Conformity Assessment Body shall be justified in an objective and reasoned manner in writing to the ASEAN Secretariat, which shall forward it to the relevant Joint Sectoral Committee for a decision.
3. Where the Joint Sectoral Committee decides that verification of technical competence or compliance is required, it will be carried out in a timely manner, jointly by all interested Member States to the relevant Sectoral MRA, based on the procedures and criteria set forth in the relevant Sectoral MRA and the provisions of Article 6 of this Framework Agreement.
4. The result of this verification shall be discussed by the relevant Joint Sectoral Committee with a view to resolving the issue as soon as possible.

#### **ARTICLE 10**

##### **Monitoring of Conformity Assessment Bodies**

1. Designating Bodies shall ensure that Conformity Assessment Bodies identified by them and listed in a Sectoral MRA are capable and remain capable of properly assessing conformity of products or processes, as applicable, and as covered in the applicable Sectoral MRA. Designating Bodies shall maintain monitoring of such Conformity Assessment Bodies listed in a Sectoral MRA by means of regular audit or assessment.
2. Designating Bodies shall compare methods used to verify that the Conformity Assessment Bodies listed by the Joint Sectoral Committee comply with the relevant requirements of the Sectoral MRAs.

3. Designating Bodies shall consult as necessary with their counterparts in other Member States to the Sectoral MRAs, to ensure the maintenance of confidence in conformity assessment procedures. This consultation may include joint participation in audits/inspections related to conformity assessment activities or other assessments of Conformity Assessment Bodies listed in a Sectoral MRA.
4. Designating Bodies shall consult, as necessary, with relevant Regulatory Authorities to ensure that all technical requirements identified in the relevant Sectoral MRAs are satisfactorily addressed.

#### **ARTICLE 11**

##### **Preservation of Regulatory Authority**

1. Nothing in this Framework Agreement shall be construed to limit the authority of a Member State to determine, through its legislative, regulatory and administrative measures, the level of protection it considers appropriate for safety; for protection of human, animal, or plant life or health; for the environment and for consumers.
2. Nothing in this Framework Agreement shall be construed to limit the authority of a Regulatory Authority to take all appropriate and immediate measures whenever it ascertains that a product may:
  - a) compromise the health or safety of persons in its territory;
  - b) not meet the legislative, regulatory, or administrative provisions within the scope of the applicable Sectoral MRA ; or
  - c) otherwise fail to satisfy a requirement within the scope of the applicable Sectoral MRA. If the Regulatory Authority takes such measures, it shall inform its counterpart authority in the affected Member State and other Member States to the relevant Sectoral MRA of such measures taken, providing reasons, within a period of time defined in the relevant Sectoral MRA.

#### **ARTICLE 12**

##### **Consultations and Settlement of Disputes**

1. Member States shall, at the written request of another Member State, enter into consultations with a view to seeking a prompt, equitable and mutually satisfactory solution, if that Member State considers that: an obligation under this Framework Agreement has not been fulfilled, is not being fulfilled, or may not be fulfilled; or any objective of this Framework Agreement is not being achieved or may be frustrated.
2. Any differences between Member States concerning the interpretation or application of this Framework Agreement and the Sectoral MRAs shall, as far as possible, be settled amicably between the Member States concerned or within the relevant Joint Sectoral Committee if applicable. If a settlement cannot be reached, thus, it shall be subjected to the Dispute Settlement Mechanism of ASEAN in accordance with the Protocol on Dispute Settlement Mechanism, which was signed on 20 November 1996 in Manila, the Philippines.

**ARTICLE 13**  
**Institutional Arrangements**

1. Progress of the implementation of this Framework Agreement shall be reported to the AFTA Council through the Senior Economic Officials Meeting (SEOM). The SEOM shall monitor all aspects relating to the implementation of this Framework Agreement. The Joint Sectoral Committees shall monitor all aspects relating to the implementation of the relevant Sectoral MRAs.
2. The ASEAN Consultative Committee for Standards and Quality (ACCSQ) and the ASEAN Secretariat shall provide the support for coordinating and reviewing the implementation of this Framework Agreement and the Sectoral MRAs and assist the SEOM and the Joint Sectoral Committees in all matters relating thereto.
3. The ACCSQ shall be the forum for linkages with industries with respect to the implementation of this Framework Agreement and the Sectoral MRAs.

**ARTICLE 14**  
**Technical Assistance and Funding**

1. Member States shall, if requested, advise other Member States, and shall grant them technical assistance on mutually agreed terms and conditions, where applicable on building up and/or maintaining technical competence of relevant Conformity Assessment Bodies in their territories so that they can fulfil the obligations as specified in the Sectoral MRAs or participate in the Sectoral MRAs.
2. Member States which are members or participants of international or regional systems for conformity assessment shall, if requested, advise other Member States, and shall grant them technical assistance on mutually agreed terms and conditions, where applicable regarding the establishment of the institutions and legal framework which would enable them to fulfil the obligations of membership or participation in such systems.
3. Member States to a Sectoral MRA may engage the services of Conformity Assessment Bodies of other Member States to undertake the requisite conformity assessment activities, should they not have their own facilities to do so.
4. Member States shall accord priority to funding for activities under this Framework Agreement and the Sectoral MRAs. Expenses incurred as a result of any activity undertaken by a Member State to fulfill the objectives of this Framework Agreement and the Sectoral MRAs shall be borne by the Member State concerned unless all Member States decide otherwise.

**ARTICLE 15**  
**Confidentiality**

1. Member States shall maintain, to the extent permitted under its laws and regulations, the confidentiality of information exchanged under this Framework Agreement and the Sectoral MRAs.
2. Member States shall take all precautions reasonably necessary to protect information exchanged under this Framework Agreement and the Sectoral MRAs from unauthorized disclosure.

**ARTICLE 16**  
**Accession of New Members**

New Members of ASEAN may accede to this Framework Agreement through the signing and depositing of the instrument of accession to this Framework Agreement with the Secretary-General of ASEAN, who shall promptly furnish each Member State a certified copy thereof.

**ARTICLE 17**  
**Rights and Obligations Under Existing International Agreements or Conventions**

This Agreement or any actions taken thereto shall not affect the rights and obligations of the contracting Member States under any existing international agreements or conventions to which it is also a party.

**ARTICLE 18**  
**Final Provisions**

The provisions of this Framework Agreement may be reviewed or amended by agreement of all Member States. Member States shall undertake appropriate measures to fulfill the agreed obligations arising from this Framework Agreement. Member States shall make no reservations with respect to any of the provisions of this Framework Agreement. This Framework Agreement shall be deposited with the Secretary General of ASEAN, who shall promptly furnish each Member State a certified copy thereof. This Framework Agreement shall enter into force upon deposit of instruments of ratification or acceptance by all signatory Governments with the Secretary- General of ASEAN.

**IN WITNESS WHEREOF** the undersigned, being duly authorized by their respective Governments, have signed this ASEAN Framework Agreement on Mutual Recognition Arrangements.

**DONE** at Hanoi, Vietnam, on the 16<sup>th</sup> day of December 1998, in a single copy in the English Language.

