



ASEAN China Free Trade Agreement 2012 3rd Amendment of the 2002 Framework Agreement

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DEZAN SHIRA & ASSOCIATES

Corporate Establishment, Tax, Accounting & Payroll Throughout Asia

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

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand, the Socialist Republic of Viet Nam, Member States of the Association of Southeast Asian Nations (hereinafter referred to collectively as "ASEAN" or "ASEAN Member States" or singularly as "ASEAN Member State") and the Government of the People's Republic of China (hereinafter referred to as "China"), (hereinafter referred to collectively as "Parties" and singularly as "Party"),

RECALLING the Framework Agreement on Comprehensive Economic Co-operation between the Association of Southeast Asian Nations and the People's Republic of China (hereinafter referred to as "the Framework Agreement") signed on 4 November 2002 and that paragraph 1 of Article 12 (Institutional Arrangements for the Negotiations) of the Framework Agreement provides that "the ASEAN-China Trade Negotiation Committee (ACTNC) that has been established shall continue to carry out the program of negotiations set out in this Agreement";

NOTING that the Agreement on Trade in Goods, Agreement on Trade in Services and the Agreement on Investment of the Framework Agreement have been concluded and signed on 29 November 2004, 14 January 2007 and 15 August 2009, respectively, and that the Institutional Arrangement Article of both the Agreement on Trade in Goods and the

Agreement on Investment provide that “pending the establishment of a permanent body, the AEM-MOFCOM, supported and assisted by the SEOM-MOFCOM, shall oversee, supervise, coordinate and review the implementation of this Agreement”;

RECALLING that the Joint Media Statement of the 10th AEM-MOFCOM Consultations provides that “the Ministers endorsed the establishment of the ASEAN-China FTA Joint Committee (ACFTA-JC) in place of the ACTNC. The ACFTA-JC’s main tasks will include overseeing, supervising, coordinating and reviewing the implementation of the Agreement”;

SEEKING to establish a more permanent institutional arrangement for overseeing, supervising, coordinating and reviewing the implementation of the Framework Agreement as well as any other agreements concluded in accordance with the Framework Agreement;

RECOGNISING the need to establish an explicit legal linkage between the Framework Agreement and the various Agreements negotiated and signed on the basis of the said Framework Agreement; and

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

HAVE AGREED AS FOLLOWS:

Article 1

Amendment of Article 12 of the Framework Agreement

Article 12 of the Framework Agreement shall be deleted and substituted entirely by a new Article 12 as set out below:

"ARTICLE 12
Institutional Provisions

1. The Parties hereby establish the ASEAN-China Free Trade Area Joint Committee (ACFTA-JC) as the permanent body to assist the ASEAN Economic Ministers and the Minister of Commerce of China (hereinafter referred to as "AEM-MOFCOM") in ensuring the effective operation and implementation of this Agreement and any other Agreements/legal instruments concluded or to be concluded under this Agreement.

2. The functions of the ACFTA-JC shall be to:

- (a) review, monitor, oversee, supervise and coordinate the implementation and operation of this Agreement and all legal instruments under it;
- (b) consider and recommend to the AEM-MOFCOM any amendments to this Agreement and all legal instruments under it;
- (c) negotiate amendments to or any matter arising from the operation of this Agreement and all legal instruments under it;
- (d) supervise and co-ordinate the work of subsidiary bodies to be established under this Agreement and all legal instruments under it;
- (e) adopt, where appropriate, decisions and recommendations of subsidiary bodies established or to be established pursuant to this Agreement and all legal instruments under it;
- (f) consider any other matter that may affect the operation of this Agreement and all legal instruments under it or that is entrusted to the ACFTA-JC by the Parties; and

(g) carry out any other functions as the Parties may agree.

3. To assist in the fulfillment of its functions, the ACFTA-JC may establish additional subsidiary bodies, including *ad hoc* bodies, and assign them with tasks on specific matters, or delegate its responsibilities to any subsidiary body established pursuant to this Agreement or any legal instruments under it.

4. The ACFTA-JC shall convene the meetings at least twice a year or as and when it deems necessary. The ASEAN Country Coordinator for comprehensive economic cooperation with China, and China, shall assume the co-chairmanship of the ACFTA-JC. The ACFTA-JC meetings shall be held alternately in an ASEAN Member State and China. The ASEAN Secretariat and the Ministry of Commerce (MOFCOM) of China shall provide the ACFTA-JC with the necessary secretariat support.

5. The ACFTA-JC shall regularly report to the AEM-MOFCOM Consultations, through the meetings of their Senior Economic Officials.”

Article 2 Depositary

For the ASEAN Member States, this Protocol shall be deposited with the Secretary-General of ASEAN, who shall promptly furnish a certified copy thereof to each ASEAN Member State.

Article 3 Entry into Force

1. This Protocol shall enter into force on 1 January 2013.

2. The Parties shall undertake to complete their internal procedures for the entry into force of this Protocol prior to 1 January 2013.

3. A Party shall, upon the completion of its internal procedures for the entry into force of this Protocol, notify all the other Parties in writing.

4. Where a Party is unable to complete its internal procedures for the entry into force of this Protocol by 1 January 2013, the rights and obligations of that Party under this Protocol shall commence on the date of the Party's written notification to all the other Parties that it has completed its internal procedure for the entry into force of this Protocol.

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

DONE at Phnom Penh, Cambodia, this 19th November in the Year Two Thousand and Twelve, in duplicate copies in the English language.

For Brunei Darussalam:

For the People's Republic of China:

LIM JOCK SENG
Second Minister of Foreign
Affairs and Trade

CHEN DEMING
Minister of Commerce

For the Kingdom of Cambodia:

CHAM PRASIDH
Senior Minister and Minister of
Commerce

For the Republic of Indonesia:

GITA IRAWAN WIRJAWAN
Minister of Trade

For the Lao People's Democratic
Republic:

NAM VIYAKETH
Minister of Industry and Commerce

For Malaysia:

MUSTAPA MOHAMED
Minister of International Trade
and Industry

For the Republic of the Union of
Myanmar:

KAN ZAW

Union Minister for National
Planning and Economic
Development

For the Republic of the
Philippines:

GREGORY L. DOMINGO

Secretary of Trade and Industry

For the Republic of Singapore:

LIM HNG KIANG

Minister for Trade and Industry

For the Kingdom of Thailand:

BOONSONG TERIYAPIROM

Minister of Commerce

For the Socialist Republic of Viet
Nam:

VU HUY HOANG
Minister of Industry and Trade