



ASEAN India Free Trade Agreement 2009 Amendment to Framework Agreement

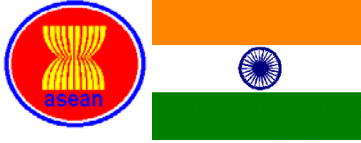
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**PROTOCOL TO AMEND THE FRAMEWORK AGREEMENT ON
COMPREHENSIVE ECONOMIC COOPERATION BETWEEN THE ASSOCIATION
OF SOUTHEAST ASIAN NATIONS AND THE REPUBLIC OF INDIA**

PREAMBLE

The Governments of Brunei Darussalam, the Kingdom of Cambodia (Cambodia), the Republic of Indonesia (Indonesia), the Lao People's Democratic Republic (Lao PDR), Malaysia, the Union of Myanmar (Myanmar), the Republic of the Philippines (the Philippines), the Republic of Singapore (Singapore), the Kingdom of Thailand (Thailand) and the Socialist Republic of Viet Nam (Viet Nam), Member States of the Association of Southeast Asian Nations (collectively, "ASEAN" or "ASEAN Member States", or individually, "ASEAN Member State") and the Government of the Republic of India (India),

RECALLING the Framework Agreement on Comprehensive Economic Cooperation between the Association of Southeast Asian Nations and the Republic of India (the Framework Agreement) signed in Bali, Indonesia on 8 October 2003;

REAFFIRMING the commitment of ASEAN and India (collectively, the "Parties", or individually referring to an ASEAN Member State or to India as a "Party") to gradually reduce and eliminate tariffs in accordance with specified schedules;

CONSIDERING the necessity to revise the Framework Agreement to reflect the current position in relation to the Early Harvest Programme (EHP) in the Framework Agreement and the various timeframes indicated therein;

DESIRING to reflect the various amendments pursuant to Article 14 of the Framework Agreement,

HAVE AGREED AS FOLLOWS:

**ARTICLE 1
Applied Most Favoured Nation Tariff Rates**

Paragraph 2(a) of Article 3 of the Framework Agreement shall be amended by replacing the date "1 July 2004" with the date "1 July 2007".

**ARTICLE 2
Periods for Reduction or Elimination of Applied Most Favoured Nation Tariff Rates**

1. The periods for the reduction or elimination of applied Most Favoured Nation (MFN) tariff rates for Normal Track products set out in paragraphs 5(a)(i) to (iii) of Article 3 of the Framework Agreement shall be amended as follows:

"Track 1

- (i) 1 January 2010 to 31 December 2013 for Brunei Darussalam, Indonesia, Malaysia, Singapore and Thailand, and India;
- (ii) 1 January 2010 to 31 December 2018 for the Philippines and India; and
- (iii) 1 January 2010 to 31 December 2013 for India and 1 January 2010 to 31 December 2018 for Cambodia, Lao PDR, Myanmar and Viet Nam.

Track 2

- (i) 1 January 2010 to 31 December 2016 for Brunei Darussalam, Indonesia, Malaysia, Singapore and Thailand, and India;
- (ii) 1 January 2010 to 31 December 2019 for the Philippines and India; and
- (iii) 1 January 2010 to 31 December 2016 for India and 1 January 2010 to 31 December 2021 for Cambodia, Lao PDR, Myanmar and Viet Nam.”

2. The revised date of commencement of 1 January 2010 as referred to in paragraph 1 may, if necessary, be adjusted to a date to be mutually agreed upon by the Parties pursuant to the amended paragraph 1 of Article 8 of the Framework Agreement.

**ARTICLE 3
Early Harvest Programme**

The Parties agree not to pursue the EHP and accordingly, the Framework Agreement is amended as follows:

- (a) Paragraph 5 of Article 3 shall be amended by deleting the phrase “not covered by the Early Harvest Programme under Article 7 of this Agreement”;
- (b) Paragraph 6 of Article 3 shall be amended by deleting the phrase “and Article 7 of this Agreement”; and
- (c) Article 7 shall be deleted and the product coverage referred to in paragraph 3(a) of that Article shall be treated as being covered by the words “all products” in paragraph 5 of Article 3.

**ARTICLE 4
Timeframes**

1. Paragraphs 1 and 2 of Article 8 of the Framework Agreement shall be deleted and substituted as follows:

“(1) For trade in goods, negotiations on the agreement for tariff reduction or elimination and other matters as set out in Article 3 of this Agreement shall commence in January 2004 and be concluded by 2009 or such other dates as may be mutually agreed upon by the Parties.

(2) The negotiations on Rules of Origin for trade in goods under Article 3 shall be concluded by 2009 or such other dates as may be mutually agreed upon by the Parties”.

2. The first sentence of paragraph 3 of Article 8 of the Framework Agreement shall be deleted and substituted as follows:

“For trade in services and investments, the negotiations on the respective agreements which commenced in October 2008 shall be concluded as a single undertaking by 2009 or such other date as may be mutually agreed upon by the Parties.”

ARTICLE 5 Dispute Settlement Mechanism

Paragraph 1 of Article 11 of the Framework Agreement shall be amended as follows:

“(1) The Parties shall, by 2009 or such other dates as may be mutually agreed upon by the Parties, conclude negotiations for the establishment of the dispute settlement procedures and mechanism for the purposes of this Agreement.”

ARTICLE 6 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 7 Entry into Force

1. Each Party shall notify all the other Parties in writing upon completion of its internal requirements¹ necessary for the entry into force of this Protocol. This Protocol shall enter into force on 1 January 2010 or the date by which such notifications have been made by the Governments of India and at least one (1) ASEAN Member State.

2. Where a Party is unable to complete its internal requirements for the entry into force of this Protocol by 1 January 2010, this Protocol shall enter into force for that Party on 1 June 2010 or upon the date by which that Party notifies the completion of its internal requirements.

IN WITNESS WHEREOF, the undersigned being duly authorised by their respective Governments, have signed this Protocol.

¹ For greater certainty, the term “internal requirements” may include obtaining governmental approvals or parliamentary approval in accordance with domestic law.

DONE at Bangkok, Thailand this thirteenth day of August 2009 in two (2) originals in the English language.

For the Government of Brunei
Darussalam:

For the Government of the Republic of
India:

LIM JOCK SENG
Second Minister for Foreign Affairs and
Trade

ANAND SHARMA
Minister of Commerce and Industry

For the Royal Government of Cambodia:

CHAM PRASIDH
Senior Minister and Minister of
Commerce

For the Government of the Republic of
Indonesia:

MARI ELKA PANGESTU
Minister of Trade

For the Government of the Lao People's
Democratic Republic:

NAM VIYAKETH
Minister of Industry and Commerce

For the Government of Malaysia:

MUSTAPA MOHAMED

Minister of International Trade and
Industry

For the Government of the Union of
Myanmar:

U SOE THA
Minister for National Planning and
Economic Development

For the Government of the Republic of
the Philippines:

PETER B. FAVILA
Secretary of Trade and Industry

For the Government of the Republic of
Singapore:

LIM HNG KIANG
Minister for Trade and Industry

For the Government of the Kingdom of
Thailand:

PORNTIVA NAKASAI
Minister of Commerce

For the Government of the Socialist
Republic of Viet Nam:

NGUYEN CAM TU
Vice Minister of Industry and Trade