

2011 SECOND PROTOCOL TO AMEND THE AGREEMENT ON TRADE IN GOODS UNDER THE FRAMEWORK AGREEMENT ON COMPREHENSIVE ECONOMIC COOPERATION AMONG THE GOVERNMENTS OF THE MEMBER STATES OF THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS AND THE REPUBLIC OF KOREA

Signed in Bali, Indonesia on 17 November 2011

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 and the Socialist Republic of Viet Nam, Member Countries of the Association of Southeast Asian Nations (hereinafter referred to collectively as "ASEAN" or "ASEAN Member Countries" or individually as "ASEAN Member Country"), and the Republic of Korea (hereinafter referred to as "Korea") (hereinafter referred to individually as "the Party" and collectively as "the Parties"),

RECALLING the Agreement on Trade in Goods under the Framework Agreement on Comprehensive Economic Cooperation Among the Governments of the Member Countries of the Association of Southeast Asian Nations and the Republic of Korea (hereinafter referred to as the "Agreement"), signed in Kuala Lumpur, Malaysia on the twenty-fourth day of August 2006;

RECOGNISING that nothing in the Agreement precludes Parties from unilaterally accelerating and/or improving tariff commitments made under the Agreement;

DESIRING to clarify the provisions related to the acceleration of the implementation of concessions and the incorporation of new goods into such concessions as referred to in paragraph 2 of Article 6 of the Agreement, the unilateral acceleration of tariff reduction or elimination as referred to in paragraph 2 of Annex 1 of the Agreement, and the unilateral acceleration of tariff reduction and/or elimination of tariff lines placed in the Sensitive Track and the unilateral transfer of tariff lines from the Sensitive Track into the Normal Track as referred to in paragraph 6 of Annex 2 of the Agreement;

SEEKING to establish the terms and conditions for the acceleration of tariff reduction and/or elimination for tariff lines placed in the Normal Track and Sensitive Track, and to provide for such arrangements to be administratively annexed to the Agreement;

NOTING that Article 17 of the Agreement provides for any amendments thereto to be mutually agreed upon in writing by the Parties;

HAVE AGREED as follows:

ARTICLE 1

AMENDMENT TO INSERT A NEW ARTICLE 6 BIS INTO THE AGREEMENT

The Agreement shall be amended by inserting a new Article 6 *bis* immediately after the existing Article 6 of the Agreement as follows:

"Article 6 *bis* **Acceleration of Tariff Commitments**

1. For the purpose of this Article, acceleration and/or improvement of tariff commitments may include incorporation of new goods into the tariff concessions made under this Agreement.
2. (a) A Party may unilaterally accelerate the reduction and/or elimination of tariffs on originating goods of the other Parties at any time if it so wishes as referred to in paragraph 2 of Annex 1 or paragraph 6 of Annex 2 of the Agreement. Tariff concessions arising from such acceleration and/or elimination of tariff shall be extended to all Parties.

(b) Any Party may also unilaterally transfer any tariff line from the Sensitive Track into the Normal Track at any time if it so wishes as referred to in paragraph 6 of Annex 2 of the Agreement. Tariff concessions arising from improvement of tariff commitments shall be extended to all Parties.
3. Two or more Parties may also negotiate and enter into arrangement to accelerate and/or improve tariff commitments set out in their Schedules of tariff concessions made under this Agreement as referred to in paragraph 2 of Article 6 of the Agreement. Tariff concessions arising from such acceleration and/or improvement of tariff commitments shall be extended to all Parties.
4. Nothing in the Agreement shall preclude all Parties from negotiating and entering into arrangements to accelerate and/or improve tariff commitments made under this Agreement as referred to in paragraph 2 of Article 6 of this Agreement."

ARTICLE 2

AMENDMENT OF ARTICLE 17 OF THE AGREEMENT

Article 17 of the Agreement shall be amended and replaced by a new Article 17 as set out below:

"Article 17 **Amendments**

1. The provisions of this Agreement may be modified through amendments mutually agreed upon in writing by the Parties.
2. Each Party shall notify the other Parties in writing that its internal procedures necessary for the entry into force of the amendment have been completed. Such amendment shall enter into force on the first day of the second month following the date by which such notifications have been made by Korea and at least one ASEAN Member Country in relation to those Parties that have made such notification by that date.

3. Where any of the remaining ASEAN Member Country makes the notification as referred to in paragraph 2 after the date which the notifications have been made by Korea and at least one ASEAN Member Country as referred to in paragraph 2, the amendment referred to in paragraph 1 shall enter into force in relation to that ASEAN Member Country on the first day of the second month following the date on which it makes the notification.
4. Notwithstanding paragraphs 2 and 3, the number of ASEAN Member Countries as referred to in paragraph 2, which is the minimum required for the entry into force of the amendment, may be increased by agreement among all Parties
5. Notwithstanding paragraphs 1 to 4¹:
 - (a) In the case of amendments made in accordance with paragraph 2(a) of Article 6 *bis* of the Agreement, a Party shall notify all the other Parties through a diplomatic note immediately after completion of the internal procedures required for the amendments to enter into force. Such amendments shall enter into force on the date specified in the diplomatic note, or in any event, within 90 days of such notification. Any concessions granted by the Party according to the unilateral acceleration set out there in shall not be withdrawn.
 - (b) In the case of amendments made in accordance with paragraph 2(b) of Article 6 *bis* of the Agreement, a Party shall notify all the other Parties through a diplomatic note immediately after completion of the internal procedures required for the amendments to enter into force. Such amendments to the Appendices to Annex 2 of the Agreement shall enter into force on the date specified in the diplomatic note, or in any event, within 90 days of such notification. Once a Party unilaterally transfers any tariff line from the Sensitive Track into the Normal Track, that Party shall not transfer the tariff line back into the Sensitive Track. The Parties which have been informed of the unilateral transfer through the diplomatic note shall complete their internal procedures to terminate the application of the reciprocal tariff rate treatment for the corresponding tariff lines, if any, within 90 days of the date of receipt of the diplomatic note and notify all the other Parties upon the completion of such internal procedures through a diplomatic note. When a Party is not able to complete its internal procedures within the 90 day period provided herein, that Party shall notify all the other Parties, through a diplomatic note, of such failure to complete its internal procedures. In this case, additional 60 days may be given to that Party to do so, and that Party shall notify all the other Parties through a diplomatic note immediately after the completion of the internal procedures required for the amendments to enter into force.
 - (c) In the case of amendments made in accordance with paragraph 3 of Article 6 *bis* of the Agreement, each Party making such amendment shall notify the other Parties, through a diplomatic note, immediately after completion of the internal procedures required for the amendments to enter into force. Such amendments shall enter into force on the date specified in that diplomatic note or on such other date the Parties involved may agree. Any concessions granted by the Parties according to the acceleration set out in the diplomatic note shall not be withdrawn.
6. Notwithstanding paragraphs 1 to 5, Appendices to Annex 3 and relevant Attachments of the Agreement may be modified through amendments endorsed by the Implementing Committee. Such amendments shall enter into force on such dates decided by the

¹ In the case of Indonesia, in addition to the diplomatic note referred in subparagraphs (a), (b) and (c), a Letter of Understanding between Indonesia and that Party may be required and any amendment made to Appendices to Annexes 1, 2 and 3, and relevant attachments, shall enter into force upon the notification of the completion of its internal procedures.

Implementing Committee. The Implementing Committee shall report the amendments to the AEM+Korea."

ARTICLE 3

ENTRY INTO FORCE

1. This Protocol shall form an integral part of the Agreement. It shall enter into force 90 days after the date by which Korea and at least one ASEAN Member Country have notified all the other Parties in writing of the completion of their internal procedures necessary for the entry into force of this Protocol.
2. Each Party, upon the completion of its internal procedures for the entry into force of this Protocol, shall notify all the other Parties in writing.
3. Where a Party is not able to complete its internal procedures for the entry into force of this Protocol by the entry into force date set out in paragraph 1, this Protocol shall enter into force in relation to that Party on the date of notification of completion of such internal procedures.

ARTICLE 4

DEPOSITARY

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

IN WITNESS WHEREOF, the undersigned being duly authorised by their respective Governments, have signed this Second Protocol to Amend the Agreement on Trade in Goods under the Framework Agreement on Comprehensive Economic Cooperation among the Governments of the Member Countries of the Association of Southeast Asian Nations and the Republic of Korea.

DONE at Bali, Indonesia, this 17th of November 2011 in duplicate copies in the English language.

For the Government of Brunei Darussalam: **LIM JOCK SENG**, Second Minister of Foreign Affairs and Trade

For the Government of the Republic of Korea: **KIM SUNG-HWAN**, Minister of Foreign Affairs and Trade

For the Royal Government of Cambodia: **CHAM PRASIDH**, Senior Minister and Minister of Commerce

For the Government of the Republic of Indonesia: **GITA WIRJAWAN**, 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 Republic of the Union of Myanmar: **U TIN NAING THEIN**, Union Minister,
Ministry of National Planning and Economic Development

For the Government of the Republic of the Philippines: **GREGORY L. DOMINGO**, 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: **KITTIRATT NA-RANONG**, Deputy Prime Minister and
Minister of Commerce

For the Government of the Socialist Republic of Viet Nam: **VU HUY HOANG**, Minister of Industry and
Trade