

**2006 PROTOCOL TO AMEND THE AGREEMENT ON TRADE IN
GOODS OF THE FRAMEWORK AGREEMENT ON COMPREHENSIVE
ECONOMIC COOPERATION BETWEEN THE ASSOCIATION OF
SOUTHEAST ASIAN NATIONS AND THE PEOPLE'S REPUBLIC OF
CHINA**

Signed in Cebu, Philippines on 8 December 2006

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2006 PROTOCOL TO AMEND THE AGREEMENT ON TRADE IN GOODS OF THE FRAMEWORK AGREEMENT ON COMPREHENSIVE ECONOMIC COOPERATION BETWEEN THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS AND THE PEOPLE'S REPUBLIC OF CHINA

Signed in Cebu, Philippines on 8 December 2006

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic ("Lao PDR"), Malaysia, 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 (collectively, "ASEAN" or "ASEAN Member States", or individually, "ASEAN Member State"), and the People's Republic of China ("China"), (hereinafter referred to as the "Parties");

RECALLING the Agreement on Trade in Goods of the Framework Agreement on Comprehensive Economic Cooperation between the Association of Southeast Asian Nations and the People's Republic of China, signed by the Economic Ministers of the ASEAN Member States and China, in Vientiane, Lao PDR on the 29th day of November 2004, (hereinafter referred to as the "TIG Agreement");

NOTING that China and Viet Nam have, on the 18th day of July 2005, signed a Memorandum of Understanding on the Outstanding Issues under the TIG Agreement (hereinafter referred to as the "MOU between China and Viet Nam");

SEEKING to incorporate the obligations detailed in the MOU between China and Viet Nam into the TIG Agreement;

SEEKING also to incorporate into the TIG Agreement amendments to the Sensitive List and Highly Sensitive List made by some Parties after November 2004, which had been mutually agreed and accepted administratively by the Parties;

SEEKING also to amend the provision relating to the treatment of tariff rate quota (hereinafter referred to as "TRQ");

NOTING that the First Package of Product Specific Rules (hereinafter referred to as "PSR") had been mutually agreed and implemented administratively by the Parties since July 2005;

SEEKING to incorporate the First Package of PSR into the TIG Agreement;

SEEKING also to provide for future packages of PSRs to be attached administratively to the TIG Agreement;

HAVE AGREED AS FOLLOWS:

ARTICLE 1 AMENDMENT TO FOOTNOTE 2 OF ARTICLE 8(1) OF THE TIG AGREEMENT

Footnote 2 of Article 8(1) of the TIG Agreement shall be amended by deleting the following phrase:

"[Viet Nam: 4 years]"

ARTICLE 2 AMENDMENTS TO ANNEX 1 OF THE TIG AGREEMENT

1. Paragraph 1 (ii) of Annex 1 of the TIG Agreement shall be amended by inserting the following footnote after the word "Viet Nam":

"Notwithstanding this schedule for tariff reduction and elimination, Viet Nam shall also reduce and eliminate the tariffs for the products listed in Appendix 1 of this Annex in accordance with the schedule indicated therein."

2. The existing Appendix 1 of Annex 1 of the TIG Agreement shall be renamed as Appendix 2 and the new Appendix 1 is set out in Attachment 1.
3. Paragraph 6(b)(iii) of Annex 1 of the TIG Agreement shall be substituted by the following new paragraph 6(b) (iii):

"(iii) Viet Nam shall have tariffs on 45% of its Normal Track tariff lines eliminated not later than 1 January 2013."

4. Paragraph 7 of Annex 1 of the TIG Agreement shall be substituted by the following new paragraph:

"7. The tariff lines listed by the Parties in Appendix 2 shall have their respective ACFTA tariffs eliminated not later than 1 January 2012 for ASEAN 6 and China, and 1 January 2018 for CLMV."

5. Paragraph (k) of Appendix 2 of Annex 1 of the TIG Agreement shall be amended by deleting the phrase "To be determined not later than 31 December 2004". The table, which appears in Attachment 2 of this Protocol, shall be inserted after the words, "Viet Nam:"

ARTICLE 3 AMENDMENTS TO ANNEX 2 OF THE TIG AGREEMENT

1. Annex 2 of the TIG Agreement shall be amended as follows:

- (a) Paragraph 1 (ii) of Annex 2 of the TIG Agreement shall be substituted by the following new paragraph: "(ii) Cambodia, Lao PDR, Myanmar and Viet Nam:

500 tariff lines at the HS 6 digits level."

- (b) Paragraph 1 (iii) of Annex 2 of the TIG Agreement shall be deleted.

- (c) Paragraph 2(iii) of Annex 2 of the TIG Agreement shall be substituted by the following new paragraph:

"(Hi) Viet Nam:

shall be not more than 40% of the total number of tariff lines in its Sensitive track or 140 tariff lines at the HS 6-digit level, whichever is lower."

(d) Paragraph 3(ii) of Annex 2 of the TIG Agreement shall be substituted by the following new paragraph:

"(ii) Cambodia, Lao PDR, Myanmar and Viet Nam shall reduce the applied MFN tariff rates of tariffs lines placed in their respective Sensitive Lists to 20% not later than 1 January 2015. These tariff rates shall be subsequently reduced to 0-5% not later than 1 January 2020."

(e) Paragraph 6 of Annex 2 of the TIG Agreement shall be substituted by the following:

"6. The reciprocal tariff rate treatment of tariff lines placed by an exporting Party in the Sensitive Track, while the same tariff lines are placed by the importing Party in the Normal Track or in the Early Harvest Programme, shall be governed by the following conditions:

- (i) the tariff rate for a tariff line placed by an exporting Party in the Sensitive Track must be at 10% or below and the exporting Party has given notification to that effect to the other Parties in order for that Party to enjoy reciprocity;
- (ii) the reciprocal tariff rate to be applied to a tariff line placed by an exporting Party in the Sensitive Track shall either be the tariff rate of that exporting Party's tariff line, the Normal Track or Early Harvest Programme tariff rate of the same tariff line of an importing Party from whom reciprocity is sought, whichever is higher;
- (iii) notwithstanding sub-paragraph (ii), the importing Party can, on its discretion, apply its Normal Track or Early Harvest Programme tariff rate even if such rate is lower than the tariff rate of the exporting Party; and
- (iv) the reciprocal tariff rate to be applied to a tariff line placed by an exporting Party in the Sensitive Track shall in no case exceed the applied MFN rate of the same tariff line of an importing Party from whom reciprocity is sought.

The Interpretative Notes to this paragraph is set out in Appendix 1 of this Annex."

(f) Paragraph 7 of Annex 2 of the TIG Agreement shall be substituted by the following:

"7. The treatment of tariff lines of the Parties subject to in-quota and out-quota rates including the modalities for tariff reduction/elimination shall be discussed, mutually agreed by the Parties and be incorporated into the TIG Agreement. The discussions shall include, but not be limited to, the in-quota and out-quota rates."

2. The existing Appendix 1 of Annex 2 of the TIG Agreement shall be replaced by the new Appendix 1 as set out in Attachment 3 of this Protocol.

3. The existing Appendix 1 of Annex 2 of the TIG Agreement shall be amended as follows:
- a. Paragraph (k) of Appendix 1 of Annex 2 of the TIG Agreement shall be amended by inserting the following footnote after the word "Viet Nam":

"Notwithstanding the schedule for tariff reduction as indicated in Paragraph 3(ii), Viet Nam shall also reduce the tariffs for the products listed in Appendix 4 of this Annex in accordance with the modality therein."
 - b. Paragraph (k) of Appendix 1 of Annex 2 of the TIG Agreement shall be amended by deleting the phrase "To be determined not later than 31 December 2004". The table, which appears in Attachment 4 of this Protocol, shall be inserted after the words, "Viet Nam:"
 - c. The existing Appendix 1 of Annex 2 of the TIG Agreement, as amended shall be renamed as Appendix 2.
4. The existing Appendix 2 of Annex 2 of the TIG Agreement shall be amended as follows:
- a. Paragraph (k) of Appendix 2 of Annex 2 of the TIG Agreement shall be amended by inserting the following footnote after the word "Viet Nam":

"Notwithstanding the schedule for tariff reduction as indicated in Paragraph 3(iii), Viet Nam shall also reduce the tariffs for the products listed in Appendix 4 of this Annex in accordance with the modality therein."
 - b. Paragraph (k) of Appendix 2 of Annex 2 of the TIG Agreement shall be amended by deleting the phrase "To be determined not later than 31 December 2004". The table, which appears in Attachment 5 of this Protocol, shall be inserted in the line after the words, "Viet Nam".
 - c. The existing Appendix 2 of Annex 2 of the TIG Agreement, as amended shall be renamed as Appendix 3.
5. Appendix 4 of Annex 2 of the TIG Agreement, which appears as Attachment 6 shall be inserted into the TIG Agreement.

ARTICLE 4 OTHER AMENDMENTS

The amendments to the Sensitive List and Highly Sensitive List made by some Parties after November 2004, which has been mutually agreed and accepted administratively by the Parties, are set out in Attachment 7 of this Protocol.

ARTICLE 5 NEW APPENDICES

Taking into account the amendments set out in Articles 3(3) and 3(4), as well as Article 4 above, Appendix 1 and Appendix 2 of Annex 2 shall be substituted by new appendices, renamed as Appendix 2 and Appendix 3, as set out in Attachments 8 and 9 of this Protocol. For the Parties which have not carried out any administrative amendments, their list of products shall remain unchanged.

ARTICLE 6

SUBSTITUTION OF ATTACHMENT B OF ANNEX 3 OF THE TIG AGREEMENT

The existing Attachment B of Annex 3 of the TIG Agreement shall be substituted by the new Attachment B as set out in Attachment 10 of this Protocol.

ARTICLE 7

FUTURE PACKAGES OF PSR

Future packages of PSRs that are mutually agreed and accepted by all Parties shall be attached administratively to the TIG Agreement and implemented by the Parties as an integral part of the TIG Agreement.

ARTICLE 8

FINAL PROVISIONS

1. This Protocol and the Annexes and Appendices mentioned herein shall form an integral part of the TIG Agreement and shall enter into force upon the date of signature.
2. 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.

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

DONE in Cebu, the Philippines, this Eighth Day of December in the Year Two Thousand and Six, in two original copies in the English language.

For Brunei Darussalam:

MOHAMED BOLKIAH

Minister of Foreign Affairs and Trade

For the People's Republic of China:

BO XILAI

Minister of Commerce

For the Kingdom of Cambodia:

CHAM PRASIDH

Senior Minister and Minister of Commerce

For the Republic of Indonesia:

MARI ELKA PANGESTU

Minister of Trade

For the Lao People's Democratic Republic:

NAM VIYAKETH

Minister of Industry and Commerce

For Malaysia:

RAFIDAH AZIZ

Minister of International Trade and Industry

For the Union of Myanmar:

U SOE THA

Minister for National Planning and Economic
Development

For the Republic of the Philippines:

PETER B. FAVILA

Secretary of Trade and Industry

For the Republic of Singapore:

LIM HNG KIANG

Minister for Trade and Industry

For the Kingdom of Thailand:

KRIRK-KRAIJIRAPAET

Minister of Commerce

For the Socialist Republic of Viet Nam:

TRUONG DINH TUYEN

Minister of Trade