

October 08, 2003

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

WE, the Heads of State/Government 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 Republic of India (India);

RECALLING that in 2002, we had agreed on the importance of enhancing our close economic cooperation and to work towards an ASEAN-India Regional Trade and Investment Area (RTIA) as a long-term objective;

DESIRING to adopt a Framework Agreement on Comprehensive Economic Cooperation (this Agreement) between ASEAN and India (collectively, "the Parties", or individually referring to an ASEAN Member State or to India as a "Party") that is forward-looking in order to forge a closer economic partnership in the 21st century;

DESIRING to minimise barriers and deepen economic linkages between the Parties; lower costs; increase intra-regional trade and investment increase economic efficiency; create a larger market with greater opportunities and larger economies of scale for the businesses of the Parties; and enhance the attractiveness of the Parties to capital and talent;

RECOGNISING the important role and contribution of the business sector in enhancing trade and investment between the Parties and the need to further promote and facilitate their cooperation and utilisation of greater business opportunities provided by the ASEAN-India RTIA;

RECOGNISING the different stages of economic development among ASEAN Member States and the need for flexibility, including the need to facilitate the increasing participation of Cambodia, Lao PDR, Myanmar and Viet Nam (the New ASEAN Member States) in the ASEAN-India economic co-operation and the expansion of their exports, inter alia, through the strengthening of their domestic capacity, efficiency and competitiveness;

REAFFIRMING the rights, obligations and undertakings of the respective parties under the World Trade Organisation (WTO), and other multilateral, regional and bilateral agreements and arrangements; and

RECOGNISING that regional trade arrangements can contribute towards accelerating regional and global liberalisation and as building blocks in the framework of the multilateral trading system.

HAVE AGREED AS FOLLOWS:

ARTICLE 1
OBJECTIVES

The objectives of this Agreement are to:

- (a) Strengthen and enhance economic, trade and investment co-operation between the Parties;
- (b) Progressively liberalise and promote trade in goods and services as well as create a transparent, liberal and facilitative investment regime;
- (c) Explore new areas and develop appropriate measures for closer economic co-operation between the Parties; and
- (d) Facilitate the more effective economic integration of the new ASEAN Member States and bridge the development gap among the Parties.

ARTICLE 2
MEASURES FOR ECONOMIC COOPERATION

The Parties agree to enter into negotiations in order to establish an ASEAN-India Regional Trade and Investment Area (RTIA), which includes a Free Trade Area (FTA) in goods, services and investment, and to strengthen and enhance economic cooperation through the following:

- (a) Progressive elimination of tariffs and non-tariff barriers in substantially all trade in goods;
- (b) Progressive liberalisation of trade in services with substantial sectoral coverage;
- (c) Establishment of a liberal and competitive investment regime that facilitates and promotes investment within the ASEAN- India RTIA;
- (d) Provision of special and differential treatment to the New ASEAN Member States;
- (e) Provision of flexibility to the Parties in the ASEAN-India RTIA negotiations to address their sensitive areas in the goods, services and investment sectors with such flexibilities to be negotiated and mutually agreed based on the principle of reciprocity and mutual benefits;
- (f) Establishment of effective trade and investment facilitation measures, including, but not limited to, simplification of customs procedures and development of mutual recognition arrangements;
- (g) Expansion of economic cooperation in areas as may be mutually agreed between the Parties that will complement the deepening of trade and investment links between the Parties and formulation of action plans and programmes in order to implement the agreed sectors/areas of co-operation; and
- (h) Establishment of appropriate mechanisms for the purposes of effective implementation of this Agreement

ARTICLE 3
TRADE IN GOODS

(1) With a view to expediting the expansion of trade in goods, the Parties agree to enter into negotiations in which duties and other restrictive regulations of commerce (except, where necessary, those permitted under Article XXIV (8)(b) of the WTO General Agreement on Tariffs and Trade (GATT)) shall be eliminated on substantially all trade in goods between the Parties.

(2) For the purposes of this Article, the following definitions shall apply unless the context otherwise requires:

(a) "applied Most Favoured Nation (MFN) tariff rates" shall refer to the respective applied rates of the Parties as of 1 July 2004; and

(b) "non-tariff measures" shall include non-tariff barriers.

(3) Upon signing of this Agreement, the Parties shall commence consultations on each other's trade regime, including, but not limited to the following:

(a) trade and tariff data;

(b) customs procedures, rules and regulations;

(c) non tariff measures including, but not limited to import licensing requirement and procedure, quantitative restrictions, technical barriers to trade, sanitary and phytosanitary;

(d) intellectual property rights rules and regulations; and

(e) trade policy.

(4) The tariff reduction or elimination programme of the Parties shall require tariffs on listed products to be gradually reduced and, where applicable, eliminated in accordance with this Article.

(5) The products which are subject to the tariff reduction or elimination programme under this Article shall include all products not covered by the Early Harvest Programme (EHP) under Article 7 of this Agreement, and such products shall be categorised into two tracks as follows:

(a) Normal Track: Products listed in the Normal Track by a Party on its own accord shall have their respective applied MFN tariff rates gradually reduced or eliminated in accordance with specified schedules and rates (to be mutually agreed by the Parties) over a period from:

(i) 1 January 2006 to 31 December 2011 for Brunei Darussalam, Indonesia, Thailand, Malaysia, Singapore and India;

(ii) 1 January 2006 to 31 December 2016 for the Philippines and India; and

(iii) 1 January 2006 to 31 December 2011 for India and 1 January 2006 to 31 December 2016 for the New ASEAN Member States.

In respect of those tariffs which have been reduced but have not been eliminated, they shall be progressively eliminated within timeframes to be mutually agreed between the Parties.

(b) Sensitive Track:

(i) The number of products listed in the Sensitive Track shall be subject to a maximum ceiling to be mutually agreed among the Parties.

(ii) Products listed in the Sensitive Track by a Party on its own accord shall, where applicable, have their respective applied MFN tariff rates progressively reduced/eliminated within timeframes to be mutually agreed between the Parties.

(6) The commitments undertaken by the Parties under this Article and Article 7 of this Agreement shall fulfil the WTO requirements to eliminate tariffs on substantially all the trade between the Parties.

(7) The specified tariff rates/tariff preferences to be mutually agreed between the Parties pursuant to this Article shall set out only the limits of the applicable tariff rates/preferences or range for the specified year of implementation by the Parties.

(8) The negotiations between the Parties to establish the ASEAN-India RTIA covering trade in goods shall also include, but not be limited to the following:

(a) modalities, including detailed rules governing the tariff reduction and/or elimination;

(b) Rules of Origin;

(c) treatment of out-of-quota rates;

(d) modification of a Party's commitments under the agreement on trade in goods based on WTO agreements;

(e) non-tariff measures/barriers, including, but not limited to, quantitative restrictions or prohibition on the importation of any product or on the export or sale for export of any product, as well as sanitary and phytosanitary measures and technical barriers to trade;

(f) safeguards based on the WTO agreements;

(g) disciplines on subsidies and countervailing measures and anti-dumping measures based on the existing WTO agreements; and

(h) facilitation and promotion of effective and adequate protection of trade-related aspects of intellectual property ' rights based on existing WTO, World Intellectual Property Organisation (WIPO) and other relevant agreements.

ARTICLE 4 TRADE IN SERVICES

With a view to expediting the expansion of trade in services, the Parties agree to enter into negotiations to progressively liberalise trade in services on a preferential

basis with substantial sectoral coverage. Such negotiations shall be directed to:

(a) progressive elimination of substantially all discrimination between or among the Parties and/or prohibition of new or more discriminatory measures with respect to trade in services between the Parties, except for measures permitted under Article V(I)(b) of the WTO General Agreement on Trade in Services (GATS);

(b) expansion in the depth and scope of liberalisation of trade in services beyond those undertaken by ASEAN Member States and India under the GATS; and

(c) enhanced cooperation in services between the Parties in order to improve efficiency and competitiveness, as well as to diversify the supply and distribution of services of the respective service suppliers of the Parties.

ARTICLE 5 INVESTMENT

To promote investments and to create a liberal, facilitative, transparent and competitive investment regime, the Parties agree to:

(a) enter into negotiations in order to progressively liberalise their investment regimes;

(b) strengthen cooperation in investment, facilitate investment and improve transparency of investment rules and regulations; and

(c) provide for the protection of investments.

ARTICLE 6 AREAS OF ECONOMIC COOPERATION

(1) Where appropriate, the Parties agree to strengthen their cooperation in the following areas, including, but not limited to:

(a) Trade Facilitation:

(i) Mutual Recognition Arrangements, conformity assessment, accreditation procedures, and standards and technical regulations;

(ii) non-tariff measures;

(iii) customs cooperation;

(iv) trade financing; and

(v) business visa and travel facilitation.

(b) Sectors of Cooperation:

(i) agriculture, fisheries and forestry:

(ii) services: media and entertainment, health, financial, tourism, construction, business process outsourcing,