

PROTOCOL TO AMEND THE FRAMEWORK AGREEMENT ON THE ASEAN INVESTMENT AREA

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand, the Socialist Republic of Vietnam, Member States of the Association of South-East Asian Nations ("ASEAN");

RECALLING the Framework Agreement on the ASEAN Investment Area ("AIA Agreement") signed on 7 October 1998 at Makati, Philippines, which aims to establish a competitive and- dynamic ASEAN Investment Area through a more liberal and transparent investment environment that would contribute towards the free flow of investments;

NOTING WITH SATISFACTION that the ASEAN Investment Area now extends across all ten Southeast Asian countries with the accession of the Kingdom of Cambodia to the AIA Agreement on 30 April 1999;

DESIRING to expedite the implementation of the AIA Agreement pursuant to the agreement of the ASEAN Leaders in paragraph 8 of the Statement on Bold Measures adopted at the Sixth ASEAN Summit on 16 December 1998 in Ha Noi, Vietnam, and to widen and elaborate its coverage as agreed by the First AIA Council Meeting on 5 March 1999 in Phuket, Thailand;

NOTING that Article 18 of the AIA Agreement provides for amendments to it;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Article 2 of the AIA Agreement shall be substituted with the following:

1. This Agreement shall cover all direct investments other than:
 - (a) portfolio investments; and
 - (b) matters relating to investment covered by other ASEAN Agreements.
2. Without prejudice to the provisions of paragraph I, this Agreement shall also include direct investments in the following sectors and services incidental to such sectors:
 - (a) manufacturing;
 - (b) agriculture;
 - (c) fishery;
 - (d) forestry;
 - (e) mining and quarrying.
3. This Agreement shall further cover direct investments in such other sectors and services incidental to such sectors as may be agreed upon by all Member States.

ARTICLE 2

Article 7 of the AIA Agreement shall be amended as follows:

a) by including the sentence below as a. new paragraph 4:

"Notwithstanding the provisions of paragraph 3, the Temporary Exclusion List for the manufacturing sector shall be progressively phased out by all Member States by 2003 except the Kingdom of Cambodia, the Lao People's Democratic Republic and the Socialist Republic of Vietnam which shall do so not later than 2010."

b) by renumbering the existing paragraph 4 as paragraph 5.

ARTICLE 3

Article 8 of the AIA Agreement shall be amended as follows:

a) by including the sentence below as a new paragraph 4:

"Member States shall notify the AIA Council of the future investment related agreements or arrangements which grant preferential treatment which they enter into, as and when any such agreements are concluded and come into force."

b) by renumbering the existing paragraph 4 as paragraph 5.

ARTICLE 4

Paragraph 2 of Article 9 of the AIA Agreement shall be substituted with the following: ("Having regard to the late entry into ASEAN of the Socialist Republic of Vietnam, the Lao People's Democratic Republic, the Union of Myanmar and the Kingdom of Cambodia, the provisions of paragraph 1 of this Article shall only apply to:

- (a) the Socialist Republic of Vietnam after a period of 3 years;
- (b) the Kingdom of Cambodia, the Lao People's Democratic Republic and the Union of Myanmar after a period of 5 years;

from the date this Agreement comes into force."

ARTICLE 5

1. This Protocol shall enter into force upon the deposit of instruments of ratification or acceptance by all signatory Governments with the Secretary-General of ASEAN which shall be done within six months after the date of signing of this Protocol.

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