

December 15, 1995

**PROTOCOL TO AMEND THE AGREEMENT ON ASEAN
PREFERENTIAL TRADING ARRANGEMENTS**

A. ASEAN ECONOMIC MINISTERS MEETING (AEM)

PROTOCOL

TO AMEND THE AGREEMENT ON ASEAN PREFERENTIAL TRADING
ARRANGEMENTS, BANGKOK, THAILAND, 15 DECEMBER 1995

The Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand, Member States of the Association of South East Asian Nations (ASEAN);

NOTING the Agreement on ASEAN Preferential Trading Arrangements (PTA) signed in Manila on 24 February 1977;

RECALLING the decision of the Sixth ASEAN Free Trade Area (AFTA) Council in Phuket, Thailand on 27 April 1995 to phase in all PTA products into the CEPT Scheme;

DESIRING to amend the Rules of Origin and its Operational Certification Procedures in the Agreement on ASEAN Preferential Trading Arrangements in accordance with Article 17 (3) of the Agreement which provides for the amendment to the Agreement, so as to implement this decision;

HAVE AGREED AS FOLLOWS:

Annex 1 of the Agreement on "Rules of Origin for the ASEAN Preferential Trading Arrangements", previously amended by the Protocol on Improvements on Extension of Tariff Preferences under the ASEAN Preferential Trading Arrangements signed in Manila on 15 December 1987, and the "Operational Certification Procedures for the Rules of Origin of the ASEAN Preferential Trading Arrangements" shall be substituted with the "Rules of Origin for the Common Effective Preferential Tariff (CEPT)" Scheme for the ASEAN Free Trade Area and the "Operational Certification Procedures for the Rules of Origin of the ASEAN Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area" set out in ANNEX 1 and ANNEX 2 respectively which shall form an integral part of this Protocol.

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 not later than 1 January 1996.

This Protocol shall be deposited with the Secretary-General of ASEAN, who shall promptly furnish certified copies thereof to all Member Countries.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed the Protocol to Amend the Agreement on ASEAN Preferential Trading Arrangements.

DONE at Bangkok, this 15th day of December 1995 in a single copy in the English Language.

For the Government of Brunei Darussalam;

(Sgd.) ABDUL RAHMAN TAIB

Minister of Industry and Primary Resources

For the Government of the Republic of Indonesia:

(Sgd.) T. ARIWIBOWO

Minister of Industry and Trade

For the Government of Malaysia:

(Sgd.) RAFIDAH AZIZ

Minister of International Trade and Industry

For the Government of the Republic of the Philippines :

(Sgd.) RIZALINO S. NAVARRO

Secretary of Trade and Industry

For the Government of the Republic of Singapore:

(Sgd.) YEO CHEOW TONG

Minister for Trade and Industry

For the Government of the Kingdom of Thailand:

(Sgd.) AMNUAY VIRAVAN

Deputy Prime Minister

ANNEX 1

RULES OF ORIGIN FOR THE CEPT

In determining the origin of products eligible for the CEPT Scheme under the Agreement on the CEPT, the following Rules shall be applied:

RULE 1: ORIGINATING PRODUCTS

Products under the CEPT imported into the territory of a Member State from another Member State which are consigned directly within the meaning of Rule 5 hereof, shall be eligible for preferential concessions if they conform to the origin requirements under any one of the following conditions:

(a) Products wholly produced or obtained in the exporting Member State as defined in Rule 2; or

(b) Products not wholly produced or obtained in the exporting Member State, provided that the said products are eligible under Rule 3 or Rule 4.

RULE 2: WHOLLY PRODUCED OR OBTAINED

Within the meaning of Rule 1 (a), the following shall be considered as wholly produced or obtained in the exporting Member State:

- (a) Mineral products extracted from its soil, its water or its seabeds;
- (b) Agricultural products harvested there;
- (c) Animals born and raised there;
- (d) Products obtained from animals referred to in paragraph (c);
- (e) Products obtained by hunting or fishing conducted there;
- (f) Products of sea fishing and other marine products taken from the sea by its vessels;
- (g) Products processed and/or made on board its factory ships exclusively from products referred to in paragraph (f) above;
- (h) Used articles collected here, fit only for the recovery of raw materials;
- (i) Waste and scrap resulting from manufacturing operations conducted there; and
- (j) Goods produced there exclusively from the products referred to in paragraph (a) to (i) above.

RULE 3: NOT WHOLLY PRODUCED OR OBTAINED

(a) (i) A product shall be deemed to be originating from ASEAN Member States, if at least 40% of its content originates from any Member States.

(ii) Subject to Sub-paragraph (i) above, for the purpose of implementing the provisions of Rule 1 (b), products worked on and processed as a result of which the total value of the materials, parts or produce originating from non-ASEAN countries or of undetermined origin used does not exceed 60% of the FOB value of the product . produced or obtained and the final process of the manufacturer is performed within the territory of the exporting Member State.

(b) The value of the non-originating materials, parts or produce shall be:

- (i) The CIF value at the time of importation of the products or importation can be proven; or
- (ii) The earliest ascertained price paid for the products of undetermined origin in the territory of the Member State where the working or processing takes place.

The formula for 40% ASEAN Content is as follows:

| | |
|----------------------|------------------|
| Value of Imported | + Value of |
| Non-ASEAN Materials, | Undetermined |
| | Origin |
| Parts of Produce | Materials, Parts |
| | or Produce |
| <hr/> | |
| 100% < 60% | X |
| FOB Price | |

RULE 4: CUMUATIVE RULE OF ORIGIN

Products which comply with origin requirements provided for in Rule 1 and which are used in a Member State as inputs for a finished product eligible for preferential treatment in another Member States shall be considered as products originating in the Member State where working or processing of the finished product has taken place provided that the aggregate ASEAN content of the final Product is not less than 40%.

RULE 5: DIRECT CONSIGNMENT

The following shall be considered as consigned directly from the exporting Member State to the importing Member State:

- (a) If the products are transported passing through the territory of any other ASEAN country;
- (b) If the products are transported without passing through the territory of any other non ASEAN country;
- (c) The products whose transport involves transit through one or more intermediate non-ASEAN countries with or without transshipment or temporary storage in such countries, provided that:
 - (i) The transit entry is justified for geographical reason or by consideration related exclusively to transport requirements;
 - (ii) The products have not entered into trade or consumption there; and
 - (iii) The products have not undergone any operation there other than unloading and reloading or any operation required to keep them in good condition.

RULE 6: TREATMENT OF PACKING

- (a) Where for purposes of assessing customs duties a Member State treats products separately from their packing, it may also, in respect of its imports consigned from another Member State, determine separately the origin of such packing.

(b) Where paragraph (a) above is not applied, packing shall be considered as forming a whole with the products and no part of any packing required for their transport or storage shall be considered as having been imported from outside the ASEAN region when determining the origin of the products as a whole.

RULE 7: CERTIFICATE OF ORIGIN

A claim that products shall be accepted as eligible for preferential concession shall be supported by a Certificate of Origin issued by a government authority designated by the exporting Member State and notified to the other Member States in accordance with the Certification Procedures to be developed and approved by the Senior Economic Officials Meeting (SEOM).

RULE 8: REVIEW

These rules may be reviewed as and when necessary upon request of a Member State and may be open to such modifications as may be agreed upon by the Council of Ministers.

ANNEX 2

OPERATIONAL CERTIFICATION PROCEDURES FOR THE RULES OF ORIGIN OF THE ASEAN COMMON EFFECTIVE PREFERENTIAL TARIFF SCHEME FOR THE ASEAN FREE TRADE AREA

For the purpose of implementing the Rules of Origin for the CEPT Scheme, the following operational procedures on the issuance and verification of the Certificate of Origin {Form D) and the other related administrative matters, shall be observed:

AUTHORITIES

RULE 1

The Certificate of Origin shall be issued by the Government authorities of the exporting Member State.

RULE 2

(a) The Member State shall inform every other Member State of the names and addresses of the Government authorities issuing the Certificate of Origin and shall provide specimen signatures and specimen of officials seals used by the Government authorities.

(b) The above information and specimens shall be provided to every other Member State and a copy furnished to the ASEAN Secretariat. Any change in names, addresses, or official seals shall be promptly informed in the same manner.

RULE 3