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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

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[1] and the Socialist Republic of Vietnam, Member Countries of the Association of Southeast Asian Nations and the Republic of Korea,

RECALLING 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 signed in Kuala Lumpur, Malaysia on the thirteenth day of December 2005;

FURTHER RECALLING Articles 1.3 and 2.1 of the Framework Agreement, which reflect their commitment to establish the ASEAN-Korea Free Trade Area covering trade in goods;

REAFFIRMING their commitment to eliminate duties and other restrictive regulations of commerce on substantially all trade in goods among the ASEAN Member Countries and the Republic of Korea within the specified time frames, while allowing flexibility to them to address their sensitive areas as provided in the Framework Agreement; and

RECOGNISING the different stages of economic development among the ASEAN Member Countries and the need for flexibility to be given to the new ASEAN Member Countries, in particular the need to facilitate their increasing participation in the economic cooperation of the Parties and the expansion of their exports, including, *inter alia*, through strengthening of their domestic capacity, efficiency and competitiveness,

HAVE AGREED as follows:

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[1] For the purpose of this Agreement the Kingdom of Thailand is included in the reference of this term only after the relevant signature on her behalf has been appended.

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Article 1
Definitions

For the purposes of this Agreement, unless the context otherwise requires:

AEM + Korea means the Economic Ministers of the ASEAN Member Countries and the Minister for Trade of Korea;

applied MFN tariff rates:

(a) in the case of the ASEAN Member Countries which are WTO members as of 1 January 2005 and Korea, means their respective applied rates as of 1 January 2005; and

(b) in the case of ASEAN Member Countries which are non-WTO members as of 1 January 2005, refer to the rates as applied to Korea as of 1 January 2005;

ASEAN means the Association of Southeast Asian Nations which comprises 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[1] and the Socialist Republic of Vietnam;

ASEAN–Korea FTA means the ASEAN-Korea Free Trade Area established by the Framework Agreement and other relevant agreements stipulated in paragraph 1 of Article 1.4 of the Framework Agreement;

ASEAN Member Countries means 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[1] and the Socialist Republic of Vietnam collectively;

ASEAN Member Country means 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[1] or the Socialist Republic of Vietnam individually;

[1] For the purpose of this Agreement the Kingdom of Thailand is included in the reference of this term only after the relevant signature on her behalf has been appended.

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ASEAN 6 means Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand[1];

Framework Agreement means the Framework Agreement on Comprehensive Economic Cooperation among the Governments of the ASEAN Member Countries and the Republic of Korea;

GATT 1994 means the General Agreement on Tariffs and Trade 1994, including its Notes and Supplementary Provisions, which is a part of the WTO Agreement;

Implementing Committee means the Implementing Committee established under Article 5.3 of the Framework Agreement;

Korea means the Republic of Korea;

new ASEAN Member Countries means the Kingdom of Cambodia, the Lao Peoples' Democratic Republic, the Union of Myanmar and the Socialist Republic of Vietnam;

non-tariff measures shall include non-tariff barriers;

Parties means the ASEAN Member Countries and Korea collectively;

Party means an ASEAN Member Country or Korea;

WTO means the World Trade Organisation; and

WTO Agreement means the Marrakesh Agreement Establishing the World Trade Organisation, done on 15 April 1994 and the other agreements negotiated thereunder.

Article 2
National Treatment on Internal Taxation and Regulation

Each Party shall accord national treatment to the goods of all the other Parties in accordance with Article III of GATT 1994. To this end, the provisions of Article III of GATT 1994 shall, *mutatis mutandis*, be incorporated into and form an integral part of this Agreement.

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[1] For the purpose of this Agreement the Kingdom of Thailand is included in the reference of this term only after the relevant signature on her behalf has been appended

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Article 3
Tariff Reduction and Elimination

1. The tariff reduction or elimination programme of the Parties shall require the applied MFN tariff rates on goods under listed tariff lines to be gradually reduced and, where applicable, eliminated in accordance with this Article.

2. All tariff lines are subject to the tariff reduction or elimination programme under this Agreement and shall be categorised as follows:

(a) Normal Track: tariff lines placed in the Normal Track by each Party on its own accord shall have their respective applied MFN tariff rates gradually reduced and eliminated in accordance with the modalities set out in Annex 1 with the objective of achieving the targets prescribed in the thresholds therein; and

(b) Sensitive Track: tariff lines placed in the Sensitive Track by each Party on its own accord shall have their respective applied MFN tariff rates reduced or eliminated in accordance with the modalities set out in Annex 2.

3. Subject to Annexes 1 and 2, all commitments undertaken by each Party under this Article shall be applied to all the other Parties.

Article 4
Transparency

Article X of GATT 1994 shall, *mutatis mutandis*, be incorporated into and form an integral part of this Agreement.

Article 5
Rules of Origin

The Rules of Origin and the Operational Certification Procedures applicable to the goods covered under this Agreement are set out in Annex 3 and its Appendices.

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Article 6
Modification of Concessions

1. The Parties shall not nullify or impair any of the concessions under this Agreement, except in cases provided for in this Agreement.

2. Nothing in this Agreement shall preclude any Party from negotiating and entering into arrangements to accelerate the implementation of concessions made under this Agreement or to incorporate new goods into such concessions, provided that such arrangements are mutually agreed upon and applied to all the other Parties.

3. Any Party may, by negotiation and agreement with any other Party to which it has made a concession, modify or withdraw such concession made under this Agreement. In such negotiations and agreement, which may include provision for compensatory adjustment with respect to other goods, the Parties concerned shall maintain a general level of reciprocal and mutually advantageous concessions not less favourable to trade than that provided for in this Agreement prior to such agreement.

4. Any agreement by the Parties to modify or withdraw concessions made in the tariff reduction or elimination programme in accordance with paragraph 3, or to accelerate the elimination of tariffs in such programme or to incorporate goods into such programme in accordance with paragraph 2, shall supersede any tariff rate or track determined pursuant to the tariff reduction or elimination programme for that good as set out in Annexes 1 and 2, shall be treated as an amendment to the relevant Annexes and shall enter into force in accordance with the procedure under Article 17.

Article 7
WTO Disciplines

Subject to the provisions of this Agreement and any future agreements as may be agreed pursuant to the reviews of this Agreement by the Parties under Article 15, the Parties[2] hereby agree and reaffirm their commitments to abide by the provisions of the WTO disciplines as set out in Annexes 1A and 1C to the WTO Agreement, which include, among others, non-tariff measures, technical barriers to trade (hereinafter referred to as "TBT"), sanitary and phytosanitary (hereinafter referred to as "SPS") measures, subsidies and countervailing measures, anti-dumping measures and intellectual property rights.

[2] Non-WTO Members of ASEAN shall abide by the WTO provisions in accordance with their accession commitments to the WTO.

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Article 8
Quantitative Restrictions and Non-Tariff Barriers and Sanitary and Phytosanitary Measures

1. Each Party undertakes not to adopt or maintain any prohibition or quantitative restriction on the importation of any goods of the other Parties or on the exportation of any goods destined for the territory of the other Parties, except in accordance with its WTO rights and obligations or other provisions in this Agreement.

2. Each Party shall ensure the transparency of its non-tariff measures that they are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to trade among the Parties. The Parties shall identify non-tariff barriers other than quantitative restrictions for elimination as soon as possible after the entry into force of this Agreement. The timeframe for elimination of these non-tariff barriers shall be mutually agreed upon by all the Parties.

3. The Parties recognises the importance of transparency of TBT and SPS regulations as in the WTO Agreements on TBT and SPS, including notification procedures on preparation for regulations and standards on TBT and on any occurrences of SPS incident to reduce their negative effect on trade as well as to protect human, animal or plant life or health. Each Party shall designate its contact point for the purpose of responding queries related to this Article.

4. A working group on TBT and SPS (hereinafter referred to as the "WG on TBT and SPS") under the Implementing Committee shall be established to deal with issues relating to the implementation of this Article and to facilitate trade and protect human, animal or plant life or health through mutual cooperation and bilateral consultations. The WG on TBT and SPS shall comprise of government officials from agriculture, fisheries, livestock and industry agencies and other related agencies. The WG on TBT and SPS shall develop its scope of work and meet at least once a year or as mutually agreed upon by the Parties.

Article 9
Safeguard Measures

1. Each Party which is a WTO member retains its rights and obligations under Article XIX of GATT 1994 and the WTO Agreement on Safeguards. Actions taken pursuant to Article XIX of GATT 1994 and the WTO Agreement on Safeguards shall not be subject to the Agreement on Dispute Settlement Mechanism under the Framework Agreement.

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and Articles 9, 13, and 14 of the WTO Agreement on Safeguards. As such, all other provisions of the WTO Agreement on Safeguards shall, *mutatis mutandis*, be incorporated into and form an integral part of this Agreement.

7. An ASEAN-Korea FTA safeguard measure shall not be applied against a good originating in the territory of a Party, so long as its share of imports of the good concerned in the importing Party does not exceed 3% of the total imports from the Parties.

8. In seeking compensation under Article 8 of the WTO Agreement on Safeguards for an ASEAN-Korea FTA safeguard measure, the Parties concerned shall seek the good offices of the Implementing Committee to determine the substantially equivalent level of concessions to that existing under this Agreement between the Party taking the safeguard measure and the exporting Parties which would be affected by such a measure prior to any suspension of equivalent concessions. Any proceedings arising from such good offices shall be completed within ninety (90) days from the date on which the ASEAN-Korea FTA safeguard measure was applied.

9. On a Party's termination of an ASEAN-Korea FTA safeguard measure on a good, the tariff rate for that good shall be the rate that, according to that Party's tariff reduction and elimination programme as provided in Annexes 1 and 2, would have been in effect but for the measure.

10. Notwithstanding the provisions of this Article, no Party may impose an ASEAN-Korea FTA safeguard measure on a good to which actions are being applied pursuant to Article XIX of GATT 1994 and the WTO Agreement on Safeguards. When a Party intends to apply, pursuant to Article XIX of GATT 1994 and the WTO Agreement on Safeguards, an action on a good to which ASEAN-Korea FTA safeguard measure is being applied, it shall terminate the ASEAN-Korea FTA safeguard measure prior to the imposition of the action to be applied pursuant to Article XIX of GATT 1994 and the WTO Agreement on Safeguards.

11. All official communications and documentations exchanged among the Parties and to the Implementing Committee relating to any ASEAN-Korea FTA safeguard measures shall be in writing and shall be in the English language.

Article 10
Measures to Safeguard the Balance of Payments

Where a Party is in serious balance of payments and external financial difficulties or threat thereof, it may, in accordance with GATT 1994, which includes the Understanding on Balance-of-Payments Provisions of GATT

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2. With regard to ASEAN-Korea FTA safeguard measures, a Party shall have the right to initiate such a measure on a good within the transition period for that good. The transition period for a good shall begin from the date of entry into force of this Agreement and end seven (7) years from the date of completion of tariff reduction/elimination for that good.

3. Subject to the following paragraphs of this Article, a Party shall be free to take ASEAN-Korea FTA safeguard measures if as an effect of the obligations incurred by the Party under this Agreement, including tariff concessions, or, if as a result of unforeseen developments and of the effects of the obligations incurred by the Party, a good is being imported from the other Parties to which tariff concession was made for that good in such increased quantities, absolute or relative to domestic production, and under such conditions so as to substantially cause or threaten to cause serious injury to the domestic industry of the importing Party that produces like or directly competitive goods in its territory.

4. If an ASEAN-Korea FTA safeguard measure is taken, a Party taking such a measure may:

(a) suspend the further reduction of any rate of tariff provided for under this Agreement for the good; or

(b) increase the tariff rate on the good concerned to a level not to exceed the lesser of:

(i) the applied MFN tariff rate on the good in effect at the time the action is taken; and

(ii) the applied MFN tariff rate on the good in effect on the day immediately preceding the date of entry into force of this Agreement.

5. Any ASEAN-Korea FTA safeguard measure may be maintained for an initial period of up to three (3) years and may be extended for a period not exceeding one year if it is determined pursuant to the procedures referred to in paragraph 6 that the measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the domestic industry is adjusting. Notwithstanding the duration of an ASEAN-Korea FTA safeguard measure on the good, such a measure shall terminate at the end of the transition period for that good.

6. In applying ASEAN-Korea FTA safeguard measures, the Parties shall adopt the rules for the application of safeguard measures, including provisional measures, as provided under the WTO Agreement on Safeguards, with the exception of the quantitative restriction measures set out in Article 5,

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1994, adopt restrictive import measures. In adopting such measures, the Party shall immediately consult with the other Parties.

Article 11
General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination among the Parties where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by a Party of measures:

(a) necessary to protect public morals;

(b) necessary to protect human, animal or plant life or health;

(c) relating to the importations or exportations of gold or silver;

(d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII of GATT 1994, the protection of patents, trademarks and copyrights, and the prevention of deceptive practices;

(e) relating to the products of prison labour;

(f) imposed for the protection of national treasures of artistic, historic or archaeological value;

(g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;

(h) undertaken in pursuance of the obligations under any intergovernmental commodity agreement which conforms to criteria submitted to the WTO and not disapproved by it or which is itself so submitted and not so disapproved;

(i) involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilisation plan, provided that such restrictions shall not operate to increase the exports of or the

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protection afforded to such domestic industry, and shall not depart from the provisions of this Agreement relating to non-discrimination; and

(j) essential to the acquisition or distribution of products in general or local short supply, provided that any such measures shall be consistent with the principle that all Parties are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of this Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist.

Article 12
Security Exceptions

Nothing in this Agreement shall be construed:

(a) to require any Party to furnish any information the disclosure of which it considers contrary to its essential security interests;

(b) to prevent any Party from taking any action which it considers necessary for the protection of its essential security interests, including but not limited to:

(i) action relating to fissionable materials or the materials from which they are derived;

(ii) action relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(iii) action taken so as to protect critical communications infrastructure from deliberate attempts intended to disable or degrade such infrastructure;

(iv) action taken in time of war or other emergency in domestic or international relations; or

(c) to prevent any Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

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Article 13
Regional and Local Government

In fulfilling its obligations and commitments under this Agreement, each Party shall ensure their observance by regional and local governments and authorities in its territory as well as their observance by non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities within its territory.

Article 14
Institutional Arrangements

The institutions as provided for in Article 5.3 of the Framework Agreement shall oversee, supervise, coordinate and review, as appropriate, the implementation of this Agreement.

Article 15
Review

1. The AEM+Korea or their designated representatives shall meet within one year of the date of entry into force of this Agreement and then biennially or otherwise as appropriate to review this Agreement for the purpose of considering further measures to liberalise trade in goods as well as develop disciplines and negotiate agreements on matters referred to in Article 7 or any other relevant matters as may be agreed.

2. The Parties shall, taking into account their respective experiences in the implementation of this Agreement, review the Sensitive Track in 2012 and every three years thereafter with a view to improving the market access condition of sensitive goods, including the further possible reduction of the number of goods in the Sensitive Track and the conditions governing the reciprocal tariff rate treatment of goods placed by a Party in the Sensitive Track.

Article 16
Annexes and Future Legal Instruments

1. The Annexes and Appendices shall form an integral part of this Agreement.

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2. The Parties may adopt legal instruments in the future pursuant to the provisions of this Agreement. Upon their respective entry into force, such instruments shall form part of this Agreement.

Article 17
Amendments

The provisions of this Agreement may be modified through amendments mutually agreed upon in writing by the Parties.

Article 18
Relations to Other Agreements

Except as otherwise provided in this Agreement, this Agreement or any action taken under it shall not affect or nullify the rights and obligations of a Party under the existing agreements to which it is a party.

Article 19
Dispute Settlement

Unless otherwise provided in this Agreement, any dispute concerning the interpretation, implementation or application of this Agreement shall be resolved through the procedures and mechanism as set out in the Agreement on Dispute Settlement Mechanism under the Framework Agreement.

Article 20
Depositary

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

Article 21
Entry into Force

1. This Agreement shall enter into force on 1 July 2006, provided that at least one ASEAN Member Country and Korea are among the Signatory Countries that have by then notified all the other Parties in writing of the completion of their internal procedures. In the event this Agreement does not enter into force on 1 July 2006, it shall enter into force on the first day of the second month following the latter date on which at least one ASEAN Member

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Country and Korea have notified all the other Parties in writing of the completion of their internal procedures.

2. A Party shall, upon the completion of its internal procedures for the entry into force of this Agreement, notify all the other Parties in writing.

3. Where a Party is unable to complete its internal procedures for the entry into force of this Agreement by the date as set out in paragraph 1, this Agreement shall come into force for that Party upon the date of notification of the completion of its internal procedures. The Party concerned, however, shall be bound by the same terms and conditions of this Agreement, including any further commitments that may have been undertaken by the other Parties under this Agreement by the time of such notification, as if it had notified all the other Parties in writing of the completion of its internal procedures before the date of entry into force of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto, have signed this 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[3] and the Republic of Korea.

DONE at Kuala Lumpur, Malaysia, on this twenty fourth day of August 2006 in duplicate copies in the English language.

[3] The Parties agree that the Kingdom of Thailand may sign this Agreement at a later date provided that she complies with all conditions required of a Party and submit all necessary documents required of a Party to Korea and ASEAN Secretariat.

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For the Government of Brunei Darussalam

LIM JOCK SENG
Second 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

MARI ELKA PANGESTU
Minister of Trade

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For the Government of the Lao People's Democratic Republic

NAM VIYAKETH
Minister of Industry and Commerce

For the Government of Malaysia

RAFIDAH AZIZ
Minister of International Trade and Industry

For the Government of the Union of Myanmar

U SOE THA
Minister for National Planning and Economic Development

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For the Government of the Republic of the Philippines

PETER B. FAVILA
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 Socialist Republic of Vietnam

TRUONG DINH TUYEN
Minister of Trade

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SECRETARY GENERAL, THE

For the Government of the Republic of Korea

KIM HYUN-CHONG

Minster for Trade

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Annex 1:	Modalities for Tariff Reduction and Elimination for Tariff Lines Placed in the Normal Track.
Annex 2:	Modalities for Tariff Reduction and Elimination for Tariff Lines Placed in the Sensitive Track.
Annex 3:	Rules of Origin

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BỘ NGOẠI GIAO	CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM
	Độc lập – Tự do – Hạnh phúc
Số: 02/2007/TB/LPQT	

Hà Nội, ngày 25 tháng 4 năm 2007

THÔNG BÁO

Ngày điều ước quốc tế nhiều bên có hiệu lực đối với Việt Nam

Hiệp định khung về hợp tác kinh tế toàn diện giữa các Chính phủ các nước thành viên Hiệp hội các quốc gia Đông Nam Á và Đại Hàn Dân Quốc, ký tại Kuala Lumpur, Malaysia ngày 13 tháng 12 năm 2005, có hiệu lực đối với Việt Nam kể từ ngày 01 tháng 6 năm 2007.

Hiệp định về cơ chế giải quyết tranh chấp thuộc Hiệp định khung về hợp tác kinh tế toàn diện giữa các Chính phủ các nước thành viên Hiệp hội các quốc gia Đông Nam Á và Đại Hàn Dân Quốc, ký tại Kuala Lumpur, Malaysia ngày 13 tháng 12 năm 2005, có hiệu lực đối với Việt Nam kể từ ngày 01 tháng 6 năm 2007.

Hiệp định thương mại hàng hóa thuộc Hiệp định khung về hợp tác kinh tế toàn diện giữa các Chính phủ các nước thành viên Hiệp hội các quốc gia Đông Nam Á và Đại Hàn Dân Quốc, ký tại Kuala Lumpur, Malaysia ngày 24 tháng 8 năm 2006, có hiệu lực đối với Việt Nam kể từ ngày 01 tháng 6 năm 2007.

TL. BỘ TRƯỞNG
KT. Vụ trưởng Vụ Luật pháp và Điều ước quốc tế
Phó Vụ trưởng

Nguyễn Thị Hoàng Anh

Nơi nhận :

- Văn phòng Quốc hội *(để báo cáo)*,
- Văn phòng Chủ tịch nước *(để báo cáo)*,
- Văn phòng Chính phủ *(để báo cáo)*,
- Phòng Công báo, Văn phòng Chính phủ *(để đăng Công báo)*,
- Các Bộ: Thương mại, Quốc phòng, Công an, Tư pháp, Kế hoạch và Đầu tư, Tài chính, Nông nghiệp và Phát triển nông thôn, Xây dựng, Công nghiệp, Thủy sản, Khoa học và Công nghệ,
- Ủy ban Quốc gia về hợp tác kinh tế quốc tế,
- Đại sứ quán Việt Nam tại In-đô-nê-xi-a,
- Đại sứ quán Việt Nam tại Hàn Quốc,
- Vụ ASEAN, BNG,
- Vụ Hợp tác kinh tế đa phương, BNG,
- Vụ Luật pháp và Điều ước quốc tế, BNG,
- Phòng lưu trữ, BNG.