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

RECALLING the decision made at the ASEAN-Korea Summit held on 30 November 2004 at Vientiane, the Lao People's Democratic Republic, by the Joint Declaration on Comprehensive Cooperation Partnership between ASEAN and Korea, to establish an ASEAN-Korea Free Trade Area at an earliest stage with special and differential treatment and additional flexibility for the new ASEAN Member Countries of the Kingdom of Cambodia, the Lao People's Democratic Republic, the Union of Myanmar and the Socialist Republic of Vietnam;

DESIRING to adopt a Framework Agreement on Comprehensive Economic Cooperation among them, that will further promote growth and development, increase the living standard of the people throughout the region and provide further dynamic benefits to the region in the long term;

BEING confident that the establishment of the ASEAN-Korea Free Trade Area will be a natural extension of their existing relations as well as a stepping stone to elevate their relationship to a higher and more comprehensive level;

REAFFIRMING the shared belief that the arrangement for the creation of the ASEAN-Korea Free Trade Area should be based on the agreed principles of comprehensiveness in the liberalisation process, meaningful and substantial liberalisation, enhancement of mutual benefits, and consistency with WTO rules and disciplines;

BUILDING on their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organisation and the other agreements negotiated thereunder and other multilateral and bilateral instruments of cooperation to which they are parties;



RECOGNISING that the removal of obstacles to trade through the creation of the ASEAN-Korea Free Trade Area will contribute to the harmonious development and expansion of world trade and provide a catalyst to broader international cooperation, in particular within East Asia;

RECOGNISING the importance of capacity building through human resource development to face challenges of globalisation; 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 the strengthening of their domestic capacity, efficiency and competitiveness,

HAVE AGREED as follows:

CHAPTER 1
GENERAL PROVISIONS

Article 1.1
Objectives

The objectives of this Framework Agreement are to:

(a) strengthen and enhance economic, trade and investment cooperation among 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 cooperation and integration;

(d) facilitate the more effective economic integration of the new ASEAN Member Countries and bridge the development gap among the Parties; and

(e) establish a cooperative framework for further strengthening the economic relations among the Parties.

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Article 1.2
Definitions

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

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

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 and the Socialist Republic of Vietnam;

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

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 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 or the Socialist Republic of Vietnam individually;

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

GATS means the General Agreement on Trade in Services, which is a part of the WTO Agreement;

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;

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Korea means the Republic of Korea;

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

Normal Track means a list of tariff lines of which applied MFN tariff rates shall be gradually reduced and eliminated in accordance with the modality set out in Annex 1 of the Agreement on Trade in Goods under this Framework Agreement;

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 1.3
Measures for Comprehensive Economic Partnership

The Parties shall establish, consistent with Article XXIV of GATT 1994 and Article V of GATS, an ASEAN-Korea FTA and 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 an open and competitive investment regime that facilitates and promotes investment among the Parties;

(d) provision of special and differential treatment to the ASEAN Member Countries and additional flexibility to the new ASEAN Member Countries as agreed in the Joint Declaration on Comprehensive Cooperation Partnership between ASEAN and Korea and the core elements attached thereto;

(e) provision of flexibility to the Parties in the ASEAN-Korea FTA negotiations to address their sensitive areas in the goods,

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services and investment sectors with such flexibility to be negotiated and mutually agreed based on the principle of reciprocity and mutual benefits;

(f) establishment of effective trade and investment facilitation measures;

(g) exploration of the ways and means to expand their economic partnership into new areas and expansion of economic cooperation in areas as may be agreed among the Parties that will complement the deepening of trade and investment link among the Parties; and

(h) establishment of appropriate procedures and mechanisms for the purposes of effective implementation of this Framework Agreement.

Article 1.4
Legal Coverage and Relations to Other Agreements

1. The following agreements shall form part of legal instruments establishing the ASEAN-Korea FTA upon their respective entry into force:

(a) this Framework Agreement (including the Annex on Economic Cooperation);

(b) the Agreement on Trade in Goods under this Framework Agreement as provided for in Article 2.1;

(c) an agreement on trade in services to be concluded in accordance with Article 2.2;

(d) an agreement on investment to be concluded in accordance with Article 2.3;

(e) the Agreement on Dispute Settlement Mechanism under this Framework Agreement as provided for in Article 5.1; and

(f) any other agreements that may be mutually agreed by consensus and concluded by the Parties in the context of the ASEAN-Korea FTA.

2. Except as otherwise provided in this Framework Agreement, this Framework Agreement or any action taken under it shall not affect or nullify

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the rights and obligations of a Party under the existing agreements to which it is a party.

3. Nothing in this Framework Agreement shall prevent any individual ASEAN Member Country from entering into any bilateral or plurilateral agreement with any other ASEAN Member Countries and/or Korea relating to trade in goods, trade in services, investment, and/or other areas of economic cooperation. The provisions of this Framework Agreement shall not apply to any such bilateral or plurilateral agreement.

CHAPTER 2
LIBERALISATION

Article 2.1
Trade in Goods

1. The Parties shall progressively reduce and eliminate duties and other restrictive regulations of commerce (except, where necessary, those permitted under Article XXIV(8)(b) of GATT 1994) on substantially all trade in goods among the Parties, in accordance with the provisions, schedules and programme for the Normal Track in the Agreement on Trade in Goods under this Framework Agreement.

2. The Agreement on Trade in Goods under this Framework Agreement shall include, but not limited to:

(a) detailed rules governing the progressive tariff reduction and/or elimination programme as well as other related matters;

(b) rules of origin;

(c) modification of commitments;

(d) non-tariff measures, sanitary and phytosanitary measures, and technical barriers to trade;

(e) safeguards measures; and

(f) WTO disciplines and reduction and elimination of non-tariff barriers.

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Article 2.2
Trade in Services

1. The Parties shall progressively liberalise trade in services among the Parties with substantial sectoral coverage in conformity with Article V of GATS.

2. For this purpose, the Parties shall enter into negotiations on the progressive liberalisation of trade in services. Such liberalisation shall be directed to:

(a) provision for the absence or elimination of substantially all discrimination among the Parties only in the sectors covered under paragraph 1, through:

(i) elimination of existing discriminatory measures; and/or

(ii) prohibition of new or more discriminatory measures with respect to trade in services among the Parties,

either at the entry into force of the agreement referred to in paragraph 3 or on the basis of an agreed time-frame, except for measures permitted under Articles XI, XII, XIV, XIVbis of GATS;

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

(c) enhanced cooperation in services among 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.

3. The Parties shall begin negotiations on an agreement on trade in services at the beginning of 2006 with a goal of concluding the negotiations not later than 31 December 2006.

Article 2.3
Investment

1. The Parties shall create a liberal, facilitative, transparent and competitive investment regime with business-friendly environment.

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2. For this purpose, the Parties shall enter into negotiations on the liberalisation of investment regime. Such negotiations shall be directed to:

(a) progressive liberalisation of the investment regime;

(b) strengthening of cooperation in investment, facilitation of investment and improvement of transparency of investment rules and regulations; and

(c) provision of the protection under the investment regime.

3. The Parties shall begin negotiations on an agreement on investment at the beginning of 2006 with a goal of concluding the negotiations not later than 31 December 2006.

Article 2.4
Most-Favoured Nation Treatment

Korea shall accord to all the ASEAN Member Countries which are not WTO members the Most-Favoured Nation Treatment consistent with the WTO rules and disciplines upon the entry into force of this Framework Agreement.

CHAPTER 3
ECONOMIC COOPERATION

Article 3.1
Scope and Implementation of Cooperation

1. The Parties, on the basis of mutual benefits, shall explore and undertake cooperation projects in the following areas:

(a) customs procedures;

(b) trade and investment promotion;

(c) small and medium enterprises;

(d) human resource management and development;

(e) tourism;

(f) science and technology;

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(g) financial services;

(h) information and communication technology;

(i) agriculture, fisheries, livestock, plantation commodities and forestry;

(j) intellectual property;

(k) environmental industry;

(l) broadcasting;

(m) construction technology;

(n) standards and conformity assessment and sanitary and phytosanitary measures;

(o) mining;

(p) energy;

(q) natural resources;

(r) shipbuilding and maritime transport; and

(s) film.

2. The Parties shall undertake economic cooperation projects at mutually agreed time periods, when feasible. These projects shall be monitored by the Implementing Committee for their effective implementation.

3. Details of such cooperation are specified in the Annex on Economic Cooperation.

Article 3.2
Capacity Building Programmes and Technical Assistance

1. The Parties, recognising that capacity building programmes and technical assistance are important, particularly for the new ASEAN Member Countries, in order to expand their trade and investment with Korea, shall implement such programmes on a mutually agreed basis.

2. The Parties shall strengthen cooperation and support for the realisation of ASEAN integration objectives by implementing projects furthering the Bali

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Concord II, the Initiative for ASEAN Integration (IAI), as well as the Vientiane Action Programme (VAP), including providing technical assistance and capacity building for the new ASEAN Member Countries based on the experiences and expertise of Korea in development.

3. The Parties shall strengthen ASEAN's integration efforts in narrowing the development gaps among the ASEAN Member Countries and between the ASEAN Member Countries and Korea by enhancing regional and sub-regional development.

4. The Parties, recognising the development gaps among the ASEAN Member Countries and between the ASEAN Member Countries and Korea, shall enhance regional and sub-regional development, through cooperation initiatives including:

(a) the Mekong Sub-region;

(b) the Ayeawady-Chao Phraya-Mekong Economic Cooperation Strategy (ACMECS);

(c) the Brunei Darussalam-Indonesia-Malaysia-Philippines East ASEAN Growth Area (BIMP-EAGA);

(d) the growth triangles such as the Indonesia-Malaysia-Thailand (IMT-GT) and the Indonesia-Malaysia-Singapore (IMS-GT);

(e) the Greater Mekong Sub-Region (GMS) programme;

(f) the Second East-West Economic Corridor;

(g) the ASEAN Mekong Basin Development Corporation (AMBDC);

(h) the Singapore-Kunming Rail Link (SKRL) project; and

(i) sharing experiences with the Mekong River Commission (MRC) in formulating and implementing priority programmes in the Mekong River Basin.

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CHAPTER 4
OTHER AREAS

Article 4.1
Expansion of Economic Partnership into New Areas

With the aim of achieving the comprehensive ASEAN-Korea FTA, the Parties shall explore ways and means to expand their economic partnership into new areas where the Parties have mutual interests, as may be agreed by the Parties.

CHAPTER 5
FINAL PROVISIONS

Article 5.1
Dispute Settlement

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

2. Notwithstanding paragraph 1, any disputes arising from paragraph 3 of Article 2.2 (Trade in Services), paragraph 3 of Article 2.3 (Investment), Chapters 3 (Economic Cooperation) and 4 (Other Areas), and the Annex on Economic Cooperation shall not be subject to the Agreement on Dispute Settlement Mechanism under this Framework Agreement.

Article 5.2
Institutional Arrangements for the Negotiations

1. There shall be established an ASEAN-Korea Trade Negotiating Committee to carry out negotiations set out in this Framework Agreement.

2. The ASEAN-Korea Trade Negotiating Committee may establish any working group as may be necessary to assist it in undertaking negotiations on specific areas in the ASEAN-Korea FTA.

3. Commencing immediately at the beginning of the negotiations envisaged in this Framework Agreement and continuing until the formal completion of such negotiations by 31 December 2006, the Parties shall

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endeavour not to take any trade restrictive or distorting measures in such a manner as to affect negatively the negotiating position of any other Party.

Article 5.3
Implementation of the Framework Agreement

1. The AEM + Korea shall have the ultimate authority concerning all matters relating to the implementation of this Framework Agreement and any other agreements concluded or to be concluded in accordance with this Framework Agreement. An Implementing Committee, which is hereby established to be composed of the senior economic officials of the Parties or their designees, shall convene as appropriate to discharge such functions as provided for in paragraph 2 under the supervision and guidance of the AEM + Korea.

2. The Parties, through the Implementing Committee, shall:

   (a) coordinate, supervise and oversee the implementation and appropriate application of the provisions of this Framework Agreement and any other agreements concluded or to be concluded in accordance with this Framework Agreement;

   (b) review the implementation of this Framework Agreement and any other agreements concluded or to be concluded in accordance with this Framework Agreement;

   (c) supervise the work of the committees and working groups established under this Framework Agreement and any other agreements concluded or to be concluded in accordance with this Framework Agreement; and

   (d) consider any other matter that may affect the operation of this Framework Agreement and any other agreements concluded or to be concluded in accordance with this Framework Agreement, or that is entrusted to the Implementing Committee by the Parties.

3. In the fulfilment of its functions, the Implementing Committee may:

   (a) establish and delegate responsibilities to *ad hoc* or standing committees, working groups or expert groups and assign them with tasks on specific matters; and

   (b) take such other action in the exercise of its functions, as the Parties may agree.

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4. The Implementing Committee shall keep the AEM + Korea informed of its activities on a regular basis.

5. The Implementing Committee shall establish its rules and procedures, which shall be approved by the AEM + Korea.

6. The Implementing Committee shall convene within one year of the date of entry into force of this Framework Agreement and then annually or otherwise as appropriate.

Article 5.4
Secretariat and Contact Points

1. The ASEAN Secretariat for the ASEAN Member Countries and the Ministry of Foreign Affairs and Trade of Korea for Korea shall jointly provide the necessary secretariat support for the purposes of this Framework Agreement and any other agreements concluded or to be concluded in accordance with this Framework Agreement. The ASEAN Secretariat and the Ministry of Foreign Affairs and Trade of Korea shall monitor and report to the Implementing Committee on the implementation of this Framework Agreement and any other agreements concluded or to be concluded in accordance with this Framework Agreement.

2. All official communications or notifications among the Parties for the purposes of the implementation of this Framework Agreement and any other agreements concluded or to be concluded in accordance with this Framework Agreement shall be made in the English language and through the ASEAN Secretariat and the Ministry of Foreign Affairs and Trade of Korea as appropriate.

3. The Parties shall designate their respective contact point to facilitate all other communications with one another on any matter covered by this Framework Agreement and any other agreements concluded or to be concluded in accordance with this Framework Agreement. At the request of a Party, the contact point of the requested Party shall identify the office or official responsible for the matter and assist in facilitating communications with the requesting Party.

Article 5.5
Annexes and Future Legal Instruments

1. The Annex on Economic Cooperation shall form an integral part of this Framework Agreement.

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

Article 5.6
Amendments

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

Article 5.7
Depositary

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

Article 5.8
Entry into Force

1. This Framework 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 Framework 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 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 Framework 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 Framework Agreement by the date as set out in paragraph 1, this Framework Agreement shall come into force for that Party upon the date of notification of the completion of its internal procedures.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto, have signed this 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.

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DONE at Kuala Lumpur, Malaysia this 13th day of December 2005, in duplicate copies in the English language.

For the Government of Brunei Darussalam:

HAJI HASSANAL BOLKIAH
Sultan of Brunei Darussalam

For the Royal Government of Cambodia:

SAMDECH HUN SEN
Prime Minister

For the Government of the Republic of Indonesia:

SUSILO BAMBANG YUDHOYONO
President

For the Government of the Lao People's Democratic Republic:

BOUNNHANG VORACHITH
Prime Minister

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For the Government of Malaysia:

ABDULLAH AHMAD BADAWI
Prime Minister

For the Government of the Union of Myanmar:

SOE WIN
Prime Minister

For the Government of the Republic of the Philippines:

GLORIA MACAPAGAL-ARROYO
President

For the Government of the Republic of Singapore:

LEE HSIEN LOONG
Prime Minister

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For the Government of Thailand:

THAKSIN SHINAWATRA
Prime Minister

For the Government of the Socialist Republic of Vietnam:

PHAN VAN KHAI
Prime Minister

For the Government of the Republic of Korea:

ROH MOO-HYUN
President

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