NB 534

PROTOCOL TO PROVIDE SPECIAL CONSIDERATION FOR RICE AND SUGAR

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 Viet Nam, Member States of the Association of Southeast Asian Nations (hereinafter referred to as "ASEAN Member States" collectively or "ASEAN Member State" singularly),

ADHERING to the principles, concepts and ideals of the Framework Agreement on Enhancing ASEAN Economic Cooperation signed on 28 January 1992 in Singapore as amended by the Protocol to Amend the Framework Agreement on Enhancing ASEAN Economic Cooperation signed on 15 December 1995 in Bangkok;

MINDFUL of the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA) signed on 28 January 1992 in Singapore as amended by the Protocol to Amend the Agreement on the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area signed on 15 December 1995 in Bangkok (hereinafter referred to as the "CEPT Agreement");

RECALLING the Protocol on the Special Arrangement for Sensitive and Highly Sensitive Products signed on 30 September 1999 in Singapore as amended by the First Protocol to Amend the Protocol on Special Arrangement for Sensitive and Highly Sensitive Products signed on 3 September 2004 in Jakarta (hereinafter referred to as "the S/HS Products Protocol"), and the Protocol Regarding the Implementation of the CEPT Scheme Temporary Exclusion

List signed on 23 November 2000 in Singapore (hereinafter referred to as the "TEL Protocol") as may be amended;

RECOGNISING the political sensitivity of certain basic commodities and the domestic policy framework of individual ASEAN Member States to ensure self-sufficiency and food security;

REITERATING their commitment to liberalise trade in unprocessed agricultural products while remaining mindful of the specific needs and conditions of individual ASEAN Member States;

DESIRING to provide special considerations to the ASEAN Member States in implementing the CEPT Scheme with respect to the politically sensitive products,

HAVE AGREED AS FOLLOWS:

ARTICLE 1
Objective and Scope

1. The objective of this Protocol is to allow an ASEAN Member State to, under exceptional cases, request for waiver from the obligations imposed under the CEPT Agreement and its related Protocols, with regard to rice and sugar.

2. The exceptional cases shall include situations beyond those under Article 6 (Emergency Measures) of the CEPT Agreement, Article VII(2) of the S/HS Products Protocol and the TEL Protocol.

ARTICLE 2
Submission

1. An ASEAN Member State requesting for a waiver, shall make a written submission (hereinafter referred to as the "Submission") to the AFTA Council at least 90 days prior to the date the waiver is to take effect.

2. The Submission shall include the following information:

   (a) product or list of products with the corresponding tariff nomenclature in ASEAN Harmonised Tariff Nomenclature (AHTN) (hereinafter referred to as the "product in question");

   (b) justification for the request;

   (c) latest available 3 year import statistics, by origin, of the product in question; and

   (d) indicative modality for tariff reduction.

3. A copy of the Submission shall be extended immediately by the ASEAN Secretariat to the Senior Economic Officials Meeting (hereinafter referred to as "SEOM") and to the Coordinating Committee on the Implementation of the CEPT Scheme for AFTA (hereinafter referred to as the "CCCA").

ARTICLE 3
Consideration of the Request

1. Unless otherwise directed by the AFTA Council, the request for waiver shall be considered within the CCCA. The CCCA shall submit its report on the outcome of the discussions, including its recommendations in relation to the request for waiver, to SEOM within 30 days from the date of the receipt of the request.

2. The SEOM shall consider the report of the CCCA and forward its own report, including its recommendations, to the AFTA Council, within 30 days from the date of receipt of the report from the CCCA.

3. The AFTA Council shall consider and decide on the request for waiver within a time period not exceeding 30 days from the date of receipt of the report from SEOM. The decision of the AFTA Council granting the waiver shall state the exceptional circumstances justifying such decision, the terms and conditions governing the granting of the waiver, if any, and the time period within which the waiver shall prevail.

ARTICLE 4
Consultations

1. An ASEAN Member State, which has been granted a waiver pursuant to Article 3, shall provide adequate opportunity for bilateral consultations with ASEAN Member States having export interests on the product in question so that these interests are taken into account in the implementation of this Protocol.

2. Whilst compensatory adjustment measures are not available under this Protocol, such bilateral consultations may include, *inter alia,* measures aimed at providing continued market access for the product in question and joint economic cooperation activities that would facilitate the eventual restoration of the obligations under the CEPT Agreement and its related Protocols.

3. Any ASEAN Member State affected by the outcomes of such bilateral consultations may request for bilateral consultations with the ASEAN Member State which has been granted with the waiver.

ARTICLE 5
Annual Review

1. The AFTA Council shall, at its annual meeting, review the waiver to determine whether the exceptional circumstances justifying such waiver still exist and whether the terms and conditions attached to the waiver, if any, are being met.

2. The ASEAN Member State which has been granted with the waiver shall submit an annual report for review by the AFTA Council.

3. Based on the outcome of the annual review, the AFTA Council shall render its decision whether to continue, modify or terminate the waiver.

ARTICLE 6
Settlement of Disputes

The Protocol on Enhanced Dispute Settlement Mechanism for ASEAN shall apply in relation to any dispute arising from, or any difference between ASEAN Member States concerning the interpretation or application of this Protocol.

ARTICLE 7
Amendments

Any amendment to this Protocol shall be made by consensus and shall become effective upon acceptance by all ASEAN Member States.

ARTICLE 10
Final Provisions

1. This Protocol shall enter into force upon signature.

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

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed the Protocol to Provide Special Consideration for Rice and Sugar.

DONE at Makati City, the Philippines, this Twenty-third Day of August in the year Two Thousand and Seven, in a single original copy in the English language.

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

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

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:

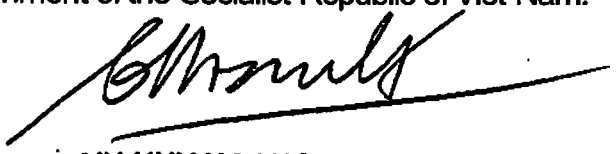
LIM HNG KIANG
Minister for Trade and Industry

For the Government of the Kingdom of Thailand:



KRIRK-KRAI JIRAPAET
Minister of Commerce

For the Government of the Socialist Republic of Viet Nam:



VU HUY HOANG
Minister of Industry and Trade