NB748

PROTOCOL TO AMEND THE 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),

NOTING the Protocol to Provide Special Consideration for Rice and Sugar (hereinafter referred to as "the Protocol") signed on 23 August 2007 in Makati City, the Philippines;

RECOGNISING the need to amend the Protocol to take into account the entry into force of the ASEAN Trade in Goods Agreement (hereinafter referred to as "the ATIGA") signed on 26 February 2009 in Cha-am, Thailand;

NOTING also Article 24 of the ATIGA provides that the Protocol shall form an integral part of the ATIGA,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

1. Article 1 (1) of the Protocol shall be amended by substituting "the CEPT Agreement and its related Protocols" with "the ATIGA".

2. Article 1 (2) of the Protocol shall be amended by substituting "Article 6 (Emergency Measures) of the CEPT

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Agreement" with "paragraphs 3 and 4 of this Article,"; substituting "Article VII(2) of the S/HS Products Protocol" with "as well as paragraphs 5, 6, 7 and 8 of this Article"; and deleting "and the TEL Protocol.".

3. Article 1 of the Protocol shall be further amended by inserting new Articles 1 (3), 1 (4), 1 (5), 1 (6), 1 (7) and 1 (8) after Article 1 (2) as follows:

> "3. If, as a result of the implementation of the ATIGA, import of rice and sugar products eligible under the ATIGA is increasing in such a manner as to cause or threaten to cause serious injury to sectors producing like or directly competitive products in the importing Member States, the importing Member States may, to the extent and for such time as may be necessary to prevent or to remedy such injury, suspend preferences provisionally and without discrimination, subject to immediate notice of such action being given to the AFTA Council, and such action may be the subject of consultations with the other Member States. Such suspension of preferences shall be consistent with the GATT.
>
> 4. Without prejudice to existing international obligations, a Member State, which finds it necessary to create or intensify quantitative restrictions or other measures limiting imports of rice and sugar products with a view to forestalling the threat of or stopping a serious decline of its monetary reserves, shall endeavour to do so in a manner, which safeguards the value of the concessions agreed upon.
>
> 5. Flexibility shall be accorded to rice and sugar products. The provisions on flexibility appear in paragraphs 6, 7 and 8 of this Article.

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6. An ASEAN Member State may raise the ASEAN applicable tariffs on rice and sugar products to the MFN levels when imports from ASEAN sources of rice and sugar products subject to the concession of rice and sugar products under the Schedule E of Article 19 (2) of the ATIGA reach a trigger level. In effect, the ASEAN concession shall be suspended when an import surge threatens domestic producers of rice and sugar products.

7. The trigger level for rice and sugar products will be based on the following formula:

$$V = A_3(1 + ASG)(1 + DG)$$

where:

V	=	trigger volume;
A_3	=	average level of imports from ASEAN in the 3 years immediately preceding the last year, expressed in metric tons;
ASG	=	growth rate of the share of imports from ASEAN to total imports, a number agreed upon in ASEAN is 10% per year; and
DG	=	growth rate of domestic consumption, a number agreed upon in ASEAN is 2% per year.

8. The other elements of the special safeguards such as its duration and notification should be consistent with the WTO and that the safeguard action would be to raise the ASEAN applicable tariffs to the MFN level upon the suspension of the concession for rice and sugar products."

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ARTICLE 2

1. Article 2 (3) of the Protocol shall be amended by substituting "the Coordinating Committee on the Implementation of the CEPT Scheme for AFTA (hereinafter referred to as the "CCCA")" with "the Coordinating Committee on the Implementation of the ATIGA (hereinafter referred to as the "CCA")".

2. Articles 3 (1) and 3 (2) of the Protocol shall be amended by substituting "CCCA" with "CCA".

3. Article 4 (2) of the Protocol shall be amended by substituting "the CEPT Agreement and its related Protocols" with "the ATIGA"

4. Article 10 of the Protocol shall be renumbered as Article 8.

ARTICLE 3

1. This Protocol to Amend the Protocol to Provide Special Consideration for Rice and Sugar shall enter into force upon signature.

2. This Protocol to Amend the Protocol to Provide Special Consideration for Rice and Sugar 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 Amend the Protocol to Provide Special Consideration for Rice and Sugar.

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DONE at Ha Noi, Viet Nam, this 28th Day of October in the Year Two Thousand and Ten, in a single original copy in the English language.

For Brunei Darussalam:

LIM JOCK SENG
Second Minister of Foreign Affairs and Trade

For the Kingdom of Cambodia:

CHAM PRASIDH
Senior Minister and Minister of Commerce

For the Republic of Indonesia:

MARI ELKA PANGESTU
Minister of Trade

For the Lao People's Democratic Republic:

NAM VIYAKETH
Minister of Industry and Commerce

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For Malaysia:

MUSTAPA MOHAMED
Minister of International Trade and Industry

For the Union of Myanmar:

U SOE THA
Minister for National Planning and Economic Development

For the Republic of the Philippines:

GREGORY L. DOMINGO
Secretary of Trade and Industry

For the Republic of Singapore:

LIM HNG KIANG
Minister for Trade and Industry

For the Kingdom of Thailand:

ALONGKORN PONLABOOT
Deputy Minister of Commerce

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For the Socialist Republic of Viet Nam:

VU HUY HOANG
Minister of Industry and Trade

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