

APPENDIX VIII
AGREEMENT ON THE COMMON EFFECTIVE PREFERENTIAL
TARIFF SCHEME FOR THE ASEAN FREE TRADE AREA

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):

MINDFUL of the Declaration of ASEAN Concord signed in Bali, Indonesia on 24 February 1976 which provides that Member States shall cooperate in the field of trade in order to promote development and growth of new production and trade;

RECALLING that the ASEAN Heads of Government, at their Third Summit Meeting held in Manila on 13–15 December 1987, declared that Member States shall strengthen intra-ASEAN economic cooperation to maximise the realisation of the region's potential in trade and development;

NOTING that the Agreement on ASEAN Preferential Trading Arrangements (PTA) signed in Manila on 24 February 1977 provides for the adoption of various instruments on trade liberalisation on a preferential basis;

ADHERING to the principles, concepts and ideals of the Framework Agreement on Enhancing ASEAN Economic Cooperation signed in Singapore on 28 January 1992;

CONVINCED that preferential trading arrangements among ASEAN Member States will act as a stimulus to the strengthening of national and ASEAN Economic resilience, and the development of the national economies of Member States by expanding investment and production opportunities, trade, and foreign exchange earnings;

DETERMINED to further cooperate in the economic growth of the region by accelerating the liberalisation of intra-ASEAN trade and investment with the objective of creating the ASEAN Free Trade Area using the Common Effective Preferential Tariff (CEPT) Scheme;

DESIRING to effect improvements on the ASEAN PTA in consonance with ASEAN's international commitments;

HAVE AGREED AS FOLLOWS:

ARTICLE 1: DEFINITIONS

For the purposes of this Agreement:

1. “*CEPT*” means the Common Effective Preferential Tariff, and it is an agreed effective tariff, preferential to ASEAN, to be applied to goods originating from ASEAN Member States, and which have been identified for inclusion in the CEPT Scheme in accordance with Articles 2 (5) and 3.
2. “*Non-Tariff Barriers*” mean measures other than tariffs which effectively prohibit or restrict import or export of products within Member States.
3. “*Quantitative restrictions*” mean prohibitions or restrictions on trade with other Member States, whether made effective through quotas, licenses or other measures with equivalent effect, including administrative measures and requirements which restrict trade.
4. “*Foreign exchange restrictions*” mean measures taken by Member States in the form of restrictions and other administrative procedures in foreign exchange which have the effect of restricting trade.
5. “*PTA*” means ASEAN Preferential Trading Arrangements stipulated in the Agreement on ASEAN Preferential Trading Arrangements, signed in Manila on 24 February 1977, and in the Protocol on Improvements on Extension of Tariff Preferences under the ASEAN Preferential Trading Arrangements (PTA), signed in Manila on 15 December 1987.
6. “*Exclusion List*” means a list containing products that are excluded from the extension of tariff preferences under the CEPT Scheme.
7. “*Agricultural products*” mean:
 - (a) agricultural raw materials/unprocessed products covered under Chapters 1–24 of the Harmonised System (HS), and similar agricultural raw materials/unprocessed products in other related HS Headings; and
 - (b) products which have undergone simple processing with minimal change in form from the original products.

ARTICLE 2: GENERAL PROVISIONS

1. All Member States shall participate in the CEPT Scheme.
2. Identification of products to be included in the CEPT Scheme shall be on a sectoral basis, i.e., at HS 6-digit level.

3. Exclusions at the HS 8/9 digit level for specific products are permitted for those Member States, which are temporarily not ready to include such products in the CEPT Scheme. For specific products, which are sensitive to a Member State, pursuant to Article 1 (3) of the Framework Agreement on Enhancing ASEAN Economic Cooperation, a Member State may exclude products from the CEPT Scheme, subject to a waiver of any concession herein provided for such products. A review of this Agreement shall be carried out in the eighth year to decide on the final Exclusion List or any amendment to this Agreement.
4. A product shall be deemed to be originating from ASEAN Member States, if at least 40% of its content originates from any Member State.
5. All manufactured products, including capital goods, processed agricultural products and those products falling outside the definition of agricultural products, as set out in this Agreement, shall be in the CEPT Scheme. These products shall automatically be subject to the schedule of tariff reduction, as set out in Article 4 of this Agreement. In respect of PTA items, the schedule of tariff reduction provided for in Article 4 of this Agreement shall be applied, taking into account the tariff rate after the application of the existing margin of preference (MOP) as at 31 December 1992.
6. All products under the PTA which are not transferred to the CEPT Scheme shall continue to enjoy the MOP existing as at 31 December 1992.
7. Member States, whose tariffs for the agreed products are reduced from 20% and below to 0%–5%, even though granted on an MFN basis, shall still enjoy concessions. Member States with tariff rates at MFN rates of 0%–5% shall be deemed to have satisfied the obligations under this Agreement and shall also enjoy the concessions.

ARTICLE 3: PRODUCT COVERAGE

This Agreement shall apply to all manufactured products, including capital goods, processed agricultural products, and those products failing outside the definition of agricultural products as set out in this Agreement. Agricultural products shall be excluded from the CEPT Scheme.

ARTICLE 4: SCHEDULE OF TARIFF REDUCTION

1. Member States agree to the following schedule of effective preferential tariff reductions:
 - (a) The reduction from existing tariff rates to 20% shall be done within a time frame of 5 years to 8 years, from 1 January 1993, subject to a programme of reduction to be decided by each Member State, which shall

be announced at the start of the programme. Member States are encouraged to adopt an annual rate of reduction, which shall be $(X-20)\%/5$ or 8, where X equals the existing tariff rates of individual Member States.

- (b) The subsequent reduction of tariff rates from 20% or below shall be done within a time frame of 7 years. The rate of reduction shall be at a minimum of 5% quantum per reduction. A programme of reduction to be decided by each Member State shall be announced at the start of the programme.
 - (c) For products with existing tariff rates of 20% or below as at 1 January 1993, Member States shall decide upon a programme of tariff reductions, and announce at the start, the schedule of tariff reductions. Two or more Member States may enter into arrangements for tariff reduction to 0%–5% on specific products at an accelerated pace to be announced at the start of the programme.
2. Subject to Articles 4 (1) (b) and 4 (1) (c) of this Agreement, products which reach, or are at tariff rates of 20% or below, shall automatically enjoy the concessions.
 3. The above schedules of tariff reduction shall not prevent Member States from immediately reducing their tariffs to 0%–5% or following an accelerated schedule of tariff reduction.

ARTICLE 5: OTHER PROVISIONS

A. Quantitative Restrictions and Non-Tariff Barriers

1. Member States shall eliminate all quantitative restrictions in respect of products under the CEPT Scheme upon enjoyment of the concessions applicable to those products.
2. Member States shall eliminate other non-tariff barriers on a gradual basis within a period of five years after the enjoyment of concessions applicable to those products.

B. Foreign Exchange Restrictions

Member States shall make exceptions to their foreign exchange restrictions relating to payments for the products under the CEPT Scheme, as well as repatriation of such payments without prejudice to their rights under Article XVIII of the General Agreement on Tariff and Trade (GATT) and relevant provisions of the Articles of Agreement of the International Monetary Fund (IMF).

C. Other Areas of Cooperation

Member States shall explore further measures on border and non-border areas of cooperation to supplement and complement the liberalisation of trade. These may include, among others, the harmonisation of standards, reciprocal recognition of tests and certification of products, removal of barriers to foreign investments, macroeconomic consultations, rules for fair competition, and promotion of venture capital.

D. Maintenance of Concessions

Member States shall not nullify or impair any of the concessions as agreed upon through the application of methods of customs valuation, any new charges or measures restricting trade, except in cases provided for in this Agreement.

ARTICLE 6: EMERGENCY MEASURES

1. If, as a result of the implementation of this Agreement, import of a particular product eligible under the CEPT Scheme 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 Article 6 (3) of this Agreement. Such suspension of preferences shall be consistent with the GATT.
2. Without prejudice to existing international obligations, a Member State, which finds it necessary to create or intensify quantitative restrictions or other measures limiting imports 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.
3. Where emergency measures are taken pursuant to this Article, immediate notice of such action shall be given to the Council referred to in Article 7 of this Agreement, and such action may be the subject of consultation as provided for in Article 8 of this Agreement.

ARTICLE 7: INSTITUTIONAL ARRANGEMENTS

1. The ASEAN Economic Ministers (AEM) shall, for the purposes of this Agreement, establish a ministerial-level Council comprising one nominee from each Member State and the Secretary-General of the ASEAN Secretariat. The ASEAN Secretariat shall provide the support to the ministerial-level

Council for supervising, coordinating and reviewing the implementation of this Agreement, and assisting the AEM in all matters relating thereto. In the performance of its functions, the ministerial-level Council shall also be supported by the Senior Economic Officials' Meeting (SEOM).

2. Member States which enter into bilateral arrangements on tariff reductions pursuant to Article 4 of this Agreement shall notify all other Member States and the ASEAN Secretariat of such arrangements.
3. The ASEAN Secretariat shall monitor and report to the SEOM on the implementation of the Agreement pursuant to the Article III (2) (8) of the Agreement on the Establishment of the ASEAN Secretariat. Member States shall cooperate with the ASEAN Secretariat in the performance of its duties.

ARTICLE 8: CONSULTATIONS

1. Member States shall accord adequate opportunity for consultations regarding any representations made by other Member States with respect to any matter affecting the implementation of this Agreement. The Council referred to in Article 7 of this Agreement, may seek guidance from the AEM in respect of any matter for which it has not been possible to find a satisfactory solution during previous consultations.
2. Member States, which consider that any other Member State has not carried out its obligations under this Agreement, resulting in the nullifications or impairment of any benefit accruing to them, may, with a view to achieving satisfactory adjustment of the matter, make representations or proposal to the other Member States concerned, which shall give due consideration to the representations or proposal made to it.
3. Any differences between the Member States concerning the interpretation or application of this Agreement shall, as far as possible, be settled amicably between the parties. If such differences cannot be settled amicably, it shall be submitted to the Council referred to in Article 7 of this Agreement, and if necessary, to the AEM.

ARTICLE 9: GENERAL EXCEPTIONS

Nothing in this Agreement shall prevent any Member State from taking action and adopting measures, which it considers necessary for the protection of its national security, the protection of public morals, the protection of human, animal or plant life and health, and the protection of articles of artistic, historic and archaeological value.

ARTICLE 10: FINAL PROVISIONS

1. The respective Governments of Member States shall undertake the appropriate measures to fulfil the agreed obligations arising from this Agreement.
2. Any amendment to this Agreement shall be made by consensus and shall become effective upon acceptance by all Member States.
3. This Agreement shall be effective upon signing.
4. This Agreement shall be deposited with the Secretary-General of the ASEAN Secretariat, who shall likewise promptly furnish a certified copy thereof to each Member State.
5. No reservation shall be made with respect to any of the provisions of this Agreement. In witness Whereof, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement on Common Effective Preferential Tariff (CEPT) Scheme for the Free Trade Area (AFTA).

Done at Singapore, this 28th day of January, 1992 in a single copy in the English Language.

APPENDIX VIII (α)
PROTOCOL TO AMEND THE AGREEMENT
ON THE COMMON EFFECTIVE PREFERENTIAL TARIFF
SCHEME FOR THE ASEAN FREE TRADE AREA

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 the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA) (“the Agreement”) signed in Singapore on 28 January 1992;

RECALLING the Protocol to Amend the Framework Agreement on Enhancing ASEAN Economic Cooperation (1992) signed on 15 December 1995 in Bangkok by the Heads of Government reflecting the acceleration of the CEPT Scheme for AFTA from the year 2008 to the year 2003;

RECOGNISING the need to amend the Agreement to reflect the latest developments in ASEAN;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Article 2, paragraphs 3,5 and 6 of the Agreement be amended to read as follows:

“3. Exclusions at the HS 8/9 digit level for specific products are permitted for those Member States, which are temporarily not ready to include such products in the CEPT Scheme. For specific products, which are sensitive to a Member State, pursuant to Article 1 (3) of the Framework Agreement on Enhancing ASEAN Economic Cooperation, a Member State may exclude products from the CEPT Scheme, subject to a waiver of any concession herein provided for such products. These temporarily excluded products are to be gradually included into the CEPT by 1 January 2000.

5. All manufactured products, including capital goods, and agricultural products shall be in the CEPT Scheme. These products shall automatically

be subject to the schedule of tariff reduction set out in Article 4 of the Agreement as revised in Article 3 of this Protocol. In respect of PTA items, the schedule of tariff reduction provided for in the revised Article 4(A) set out in Article 3 of this Protocol shall be applied, taking into account the tariff rate after the application of the existing margin of preference (MOP) as at 31 December 1992.

6. All products under the PTA which are not in the list for tariff reductions of the CEPT Scheme shall continue to enjoy the MOPs existing as at 31 December 1992.”.

ARTICLE 2

Article 3 of the Agreement be amended to read as follows:

“This Agreement shall apply to all manufactured products including capital goods, and agricultural products.”.

ARTICLE 3

Article 4 of the Agreement be substituted with the following:

“Schedule of Tariff Reduction and Enjoyment of concessions

A. Schedule of Tariff Reduction

1. Member States agree to the following schedule of effective preferential tariff reductions:
 - a. The reduction from existing tariff rates to 20% shall be completed within a time frame of 5 years, from 1 January 1993, subject to a programme of reduction to be decided by each Member State, which shall be announced at the start of the programme. Member States are encouraged to adopt an annual rate of reduction, which shall be $(X-20)\%/5$, where X equals the existing tariff rates of individual Member States.
 - b. The subsequent reduction of tariff rates from 20% or below shall be completed within a time frame of 5 years. The rate of reduction shall be at a minimum of 5% quantum per reduction. A programme of reduction to be decided by each Member State shall be announced at the start of the programme.

- c. For products with existing tariff rates of 20% or below as at 1 January 1993, Member States shall decide upon a programme of tariff reductions, and announce at the start, the schedule of tariff reductions.
2. The above schedules of tariff reduction shall not prevent Member States from immediately reducing their tariffs to 0%–5% or following an accelerated schedule of tariff reduction.

B. Enjoyment of Concessions

Subject to Articles 4(A) (1 b) and 4(A) (1 c) of the Agreement, products which reach, or are at tariff rates of 20% or below, shall automatically enjoy the concessions.”.

ARTICLE 4

The following be inserted after Article 9 as a new Article 9A to the Agreement:

“Accession of New Members

New Members of ASEAN shall accede to this Agreement on terms and conditions, which are consistent with the Framework Agreement on Enhancing ASEAN Economic Cooperation (1992) and the Agreement, and which have been agreed between them and the existing Members of ASEAN.”

ARTICLE 5

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 a certified copy thereof to each Member Country.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed the Protocol to Amend the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA).

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