

Recognising the different stages of economic development among ASEAN Member States and the need for flexibility, including the need to facilitate the increasing participation of Cambodia, Lao PDR, Myanmar and Viet Nam (the New ASEAN Member States) in the India-ASEAN economic co-operation and the expansion of their exports, inter alia, through the strengthening of their domestic capacity, efficiency and competitiveness;

Reaffirming the rights, obligations and undertakings of the respective parties under the World Trade Organisation (WTO), and other multilateral, regional and bilateral agreements and arrangements; and

Recognising that regional trade arrangements can contribute towards accelerating regional and global liberalisation and as building blocks in the framework of the multilateral trading system,

Have agreed as follows:

ARTICLE 1

Objectives

The objectives of this Agreement are to:

strengthen and enhance economic, trade and investment co-operation between the Parties;

progressively liberalise and promote trade in goods and services as well as create a transparent, liberal and facilitative investment regime;

explore new areas and develop appropriate measures for closer economic co-operation between the Parties; and

facilitate the more effective economic integration of the new ASEAN Member States and bridge the development gap among the Parties.

ARTICLE 2

Measures For Economic Cooperation

The Parties agree to enter into negotiations in order to establish an India-ASEAN Regional Trade and Investment Area (RTIA), which includes a Free Trade Area (FTA) in goods, services and investment, and to strengthen and enhance economic cooperation through the following:

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 a liberal and competitive investment regime that facilitates and promotes investment within the India-ASEAN RTIA;

(d) provision of special and differential treatment to the New ASEAN Member States;

provision of flexibility to the Parties in the India-ASEAN RTIA negotiations to address their sensitive areas in the goods, services and investment sectors with such flexibilities to be negotiated and mutually agreed based on the principle of reciprocity and mutual benefits;

establishment of effective trade and investment facilitation measures, including, but not limited to, simplification of customs procedures and development of mutual recognition arrangements;

expansion of economic cooperation in areas as may be mutually agreed between the Parties that will complement the deepening of trade and investment links between the Parties and formulation of action plans and programmes in order to implement the agreed sectors/areas of co-operation; and

establishment of appropriate mechanisms for the purposes of effective implementation of this Agreement.

ARTICLE 3

Trade In Goods

(1) With a view to expediting the expansion of trade in goods, the Parties agree to enter into negotiations in which duties and other restrictive regulations of commerce (except, where necessary, those permitted under Article XXIV (8)(b) of the WTO General Agreement on Tariffs and Trade (GATT)) shall be eliminated on substantially all trade in goods between the Parties.

(2) For the purposes of this Article, the following definitions shall apply unless the context otherwise requires:

(a) "applied Most Favoured Nation (MFN) tariff rates" shall refer to the respective applied rates of the Parties as of 1 July 2004; and "non-tariff measures" shall include non-tariff barriers.

(3) Upon signing of this Agreement, the Parties shall commence consultations on each other's trade regime, including, but not limited to the following:

(a) trade and tariff data;

(b) customs procedures, rules and regulations;

(c) non tariff measures including, but not limited to import licensing requirement and procedure, quantitative restrictions, technical barriers to trade, sanitary and phytosanitary;

(d) intellectual property rights rules and regulations; and

(e) trade policy.

(4) The tariff reduction or elimination programme of the Parties shall require tariffs on listed products to be gradually reduced and, where applicable, eliminated in accordance with this Article.

(5) The products which are subject to the tariff reduction or elimination programme under this Article shall include all products not covered by the Early Harvest Programme (EHP) under Article 7 of this Agreement, and such products shall be categorised into two tracks as follows:

(a) Normal Track: Products listed in the Normal Track by a Party on its own accord shall have their respective applied MFN tariff rates gradually reduced or eliminated in accordance with specified schedules and rates (to be mutually agreed by the Parties) over a period from:

(i) 1 January 2006 to 31 December 2011 for India, and Brunei Darussalam, Indonesia, Malaysia, Singapore and Thailand;

(ii) 1 January 2006 to 31 December 2016 for India and the Philippines; and

(iii) 1 January 2006 to 31 December 2011 for India and 1 January 2006 to 31 December 2016 for the New ASEAN Member States.

In respect of those tariffs which have been reduced but have not been eliminated, they shall be progressively eliminated within timeframes to be mutually agreed between the Parties.

(b) Sensitive Track:

(i) The number of products listed in the Sensitive Track shall be subject to a maximum ceiling to be mutually agreed among the Parties.

(ii) Products listed in the Sensitive Track by a Party on its own accord shall, where applicable, have their respective applied MFN tariff rates progressively