

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

reduced/eliminated within timeframes to be mutually agreed between the Parties.

(6) The commitments undertaken by the Parties under this Article and Article 7 of this Agreement shall fulfil the WTO requirements to eliminate tariffs on substantially all the trade between the Parties.

(7) The specified tariff rates/tariff preferences to be mutually agreed between the Parties pursuant to this Article shall set out only the limits of the applicable tariff rates/preferences or range for the specified year of implementation by the Parties.

(8) The negotiations between the Parties to establish the India-ASEAN RTIA covering trade in goods shall also include, but not be limited to the following:

- (a) modalities, including detailed rules governing the tariff reduction and/or elimination;
- (b) Rules of Origin;
- (c) treatment of out-of-quota rates;
- (d) modification of a Party's commitments under the agreement on trade in goods based on WTO agreements;
- (e) non-tariff measures/barriers, including, but not limited to, quantitative restrictions or prohibition on the importation of any product or on the export or sale for export of any product, as well as sanitary and phytosanitary measures and technical barriers to trade;
- (f) safeguards based on the WTO agreements;
- (g) disciplines on subsidies and countervailing measures and anti-dumping measures based on the existing WTO agreements; and
- (h) facilitation and promotion of effective and adequate protection of trade-related aspects of intellectual property rights based on existing WTO, World Intellectual Property Organisation (WIPO) and other relevant agreements.

ARTICLE 4

Trade In Services

With a view to expediting the expansion of trade in services, the Parties agree to enter into negotiations to progressively liberalise trade in services on a preferential basis with substantial sectoral coverage. Such negotiations shall be directed to:

progressive elimination of substantially all discrimination between or among the Parties and/or prohibition of new or more discriminatory measures with respect to trade in services between the Parties, except for measures permitted under Article V(1)(b) of the WTO General Agreement on Trade in Services (GATS); expansion in the depth and scope of liberalisation of trade in services beyond those undertaken by India and ASEAN Member States under the GATS; and enhanced cooperation in services between 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.

ARTICLE 5

Investment

To promote investments and to create a liberal, facilitative, transparent and competitive investment regime, the Parties agree to:

enter into negotiations in order to progressively liberalise their investment regimes; strengthen cooperation in investment, facilitate investment and improve transparency of investment rules and regulations; and provide for the protection of investments.

ARTICLE 6