

รายการอ้างอิง

ภาษาไทย

กรมเศรษฐกิจการพาณิชย์ กระทรวงพาณิชย์. เอกสารประกอบการสัมมนาเรื่อง “เป้าหมายการส่งออก การนำเข้า และดุลการค้าปี 2540 : ยุทธศาสตร์ชาติกับการพัฒนา. 20-22 ธันวาคม 2539.

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ภาคผนวก

ภาคผนวก ก

The ASEAN Declaration (Bangkok Declaration)

Thailand, 8 August 1967

The Presidium Minister for Political Affairs/ Minister for Foreign Affairs of Indonesia, the Deputy Prime Minister of Malaysia, the Secretary of Foreign Affairs of the Philippines, the Minister for Foreign Affairs of Singapore and the Minister of Foreign Affairs of Thailand:

MINDFUL of the existence of mutual interests and common problems among countries of South-East Asia and convinced of the need to strengthen further the existing bonds of regional solidarity and cooperation;

DESIRING to establish a firm foundation for common action to promote regional cooperation in South-East Asia in the spirit of equality and partnership and thereby contribute towards peace, progress and prosperity in the region;

CONSCIOUS that in an increasingly interdependent world, the cherished ideals of peace, freedom, social justice and economic well-being are best attained by fostering good understanding, good neighbourliness and meaningful cooperation among the countries of the region already bound together by ties of history and culture;

CONSIDERING that the countries of South-East Asia share a primary responsibility for strengthening the economic and social stability of the region and ensuring their peaceful and progressive national development, and that they are determined to ensure their stability and security from external interference in any form or manifestation in order to preserve their national identities in accordance with the ideals and aspirations of their peoples;

AFFIRMING that all foreign bases are temporary and remain only with the expressed concurrence of the countries concerned and are not intended to be used directly or indirectly to

subvert the national independence and freedom of States in the area or prejudice the orderly processes of their national development;

DO HEREBY DECLARE:

FIRST, the establishment of an Association for Regional Cooperation among the countries of South-East Asia to be known as the Association of South-East Asian Nations (ASEAN).

SECOND, that the aims and purposes of the Association shall be:

- 1. To accelerate the economic growth, social progress and cultural development in the region through joint endeavours in the spirit of equality and partnership in order to strengthen the foundation for a prosperous and peaceful community of South-East Asian Nations;**
- 2. To promote regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries of the region and adherence to the principles of the United Nations Charter;**
- 3. To promote active collaboration and mutual assistance on matters of common interest in the economic, social, cultural, technical, scientific and administrative fields;**
- 4. To provide assistance to each other in the form of training and research facilities in the educational, professional, technical and administrative spheres;**
- 5. To collaborate more effectively for the greater utilization of their agriculture and industries, the expansion of their trade, including the study of the problems of international commodity trade, the improvement of their transportation and**

communications facilities and the raising of the living standards of their peoples;

6. To promote South-East Asian studies;

7. To maintain close and beneficial cooperation with existing international and regional organizations with similar aims and purposes, and explore all avenues for even closer cooperation among themselves.

THIRD, that to carry out these aims and purposes, the following machinery shall be established:

(a) Annual Meeting of Foreign Ministers, which shall be by rotation and referred to as ASEAN Ministerial Meeting. Special Meetings of Foreign Ministers may be convened as required.

(b) A Standing committee, under the chairmanship of the Foreign Minister of the host

(c) country or his representative and having as its members the accredited Ambassadors of the other member countries, to carry on the work of the Association in between Meetings of Foreign Ministers.

(d) Ad-Hoc Committees and Permanent Committees of specialists and officials on specific subjects.

(e) A National Secretariat in each member country to carry out the work of the Association on behalf of that country and to service the Annual or Special Meetings of Foreign Ministers, the Standing Committee and such other committees as may hereafter be established.

FOURTH, that the Association is open for participation to all States in the South-East Asian Region subscribing to the aforementioned aims, principles and purposes.

FIFTH, that the Association represents the collective will of the nations of South-East Asia to bind themselves together in friendship and cooperation and, through joint efforts and sacrifices, secure for their peoples and for posterity the blessings of peace, freedom and prosperity.

DONE in Bangkok on the Eighth Day of August in the Year One Thousand Nine Hundred and Sixty-Seven.

ภาคผนวก ข
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.

6. "*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 falling 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 fulfill 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.

ภาคผนวก ก

**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.

ภาคผนวก ง

**SECOND PROTOCOL AMENDING THE TREATY OF AMITY
AND COOPERATION IN SOUTHEAST ASIA**

The Government of Brunei Darussalam
The Government of the Kingdom of Cambodia
The Government of the Republic of Indonesia
The Government of the Lao People's Democratic Republic
The Government of Malaysia
The Government of the Union of Myanmar
The Government of the Republic of the Philippines
The Government of the Republic of Singapore
The Government of the Kingdom of Thailand
The Government of the Socialist Republic of Vietnam
The Government of Papua New Guinea
Hereinafter referred to as the High Contracting Parties:

DESIRING to ensure that there is appropriate enhancement of cooperation with all peace-loving nations, both within and outside Southeast Asia and, in particular, neighboring States of the Southeast Asia region;

CONSIDERING Paragraph 5 of the preamble of the Treaty of Amity and Cooperation in Southeast Asia, done at Denpasar, Bali, on 24 February 1976 (hereinafter referred to as the Treaty of Amity) which refers to the need for cooperation with all peace-loving nations, both within and outside Southeast Asia, in the furtherance of world peace, stability and harmony.

HEREBY AGREE TO THE FOLLOWING:

Article 1

Article 18, Paragraph 3, of the Treaty of Amity shall be amended to read as follows:

"States outside Southeast Asia may also accede to this Treaty with the consent of all the States in Southeast Asia, namely, 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 Vietnam."

Article 2

This Protocol shall be subject to ratification and shall come into force on the date the last instrument of ratification of the High Contracting Parties is deposited.

DONE at Manila, the twenty-fifth day of July in the year one thousand nine hundred and ninety-eight.

ภาคผนวก ง

PROTOCOL ON DISPUTE SETTLEMENT MECHANISM

The Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Vietnam, Member States of the Association of South East Asian Nations (ASEAN);

RECALLING the Framework Agreement on Enhancing ASEAN Economic Cooperation signed in Singapore on 28 January 1992, as amended by the Protocol to Amend the Framework Agreement on Enhancing ASEAN Economic Cooperation signed in Bangkok on 15 December 1995 (the "Agreement");

RECOGNIZING the need to expand Article 9 of the Agreement to strengthen the mechanism for the settlement of disputes in the area of ASEAN economic cooperation;

HAVE AGREED AS FOLLOWS :

ARTICLE 1**Coverage and Application**

1. The rules and procedures of this Protocol shall apply to disputes brought pursuant to the consultation and dispute settlement provisions of the Agreement as well as the agreements listed in Appendix I and future ASEAN economic agreements (the "covered agreements").
2. The rules and procedures of this Protocol shall apply subject to such special or additional rules and procedures on dispute settlement contained in the covered agreements. To the extent that there is a difference between the rules and procedures of this Protocol and the special or additional rules and procedures in the covered agreements, the special or additional rules and procedures shall prevail.
3. The provisions of this Protocol are without prejudice to the rights of Member States to seek recourse to other fora for the settlement of disputes involving other Member States. A Member State involved in a dispute can resort to other fora at any stage before the Senior Economic Officials Meeting ("SEOM") has made a ruling on the panel report.

ARTICLE 2

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, interpretation or application of the Agreement or any covered agreement. Any differences shall, as far as possible, be settled amicably between the Member States.
2. Member States which consider that any benefit accruing to them directly or indirectly, under the Agreement or any covered agreement is being nullified or impaired, or that the attainment of any objective of the Agreement or any covered agreement is being impeded as a result of failure of another Member State to carry out its obligations under the Agreement or any covered agreement, or the existence of any other situation may, with a view to achieving satisfactory settlement of the matter, make representations or proposals to the other Member State concerned, which shall give due consideration to the representations or proposals made to it.
3. If a request for consultations is made, the Member State to which the request is made shall reply to the request within ten (10) days after the date of its receipt and shall enter into consultations within a period of no more than thirty (30) days after the date of receipt of the request, with a view to reaching a mutually satisfactory solution.

ARTICLE 3

Good Offices, Conciliation or Mediation

1. Member States which are parties to a dispute may at any time agree to good offices, conciliation or mediation. They may begin at any time and be terminated at any time. Once procedures for good offices, conciliation or mediation are terminated, a complaining party may then proceed to raise the matter to SEOM.
2. If the parties to a dispute agree, procedures for good offices, conciliation or mediation may continue while the dispute proceeds.

ARTICLE 4

Senior Economic Officials Meeting

1. If the consultations fail to settle a dispute within sixty (60) days after the date of receipt of the request for consultations, the matter shall be raised to the SEOM.
2. The SEOM shall:

- a) establish a panel; or
 - b) where applicable, raise the matter to the special body in charge of the special or additional rules and procedures for its consideration.
3. Notwithstanding Article 4 paragraph 2, if the SEOM considers it desirable to do so in a particular case, it may decide to deal with the dispute to achieve an amicable settlement without appointing a panel. This step shall be taken without any extension of the thirty (30)-day period in Article 5 paragraph 2.

ARTICLE 5

Establishment of Panel

1. The function of the panel is to make an objective assessment of the dispute before it, including an examination of the facts of the case and the applicability of and conformity with the sections of the Agreement or any covered agreement, and make such other findings as will assist the SEOM in making the rulings provided for under the Agreement or any covered agreement.
2. The SEOM shall establish a panel no later than thirty (30) days after the date on which the dispute has been raised to it.
3. The SEOM shall make the final determination of the size, composition and terms of reference of the panel.

ARTICLE 6

Function of the Panel

1. The panel shall, apart from the matters covered in Appendix 2, regulate its own procedures in relation to the rights of parties to be heard and its deliberations.
2. The panel shall submit its findings to the SEOM within sixty (60) days of its formation. In exceptional cases, the panel may take an additional ten (10) days to submit its findings to SEOM. Within this time period, the panel shall accord adequate opportunity to the parties to the dispute to review the report before submission.
3. The panel shall have the right to seek information and technical advice from any individual or body which it deems appropriate. A Member State should respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate.

4. Panel deliberations shall be confidential. The reports of panels shall be drafted without the presence of the parties to the dispute in the light of the information provided and the statements made.

ARTICLE 7

Treatment of Panel Result

The SEOM shall consider the report of the panel in its deliberations and make a ruling on the dispute within thirty (30) days from the submission of the report by the panel. In exceptional cases, SEOM may take an additional ten (10) days to make a ruling on the dispute. SEOM representatives from Member States which are parties to a dispute can be present during the process of deliberation but shall not participate in the ruling of SEOM. SEOM shall make a ruling based on simple majority.

ARTICLE 8

Appeal

1. Member States, who are parties to the dispute, may appeal the ruling by the SEOM to the ASEAN Economic Ministers ("AEM") within thirty (30) days of the ruling.
2. The AEM shall make a decision within thirty (30) days of the appeal. In exceptional cases, AEM may take an additional ten (10) days to make a decision on the dispute. Economic Ministers from Member States which are parties to a dispute can be present during the process of deliberation but shall not participate in the decision of AEM. AEM shall make a decision based on simple majority. The decision of the AEM on the appeal shall be final and binding on all parties to the dispute.
3. Since prompt compliance with the rulings of the SEOM or decisions of the AEM is essential in order to ensure effective resolution of disputes, Member States who are parties to the dispute shall comply with the ruling or decision, as the case may be, within a reasonable time period. The reasonable period of time shall be a period of time mutually agreed to by the parties to the dispute but under no circumstances should it exceed thirty (30) days from the SEOM's ruling or in the event of an appeal thirty (30) days from the AEM's decision. The Member States concerned shall provide the SEOM or the AEM, as the case may be, with a status report in writing of their progress in the implementation of the ruling or decision.

ARTICLE 9

Compensation and the Suspension of Concessions

1. If the Member State concerned fails to bring the measure found to be inconsistent with the Agreement or any covered agreement into compliance therewith or otherwise comply with SEOM's rulings or AEM's decisions within the reasonable period of time, such Member State shall, if so requested, and no later than the expiry of the reasonable period of time, enter into negotiations with any party having invoked the dispute settlement procedures, with a view to developing mutually acceptable compensation. If no satisfactory compensation has been agreed within 20 (twenty) days after the date of expiry of the reasonable period of time, any party having invoked the dispute settlement procedures may request authorization from the AEM to suspend the application to the Member State concerned of concessions or other obligations under the Agreement or any covered agreements.
2. However, neither compensation nor the suspension of concessions or other obligations is preferred to full implementation of a recommendation to bring a measure into conformity with the Agreement or any covered agreements.

ARTICLE 10

Maximum Time-Frame

Member States agree that the total period for the disposal of a dispute pursuant to Articles 2, 4, 5, 6, 7, 8 and 9 of this Protocol shall not exceed two hundred and ninety (290) days.

ARTICLE 11

Responsibilities of the Secretariat

1. The ASEAN Secretariat shall have the responsibility of assisting the panels, especially on the historical and procedural aspects of the matters dealt with, and of providing secretarial and technical support.
2. The ASEAN Secretariat shall have the responsibility of monitoring and maintaining under surveillance the implementation of the SEOM's ruling and AEM's decision as the case may be.
3. The ASEAN Secretariat may offer good offices, conciliation or mediation with the view to assisting Members to settle a dispute.

ต้นฉบับ หน้าขาดหาย

For the Government of the Republic of the Philippines :

(signed)

CESAR B. BAUTISTA

Secretary of Trade and Industry

For the Government of the Republic of Singapore:

(signed)

YEO CHEOW TONG

Minister for Trade and Industry

For the Government of the Kingdom of Thailand:

(signed)

SUKON KANCHANALAI

Deputy Minister of Commerce

For the Government of the Socialist Republic of Vietnam:

(signed)

LE VAN TRIET

Minister of Trade

ประวัติผู้วิจัย

นายพีรเดช สันติวงศ์ เกิดวันที่ 1 สิงหาคม พ.ศ. 2516 ที่จังหวัดหนองคาย สำเร็จการศึกษาปริญญาตรีรัฐศาสตรบัณฑิต สาขาวิชาการระหว่างประเทศและการทูต คณะรัฐศาสตรมหาวิทาลัยธรรมศาสตร์ ในปีการศึกษา 2538 และเข้าศึกษาต่อในหลักสูตรรัฐศาสตรมหาบัณฑิต ที่จุฬาลงกรณ์มหาวิทยาลัย เมื่อ พ.ศ. 2539

