2007 Protocol to Provide Special Consideration for Rice and Sugar

1.The objective of this Protocol is to allow an ASEAN Member State to, under exceptional cases, request for waiver from the obligations imposed under the CEPT Agreement and its related Protocols, with regard to rice and sugar.

2.The exceptional cases shall include situations beyond those under Article 6 (Emergency Measures) of the CEPT Agreement, Article Vll(2) of the S/HS Products Protocol and the TEL Protocol.

3.An ASEAN Member State requesting for a waiver, shall make a written submission (hereinafter referred to as the "Submission") to the AFTA Council at least 90 days prior to the date the waiver is to take effect.

4.The Submission shall include the following information: product or list of products with the corresponding tariff nomenclature in ASEAN Harmonised Tariff Nomenclature (AHTN) (hereinafter referred to as the "product in question”); justification for the request; latest available 3 year import statistics, by origin, of the product in question; and indicative modality for tariff reduction.

5.A copy of the Submission shall be extended immediately by the ASEAN Secretariat to the Senior Officials Meeting (hereinafter referred to as “SEOM”) and to the Coordinating Committee on the Implementation of the CEPT Scheme for AFTA (hereinafter referred to as the "CCCA").

6.Unless otherwise directed by the AFTA Council, the request for waiver shall be considered within the CCCA. The CCCA shall submit its report on the outcome of the discussions, including its recommendations in relation to the request for waiver, to SEOM within 30 days from the date of the receipt of the request.

7.The SEOM shall consider the report of the CCCA and forward its own report, including its recommendations, to the AFTA Council, within 30 days from the date of receipt of the report from the CCCA.

8.The AFTA Council shall consider and decide on the request for waiver within a time period not exceeding 30 days from the date of receipt of the report from SEOM. The decision of the AFTA Council granting the waiver shall state the exceptional circumstances justifying such decision, the terms and conditions governing the granting of the waiver, if any, and the time period within which the waiver shall prevail.

9.An ASEAN Member State, which has been granted a waiver pursuant to Article 3, shall provide adequate opportunity for bilateral consultations with ASEAN Member States having export interests on the product in question so that these interests are taken into account in the implementation of this Protocol.

10.Whilst compensatory adjustment measures are not available under this Protocol, such bilateral consultations may include, inter alia, measures aimed at providing continued market access for the product in question and joint economic cooperation activities that would facilitate the eventual restoration of the obligations under the CEPT Agreement and its related Protocols.

11.Any ASEAN Member State affected by the outcomes of such bilateral consultations may request for bilateral consultations with the ASEAN Member State which has been granted with the waiver.

12.The AFTA Council shall, at its annual meeting, review the waiver to determine whether the exceptional circumstances justifying such waiver still exist and whether the terms and conditions attached to the waiver, if any, are being met.

13.The ASEAN Member State which has been granted with the waiver shall submit an annual report for review by the AFTA Council.

14.Based on the outcome of the annual review, the AFTA Council shall render its decision whether to continue, modify or terminate the waiver.

15.The Protocol on Enhanced Dispute Settlement Mechanism for ASEAN shall apply in relation to any dispute arising from, or any difference between ASEAN Member States concerning the interpretation or application of this Protocol.

16.Any amendment to this Protocol shall be made by consensus and shall become effective upon acceptance by all ASEAN Member States.

17.This Protocol shall enter into force upon signature.

18.This Protocol shall be deposited with the Secretary-General of ASEAN, who shall promptly furnish a certified copy thereof to each ASEAN Member State.