2003 Protocol Governing the Implementation of the ASEAN Harmonised Tariff Nomenclature

1.The objectives of the Protocol are to establish and implement the AHTN so as to facilitate trade in the region; to establish clear rules which govern the implementation of the AHTN, its explanatory notes, and their amendments; to establish uniformity of application in the classification of goods in ASEAN; to enhance transparency in the classification process for goods in the region;to simplify the AHTN; and to create a nomenclature which conforms to international standards, which is a model of technical excellence and which reflects the changing patterns of international trade and technolog

2.Member States will be guided by the following principles: Member States will publish all laws, regulations and administrative guidelines pertaining to the AHTN thus making them publicly available in a prompt, transparent and readily accessible manner; Member States will ensure the consistent application of the AHTN within each Member State; Member States will ensure that the AHTN is used for the efficient administration and expeditious clearance of goods to facilitate trade; Member States shall make available an appeal mechanism for importers and exporters on the classification decisions made on the AHTN.

3.The AHTN shall be an 8-digit nomenclature, consisting of the latest version of the Harmonised Commodity Description and Coding System (hereinafter referred to as “HS Code”) of the World Customs Organization and the amendments thereto, with the addition of the seventh and eighth digits and commodity descriptions for tariff purposes (the seventh and eighth digits and commodity descriptions hereinafter referred to as “ASEAN subheadings”).

4.The AHTN and the Supplementary Explanatory Notes (SEN) relating to the ASEAN subheadings are annexed to the Protocol. The SEN shall form an integral part of the AHTN.

5.Member States shall abide by the HS Code, including its General Rules for the Interpretation of the Harmonised System, Section, Chapter and Subheading Notes, and its amendments thereto.

6.Member States shall apply the AHTN, up to the 8-digit level, for all trade transactions for tariff, the collection of statistical data and other purposes.

7.Member States may further sub-divide the AHTN, beyond the 8-digit level, for the collection of statistical data or other non-tariff purposes.

8.Amendments to the AHTN shall only be made in accordance with Articles 5 and 6 of the Protocol. Notwithstanding any provision to the contrary, no ASEAN subheading already incorporated in the AHTN can be removed without the consent of the affected Member State.

9.Procedures for amendments to the AHTN, as set out in Article 6 of the Protocol, may be effected if: amendments have been made to the HS Code and/or descriptions; amendments to the ASEAN subheadings in the AHTN for the purposes of simplification are being proposed; amendments are proposed which arise from the requirements of Member States, changes in technology or in patterns of international trade, or in other circumstances deemed desirable in accordance with the objectives of this Protocol as set out in Article 1.

10.The AHTN shall be continuously reviewed and amended with the view to simplifying the nomenclature, so as to facilitate trade. Member States shall regularly review their national tariff requirements and forward proposals for simplification of the AHTN.

11.Proposals for amendments shall be made by Member States to the ASEAN Directors-General of Customs, as referred to in Article 7 of the Protocol.

12.The ASEAN Directors-General of Customs shall study all proposals with the view to determining the acceptability of such amendments.

13.The ASEAN Directors-General of Customs shall be the body responsible for allowing amendments to the AHTN.

14.The ASEAN Directors-General of Customs, under the purview of the ASEAN Finance Ministers Meeting, shall be the body responsible for monitoring, reviewing and supervising all aspects relating to the implementation of the Protocol. The Experts Committee on Customs Matters (ECCM) shall assist the ASEAN Directors-General of Customs in all matters relating thereto.

15.The ASEAN Secretariat shall provide the necessary support for supervising, coordinating and reviewing the implementation of the Protocol, and shall assist the ASEAN Directors-General of Customs on matters relating thereto.

16.The ASEAN Secretariat shall have the responsibility of assisting the experts panel, whenever it is convened, especially on procedural aspects of the matters dealt with, and of providing secretarial and technical support.

17.The ASEAN Secretariat shall have the responsibility of assisting Member States in monitoring and reviewing the AHTN with the view to simplification.

18.Member States shall, at the written request of a Member State, enter into consultations with a view to seeking a prompt, equitable and mutually satisfactory solution, if that Member State considers that: an obligation under the Protocol has not been fulfilled, is not being fulfilled or may not be fulfilled; or any objectives of the Protocol is not being achieved or may be frustrated.

19.Any differences between Member States concerning the interpretation or application of the Protocol shall, as far as possible, be settled amicably between the Member States. If a settlement cannot be reached, the dispute shall be submitted to the ASEAN Directors-General of Customs. If a settlement still cannot be reached by the ASEAN Directors-General of Customs, the dispute shall be referred to the ASEAN Finance Ministers Meeting.

20.The Protocol may be amended by mutual agreement of all Member States.

21.Annexes may be introduced to the Protocol and shall form an integral part thereof. Any reference to the Protocol is deemed to include also a reference to the Annexes.

22.Member States shall undertake appropriate measures to fulfill the obligations arising from the Protocol.

23.Member States shall make no reservations with respect to any of the provisions of the Protocol.

24.The Protocol shall enter into force on 7 August 2003. However, Member States may defer the obligation to apply the AHTN under paragraph 2 of Article 4 of the Protocol, to a date no later than 1 January 2004.