

## **CHAPTER 1**

### **ESTABLISHMENT OF THE FREE TRADE AREA, OBJECTIVES, GENERAL DEFINITIONS AND INTERPRETATIONS**

#### **Article 1**

##### **Establishment of the ASEAN – Hong Kong, China Free Trade Area**

The Parties hereby establish, consistent with Article XXIV of GATT 1994 and Article V of GATS, an ASEAN - Hong Kong, China Free Trade Area.

#### **Article 2**

##### **Objectives**

The objectives of this Agreement are to:

- (a) progressively liberalise and facilitate trade in goods among the Parties through, *inter alia*, progressive elimination of tariff and non-tariff barriers in substantially all trade in goods among the Parties;
- (b) progressively liberalise and facilitate trade in services among the Parties, with substantial sectoral coverage;
- (c) promote and enhance investment opportunities;
- (d) strengthen, diversify and enhance trade, investment and economic links among the Parties; and

- (e) provide special and differential treatment to ASEAN Member States, especially to the newer ASEAN Member States, to facilitate their more effective economic integration.

### **Article 3**

#### **Relation to Other Agreements**

1. Each Party affirms its rights and obligations with respect to another Party under the WTO Agreement and other international agreements to which both Parties are party.
2. Nothing in this Agreement shall be construed to derogate from any right or obligation of a Party with respect to another Party under the WTO Agreement and other international agreements to which both Parties are party.
3. In the event of any inconsistency between this Agreement and any other international agreement to which two or more Parties are party, such Parties shall immediately consult with a view to finding a mutually satisfactory solution.

### **Article 4**

#### **Definitions of General Application**

For the purposes of this Agreement, unless the context otherwise requires:

- (a) **Agreement** means the *ASEAN - Hong Kong, China Free Trade Agreement*;
- (b) **AHK Investment Agreement** means the *Agreement on Investment among the*

*Governments of the Hong Kong Special Administrative Region of the People's Republic of China and the Member States of the Association of Southeast Asian Nations;*

- (c) **AHKFTA** means the ASEAN - Hong Kong, China Free Trade Area;
- (d) **AHKFTA Joint Committee** means the ASEAN - Hong Kong, China Free Trade Area Joint Committee established pursuant to Article 1 (AHKFTA Joint Committee) of Chapter 12 (Institutional Provisions);
- (e) **Area** in respect of:
  - (i) each ASEAN Member State means its territory; and
  - (ii) Hong Kong, China means the Hong Kong Special Administrative Region as delineated by the Order of State Council of the People's Republic of China No. 221 dated 1 July 1997, which includes Hong Kong Island, Kowloon and the New Territories;
- (f) **ASEAN** means the Association of Southeast Asian Nations;
- (g) **customs duties** means any duty or charge of any kind, including any tax or surcharge, imposed in connection with the importation of a good, but does not include any:
  - (i) charge equivalent to an internal tax, including excise duties, sales tax, and goods and services taxes, imposed

consistently with the provisions of paragraph 2 of Article III of GATT 1994, in respect of the like domestic product or in respect of an article from which the imported product has been manufactured or produced in whole or in part;

- (ii) anti-dumping or countervailing duty applied consistently with the provisions of Article VI of GATT 1994, the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement, as may be amended, and the *Agreement on Subsidies and Countervailing Measures* in Annex 1A to the WTO Agreement, as may be amended; or
- (iii) fee or charge that is covered by Article VIII of GATT 1994;
- (h) **Customs Valuation Agreement** means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement;
- (i) **days** means calendar days, including weekends and holidays;
- (j) **GATS** means the *General Agreement on Trade in Services* in Annex 1B to the WTO Agreement;
- (k) **GATT 1994** means the *General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement;
- (l) **Harmonized System, HS Code or HS** means the Harmonized Commodity Description and

Coding System established by the *International Convention on the Harmonized Description and Coding System* signed at Brussels on 14 June 1983, as amended;

- (m) **import licensing** means administrative procedures requiring the submission of an application or other documentation (other than those required for customs purpose) to the relevant administrative body as a prior condition for importation of goods into the Area of the importing Party;
- (n) **Newer ASEAN Member States** means Cambodia, Lao PDR, Myanmar and Viet Nam;
- (o) **originating good** means a good that qualifies as originating under Chapter 3 (Rules of Origin);
- (p) **Parties** means Hong Kong, China and those ASEAN Member States for which this Agreement has entered into force collectively;
- (q) **Party** means either Hong Kong, China or an ASEAN Member State for which this Agreement has entered into force;
- (r) **SPS Agreement** means the *Agreement on the Application of Sanitary and Phytosanitary Measures* in Annex 1A to the WTO Agreement;
- (s) **WTO** means the World Trade Organization;
- (t) **WTO Agreement** means the *Marrakesh Agreement Establishing the World Trade Organization*, done on 15 April 1994; and

- (u) **WTO Dispute Settlement Understanding** means the *Understanding on Rules and Procedures Governing the Settlement of Disputes* in Annex 2 to the WTO Agreement.

## **Article 5**

### **Interpretations**

In this Agreement, unless the context otherwise requires:

- (a) in the case of Hong Kong, China, where an expression is qualified by the term “national”, such expression shall be interpreted as pertaining to Hong Kong, China;
- (b) in the case of Hong Kong, China, any reference to an international agreement to which a Party is a party shall include an international agreement made applicable to Hong Kong, China, and any reference to the rights, obligations or undertakings of a Party under an international agreement or arrangement shall include the rights, obligations or undertakings made applicable to Hong Kong, China under such an international agreement or arrangement; and
- (c) where anything under this Agreement is to be done within a number of days from, after, before, or of a specified date or event, the specified date or the date on which the specified event occurs shall not be included in calculating that number of days.