

**PROTOCOL TO FURTHER UPGRADE THE FRAMEWORK
AGREEMENT ON COMPREHENSIVE ECONOMIC CO-OPERATION
AND CERTAIN AGREEMENTS THEREUNDER BETWEEN THE
ASSOCIATION OF SOUTHEAST ASIAN NATIONS AND THE
PEOPLE'S REPUBLIC OF CHINA (ACFTA 3.0 UPGRADE
PROTOCOL)**

The Governments of Brunei Darussalam ("Brunei Darussalam"), the Kingdom of Cambodia ("Cambodia"), the Republic of Indonesia ("Indonesia"), the Lao People's Democratic Republic ("Lao PDR"), Malaysia, the Republic of the Union of Myanmar ("Myanmar"), the Republic of the Philippines ("Philippines"), the Republic of Singapore ("Singapore"), the Kingdom of Thailand ("Thailand"), and the Socialist Republic of Viet Nam ("Viet Nam"), Member States of the Association of South East Asian Nations (hereinafter referred to collectively as "the ASEAN Member States", or individually as "ASEAN Member State"), and the People's Republic of China ("China"), hereinafter referred to collectively as "Parties" or individually as "Party":

RECALLING the *Framework Agreement on Comprehensive Economic Co-operation between the Association of South East Asian Nations and the People's Republic of China* done at Phnom Penh, Cambodia on 4 November 2002 which entered into force on 1 July 2003, as amended by the *Protocol to Amend the Framework Agreement on Comprehensive Economic Co-operation between the Association of South East Asian Nations and the People's Republic of China* done in Bali, Indonesia on 6 October 2003, the *Second Protocol to Amend the Framework Agreement on Comprehensive Economic Co-operation between the Association of Southeast Asian Nations and the People's Republic of China* done in Cebu, the Philippines on 8 December 2006, the *Third Protocol to Amend the Framework Agreement on Comprehensive Economic Co-operation between the Association of Southeast Asian Nations and the People's Republic of China* done in Phnom Penh, Cambodia, on 19 November 2012, and the *Protocol to Amend the Framework Agreement on Comprehensive Economic Co-operation and Certain Agreements thereunder between the Association of Southeast Asian Nations (ASEAN) and the People's Republic of China* done in Kuala Lumpur, Malaysia, on 21 November 2015 ("Framework Agreement");

RECALLING the *Agreement on Trade in Goods of the Framework Agreement on Comprehensive Economic Co-operation between the Association of Southeast Asian Nations and the People's Republic of China* done at Vientiane, Lao PDR on 29 November 2004 which entered into force on 1 January 2005, as amended by the *Protocol to Amend the*

Agreement on Trade in Goods of the Framework Agreement on Comprehensive Economic Co-operation between the Association of Southeast Asian Nations and the People's Republic of China done in Cebu, the Philippines on 8 December 2006, the *Second Protocol to Amend the Agreement on Trade in Goods of the Framework Agreement on Comprehensive Economic Co-operation between the Association of Southeast Asian Nations and the People's Republic of China* done in Ha Noi, Viet Nam on 29 October 2010 and Kuala Lumpur, Malaysia on 2 November 2010, and the *Protocol to Incorporate Technical Barriers to Trade and Sanitary and Phytosanitary Measures into the Agreement on Trade in Goods of the Framework Agreement on Comprehensive Economic Co-operation between the Association of Southeast Asian Nations and the People's Republic of China* done in Phnom Penh, Cambodia on 19 November 2012 ("Agreement on Trade in Goods");

RECALLING the *Agreement on Dispute Settlement Mechanism of the Framework Agreement on Comprehensive Economic Co-operation between the Association of Southeast Asian Nations and the People's Republic of China* done in Vientiane, Lao PDR on 29 November 2004 which entered into force on 1 January 2005 ("Agreement on Dispute Settlement Mechanism");

RECALLING the *Agreement on Trade in Services of the Framework Agreement on Comprehensive Economic Co-operation between the Association of Southeast Asian Nations and the People's Republic of China* done in Cebu, the Philippines on 14 January 2007 which entered into force on 1 July 2007, as amended by the *Protocol to Implement the Second Package of Specific Commitments under the Agreement on Trade in Services of the Framework Agreement on Comprehensive Economic Co-operation between the Association of Southeast Asian Nations and the People's Republic of China* done in Bali, Indonesia on 16 November 2011 ("Agreement on Trade in Services");

RECALLING the *Agreement on Investment of the Framework Agreement on Comprehensive Economic Co-operation between the Association of Southeast Asian Nations and the People's Republic of China* done in Bangkok, Thailand on 15 August 2009 which entered into force on 15 January 2010 ("Agreement on Investment");

EMPHASISING the importance of further enhancing the ASEAN-China Free Trade Area, focusing on trade opportunities in digital economy and green economy, promotion of investment, tourism flows, e-commerce, consumer protection, development of micro, small, and medium enterprises, local entrepreneurs, start-ups and financial technology cooperation in the region;

DESIRING to upgrade the ASEAN-China Free Trade Area in areas of mutual interest, to enhance user-friendliness by transitioning the Framework Agreement, the Agreement on Trade in Goods, the Agreement on Dispute Settlement Mechanism, the Agreement on Trade in Services, and the Agreement on Investment to a modern chapter-based structure, and to further the Parties' existing commitments and help ensure that the ASEAN-China Free Trade Area remains relevant to businesses, future-ready, and responsive to global challenges; and

NOTING that the Agreement on Trade in Goods was partially amended, and the Agreement on Trade in Services, Agreement on Investment, and the Agreement on Dispute Settlement Mechanism were not amended at the 3.0 Upgrade negotiations,

HAVE AGREED AS FOLLOWS:

Article 1
Amendment to the Framework Agreement and Agreement on Trade in Goods

1. In accordance with Article 14 (Amendments) of the Framework Agreement, the Parties have agreed to amend the Framework Agreement by incorporating the Appendix to this Protocol as Annex 6 (Chapter-Based Text Consolidated from the Framework Agreement and Agreements Thereunder) of the Framework Agreement. This Appendix consolidates as a chapter-based text the following:

- (a) the amendments agreed by the Parties in accordance with Article 19 (Amendments) of the Agreement on Trade in Goods and Article 14 (Amendments) of the Framework Agreement;
- (b) the new commitments agreed by the Parties; and
- (c) the reaffirmation by the Parties of the unamended parts of the Agreement on Trade in Goods, as well as the Agreement on Trade in Services, the Agreement on Investment, and the Agreement on Dispute Settlement Mechanism.

2. This Protocol shall form an integral part of the Framework Agreement.

Article 2
Amendment to the Framework Agreement

The Framework Agreement shall be amended by inserting the following Article 17 (General Review):

“Article 17
General Review

The Parties shall undertake a general review of this Agreement with a view to updating and enhancing this Agreement to ensure that this Agreement remains relevant to the trade and investment issues and challenges confronting the Parties, five years after the date of entry into force of the ACFTA 3.0 Upgrade Protocol, and every five years thereafter, unless the Parties agree otherwise.”

Article 3
Reaffirmed Agreements

Chapter 1 (Trade in Goods), Chapter 2 (Rules of Origin), Chapter 6 (Trade in Services), Chapter 7 (Investment), and Chapter 14 (Dispute Settlement) of the Appendix merely reaffirm the unamended parts of the Agreement on Trade in Goods, as well as the Agreement on Trade in Services, the Agreement on Investment, and the Agreement on Dispute Settlement Mechanism respectively, which are not amended by this Protocol.

Article 4
Work Programme

The Parties shall enter into discussions two years after the entry into force of this Protocol for all Parties, unless the Parties agree otherwise, with a view to developing a consolidated chapter-based text that brings together into one document the provisions of the Framework Agreement and the agreements thereunder.

Article 5
Depositary

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

Article 6

Entry into Force

1. Each Party shall notify the Secretary-General of ASEAN of the completion of its internal procedures¹ necessary for entry into force of this Protocol in writing. This Protocol shall enter into force 60 days after the date by which China and at least five ASEAN Member States have notified the Secretary-General of ASEAN of the completion of their internal procedures in writing.

2. After the entry into force of this Protocol pursuant to paragraph 1, this Protocol shall enter into force for any remaining Party 60 days after the date of its notification to the Secretary-General of ASEAN of the completion of its internal procedures in writing.

IN WITNESS WHEREOF, the undersigned being duly authorised by their respective Governments, have signed this Protocol.

DONE at _____, this
of _____ in the Year _____, in duplicate original copies
in the English Language.

¹ For clarity, the term "internal procedures" may include ratification, acceptance or approval by the Parties in accordance with their respective domestic laws and regulations.

For the Government of Brunei Darussalam:

(NAME IN BOLD AND CAPS)
(Designation)

For the Government of the Kingdom of Cambodia:

(NAME IN BOLD AND CAPS)
(Designation)

For the Government of the Republic of Indonesia:

(NAME IN BOLD AND CAPS)
(Designation)

For the Government of the Lao People's Democratic Republic:

(NAME IN BOLD AND CAPS)
(Designation)

For the Government of Malaysia:

(NAME IN BOLD AND CAPS)
(Designation)

For the Government of the Republic of the Union of Myanmar:

(NAME IN BOLD AND CAPS)
(Designation)

For the Government of the Republic of the Philippines:

(NAME IN BOLD AND CAPS)
(Designation)

For the Government of the Republic of Singapore:

(NAME IN BOLD AND CAPS)
(Designation)

For the Government of the Kingdom of Thailand:

(NAME IN BOLD AND CAPS)
(Designation)

For the Government of the Socialist Republic of Viet Nam:

(NAME IN BOLD AND CAPS)
(Designation)

For the Government of the People's Republic of China:

(NAME IN BOLD AND CAPS)
(Designation)