

## **Protocol on Notification Procedures**

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The Government of Brunei Darussalam, the Republic of Indonesia, Lao People's Democratic Republic, Malaysia, Union of Myanmar, the Republic of Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Vietnam, Member States of the Association of Southeast Asian Nations (hereinafter referred to as "ASEAN")

**HAVING** regard to the obligations under all ASEAN economic agreements; and

**DESIRING** to promote transparency and to improve the operation of notification procedures under all ASEAN economic agreements;

**HAVE AGREED AS FOLLOWS:**

### **Article 1 General Obligation to Notify**

1. Member States shall abide by the notification procedures set out in this Protocol.
2. Member States shall notify any action or measure that they intend to take:
  - a. which may nullify or impair any benefit to other Member States, directly or indirectly under any ASEAN economic agreement; or
  - b. when the action or measure may impede the attainment of any objective of an ASEAN economic agreement.
3. Without affecting the generality of the obligations of Member States under paragraph 2, this notification procedure shall apply, but need not be limited, to changes in the measures as listed in [Annex 1](#) and amendments thereto.
4. The provisions of this Protocol shall not apply to actions taken under emergency or safeguard measures of an ASEAN economic agreement.

### **Article 2 Prior Notification of Intent**

1. A Member State shall make a notification before effecting such action or measure referred to in Article 1. Subject to any other notification period provided in an ASEAN economic agreement, notification shall be made at least 60 days before such an action or measure is to take effect.
2. A Member State proposing to apply an action or measure shall provide adequate opportunity for prior discussions with those Member States having an interest in the action or measure concerned.

**Article 3**  
**ASEAN Bodies to be Notified**

A Member State shall notify SEOM and the ASEAN Secretariat in accordance with Article 2.

**Article 4**  
**Content of Notification**

In submitting a notification, a Member State shall provide sufficient information regarding the proposed action or measure to be taken, which shall include:

- a. a description of the action or measure to be taken;
- b. the reasons for undertaking the action or measure; and
- c. the intended date of implementation and the duration of the action or measure.

**Article 5**  
**Confidentiality of Notification**

The contents of the notification and all information relating to it shall be treated with confidentiality.

**Article 6**  
**Follow-up to Notification**

1. The Member State concerned shall, without discrimination, allow adequate opportunities for other Member States to present their comments in writing and discuss these comments upon request. Discussions entered into by the Member State concerned with other Member States shall be for the purpose of seeking further clarification about the action or measure. The Member State may give due consideration to these written comments and the discussion in the implementation of the action or measure.
2. Other Member States shall present their comments within 15 days of the notification. Failure of a Member State to provide comments within the stipulated time shall not affect its right to seek recourse to a dispute settlement mechanism.
3. The Member State concerned shall furnish the ASEAN Secretariat with a copy of the comments received.

#### **Article 7**

#### **Role of the ASEAN Secretariat/Central Registry of Notifications**

1. The ASEAN Secretariat shall act as the central registry of notifications, including written comments and results of discussions.
2. The ASEAN Secretariat shall draw the attention of individual Member States to notification requirements, such as those stipulated in Article 4, which remain unfulfilled.
3. The ASEAN Secretariat shall make available information regarding individual notifications on request to any Member

#### **Article 8**

#### **Final Provisions**

1. Any amendment to this Protocol shall become effective upon acceptance by all Member States.
2. New Members of ASEAN shall accede to this Protocol by signing and depositing the instrument of accession with the Secretary-General of ASEAN.
3. This Protocol shall be deposited with the Secretary-General of ASEAN who shall promptly furnish a certified copy thereof to each Member State.
4. 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.

**IN WITNESS WHEREOF**, the undersigned, being duly authorised thereto by their respective Governments, have signed the Protocol on Notification Procedures.

**DONE at Makati, this 8th day of October 1998**, in a single copy in the English language.

## **ANNEX I**

### **LIST OF NOTIFIABLE MEASURES**

- a. CEPT tariffs
- b. CEPT Product List
- c. Quotas
- d. Surcharges
- e. Quantitative restrictions
- f. Other non-tariff measures
- g. Customs valuation
- h. Rules of origin
- i. Technical barriers/SPS
- j. Export taxes
- k. Licensing (import and export)
- l. Foreign exchange controls related to imports and exports
- m. Application of the ASEAN Harmonised Tariff Nomenclature beyond the 8-digit level for tariff purposes
- n. Schedule of specific commitments, list of MFN exemptions and other concessions in the ASEAN Framework Agreement on Services