

# Free Trade Agreement

## **Pre-FTA steps**

Proposed FTA Partner to take steps for FTA  
Obligations

FTA Partner to review own laws, rules & practices

FTA Partner to review shortcomings & overcome

## **FTA Entry**

## **Post-FTA Steps**

FTA Partner to continue to review own laws

Phased-in commitment implementation monitor

Transition period closure

FTA Partner to review continued

legal consistency with FTA

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## *Post-FTA Steps*

Receive public comments for annual processes  
on potential Foreign Trade Barriers

Continue work with private sector on comments

FTA Admin Oversight Body to meet periodically

## *Dealing with potential FTBs*

FAOB consults with the FTA Partner

FAOB assists local companies in FTBs

Trade Compliance Program to investigate FTBs

TCP to work with FTA Partner & resolve FTBs

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## Post-FTA Steps contd.,

### Dealing with potential FTBs contd.,

TCP to seek out exporters for & respond to,-

Market Access Complaint FTBs

Non-FTA-Compliance FTBs

Overseas Market Investment FTBs

TCP to help exporters to get

Non-FTA Overseas Market Access

### FTA Enforcement

Unresolved FTBs to be referred

to Foreign Trade Representative

FTR to resolve FTBs referred to itself

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## Post-FTA Steps contd.,

### FTA Enforcement contd.,

FTA to include Dispute Settlement Mechanism

FTR to refer FTBs to a Tribunal as part of DSM

Non-compliant FTA Partner,-

To face suspension of FTA concessions

To pay out Non-Compliance Compensation

## FTA key components

**GAoTiS** (*General Agreement on Trade in Services*),  
in the WTO Agreement;

**GAoT&T 1994** (*General Agreement on Tariffs and Trade 1994*), in the WTO Agreement;

# Free Trade Agreement

## Post-FTA Steps contd.,

### FTA Enforcement contd.,

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## FTA key components

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## *FTA key components contd.,*

**Safeguards Agreement (SgA)**, *in the WTO Agreement;*

**S&PSM Agreement (S&PsMA)**, *Sanitary and*

*Phytosanitary Measures Agreement, in the WTO Agreement;*

**TTB Agreement (TTBA)**, *Technical Trade Barriers*

*Agreement, contained in the WTO Agreement;*

**TriPRA Agreement**, *Trade-Related Intellectual*

*Property Rights Aspects Agreement, contained in the WTO Agreement;*

**WTO Agreement** *means the Marrakesh Agreement*

*Establishing the World Trade Organization,*

*done on April 15, 1994.*

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## **FTA key components contd.,**

**HCD&CS**, the *Harmonized Commodity Description and Coding System*, implemented by the FTA Partners in their tariff laws;

## **FTA Chapters & Contents Listing**

National Treatment & Market Access for goods

Elimination of Customs Duties

& Prohibition of performance requirement  
conditional waiver

Temporary Duty-Free Import Admission

Duty-Free Import of

Goods after repair or alteration

Commercial samples of negligible value

Printed advertising materials

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## **FTA Chapters & Contents Listing contd.,**

Import & Export Restrictions to be

as per Article XI of GAoT&T 1994 included in FTA

Import & Export Administrative Fees to be

as per Article VIII:1 of GAoT&T 1994

restricted to cost of services rendered

Export tax to be levied only on goods

to be consumed at export-destination

Merchandise Process Fee not on originating goods

A Inter-FTA-Partner GTC

(Goods Trade Committee) to be constituted



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## FTA Chapters & Contents Listing contd.,

### Definitions

***Consular Transactions*** – Import customs documentation to be obtained by the Exporting FTA Partner from the Consulate of the Importing FTA Partner in Exporting FTR Partner's Territory

***duty deferral program*** includes measures governing foreign-trade zones, temporary bonded imports bonded warehouses & inward processing Programs;

***printed advertising materials*** - goods classified in Chapter 49 of the **HCD&CS**, the *Harmonized Commodity Description and Coding System*,

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## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

FT Measures of FTA Partners

FT Tariff Elimination

### *FT Industry-wise Matters :*

Agreed Principles & Multilateral Co-operation

Bilateral Emergency Actions

Export Subsidy & Tariff Rate Quota Admin

Market Access Commitment Review

Transparency Steps & Safeguard Measures

Price-based & Quantity-based Safeguards

# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices contd.,*

#### *Rules of Origin Matters*

Originating goods

De Minimis regarding value of  
non-originating goods used in  
production of originating goods

Produced-goods-destination

accumulates to used-goods-origination

Material Value

Accessories, Spare Parts & Tools

Inter-changeable, identical (fungible) goods

Packaging Materials & Containers

for Retail Sale & Shipment

# Free Trade Agreement

**FTA Chapters & Contents Listing contd.,**

***Appendices contd.,***

***Rules of Origin Matters***

Indirect Materials

3<sup>rd</sup> Country Transportation

Preferential Treatment Claims

Import Obligations

Record-Keeping Requirement

Originating Goods Verification

Consultation & Modifications

Application & Interpretation

# Free Trade Agreement

## FTA Chapters & Contents Listing contd.,

### *Appendices*

#### *Rules of Origin Matters contd.,*

#### *Regional Value Content (RVC) Calculation*

##### *Build-Down Method (BDM)*

$$(AV - \text{NoMV} / AV * 100)$$

##### *Build-Up Method (BUM)*

$$(\text{OrMV} / AV * 100)$$

AV – Adjstd Val;

NoMV – Non-originating Matl Val

OrMV – Originating Matl Val

# Free Trade Agreement

## FTA Chapters & Contents Listing contd.,

### *Appendices*

#### Rules of Origin Matters contd.,

#### Regional Value Content (RVC) Calculation

#### *Net-Cost Method (NCM)*

$$\text{NC} - \text{NoMV} / \text{NC} * 100$$

NC – Net Cost

NoMV – Non-originating Matl Val

# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

Customs Co-operation Working Group /

Committee Maintenance

Regulatory Co-operation

Information Dissemination

Definitions

### *Customs Administration*

Advance Rulings Re Customs Valn Agmt

Review & Appeal

Co-operation & Confidentiality

Penalties, Release & Security

Risk Assessment

# Free Trade Agreement

## FTA Chapters & Contents Listing contd.,

### *Appendices*

#### Customs Administration contd.,

Express Shipment

#### Sanitary & PhytoSanitary Measures :

(International trade plant health  
requirement – Phytosanitary )

Committee on S&PSM

#### Standing Technical Working Group (STWG)

- Animal & Plant Health Measures (A&PHM)

Specific Work Plan Development



# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *Technical Trade Barriers (TTB)*

International Standards

Technical Regulations

Compliance Assessment Procedure

Transparency & Trade Facilitation

Coordinators

Information Exchange

Definitions

# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *Safeguards*

Imposition, Conditions & Limitations

Provisional Safeguard Measures

Trade-Liberalization Concessions

Global Safeguard Measures

Definitions

#### *Cross-Border Service Trade*

National Treatment – As own service providers

Most-favoured-Nation Treatment

- As non-FTA-Party service providers

# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *Cross-Border Service Trade*

Overseas Market Access

Local Presence

Non-compliance Measures

Domestic Regulations

Regulation Development & Application

Transparency

Recognition, Transfers & Payments

Benefits Denial

Specific Express Service Delivery Commitment

Implementation

Definitions

# Free Trade Agreement

## FTA Chapters & Contents Listing contd.,

### *Appendices*

#### *Professional Services*

Development & Temporary Licensing  
Working Group & Review

#### *Investment*

National Treatment – As own investors  
Most-favoured-Nation Treatment  
- As non-FTA-Party investors  
Minimum Treatment Standard  
Treatment in case of Strife  
Expropriation & Compensation

# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *Investment*

Transfers & Performance Requirements

Senior Management & Boards of Directors

Investment & Environment

Benefits Denial

Non-compliance Measures

Information Requirements

Implementation

Investor-State Dispute Settlement

Definitions

# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *Investment*

Customary International Law

Expropriation

#### *Telecom Services*

Access and Use

#### *Public Telecom Service Suppliers*

Inter-connection & number portability

Diality parity & submarine cable systems

Treatment by Major PTSSs

Competitive Safeguards

Resale & Network element unbundling

# Free Trade Agreement

## FTA Chapters & Contents Listing contd.,

### *Appendices*

#### Telecom Services

##### Public Telecom Service Suppliers contd.,

Inter-connection

Leased circuit services

Unbundled network element (UbNwE)

Interconnection equip (IcEq) co-location

Way Rights Access

##### Other Measures

Technology Choice Flexibility

Value-added Service Supply Conditions

Independent Regulatory Bodies

& Divestment

# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *Telecom Services*

#### *Other Measures*

Universal Service

Regulatory Procedures

Scarce Telecom Resource Alloc & Use

Enforcement

Telecom Dispute Resolution & Appeal

Forbearance from Application

#### *Definitions*



# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *Financial Services*

National Treatment –

As own Financial Service Provider

Most-favoured-Nation Treatment

As non-FTA-Party Financial Service Provider

Overseas Market Access

For Financial Institutions

Cross-Border Financial Service Trade

New Financial Services

Information Treatment

Senior management & Board of Directors

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## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *Financial Services*

Non-compliance measures

Exceptions & Regulatory Transparency

Compliance by Self-Regulatory Organizations

Payment & Clearing Systems

Insurance Service Speedy Supply Requirement

Recognition & Financial Services Committee

Consultations & Dispute Settlement

Definitions

Cross-Border Trade

Portfolio Management Commitment

# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *Financial Services*

Financial Service Authorities

#### *Competition-Related Matters*

Competition Law & Anti-Competitive Conduct

Designated Monopolistic Operation

State Enterprise Operation

Price Differential

Cross-Border Consumer Protection

Consumer monetary restitution

Transparency & Co-operation

Consultations & dispute settlement

Definitions

# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *Government procurement*

Compliance & Valuation

National Treatment & Non-discrimination

Procurement methods

Procurement information publication

Time Limits

Intended procurement notice

Tendering procedures

Non-discriminatory tendering

Tender treatment & contract award

Procurement practice integrity enforcement

# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *Government procurement*

Supplier challenge domestic review

Exceptions – non-discriminatory

Coverage modifications & rectifications

Co-operation

Definitions

Central & Regional Government Entities

Government Enterprises

Goods & Services

Construction Services

General Notes

# Free Trade Agreement

## FTA Chapters & Contents Listing contd.,

### *Appendices*

#### Government procurement

Goods & Services Entity Threshold Adjustment  
to do every n years

$$TV_{Yn} = TV_{Y1} * (1 + ir_{afYn})$$

TV = Threshold Value

ir = inflation rate

af = accumulated for

# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *E-Commerce*

Electronic service supply

Customs duties

Digital products – non-discrimination

Digital Certificate Authentication

Online Consumer Protection

Paperless Trade Administration

Definitions

# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *Intellectual Property Rights*

International agreements

National treatment – as if own national IPR

Agreement applications to  
existing matter & prior acts

Transparency

Trademarks including geographical indications

Internet domain names

Copyrights

Producers & performers of phonograms

Satellite signal encrypting  
programme protection



# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *Intellectual Property Rights*

Designs & Patents

Product regulation measures

IPR Enforcement

Civil & Admin Procedures & Remedies

Provisional Measures

Border measure requirements

Criminal procedures & remedies

Limitation on service provider liability

Transitional provisions

# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *Labour*

Shared Commitment Statement

Labour Law Application & Enforcement

Procedural Guarantees & Public Awareness

Institutional Arrangements

Labour Co-operation & Consultations

#### *Environment*

Protection levels

Environmental law application & enforcement

Procedural Guarantees & Public Awareness

# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *Environment*

Environmental Performance

Enhancement Mechanisms

Institutional Public Participation Arrangements

Environmental Co-operation & Consultations

Environmental Agreement Relationship

Definitions

#### *Transparency*

Contact Points

Publication

Notification & Information provision

# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *Transparency*

Administrative Agency Processes

Review & Appeal

Definitions

#### *Institutional Dispute Settlement Arrangements*

Dispute Settle Joint Committee & Referral

Dispute Settlement Proceedings Admin

Inter-Agmt Forum Choice & Consultations

Dispute Settle Panel Establishment

Rules of Procedure & DS Panel Report

DSPR Implement & Default Compensation

# Free Trade Agreement

## FTA Chapters & Contents Listing contd.,

### *Appendices*

#### *Institutional Dispute Settlement Arrangements*

DSPR Non-Implementation & Disputes

Compliance Review & 5-Year Review

Privacy Rights

#### *Inflation Adjst For Monetary Assts*

$$MAMAV = FXMAV * (1 + ir_{afYn})$$

MAMAV = Max Annual Monetary Asst Val

FXMAV = Fixed Monetary Asst Val

ir = inflation rate

af = accumulated for

# Free Trade Agreement

## FTA Chapters & Contents Listing contd.,

### *Appendices*

#### *Institutional Dispute Settlement Arrangements*

#### *Inflation Adjst For Monetary Assts contd.,*

$$PY1QMAV = DSPAV * (1 + ir_{afYn}) / 4$$

PY1MAV = Post-Year-1 Monetary Asst Val

DSPAV = Dispute Settle Panel Asst Val

ir = inflation rate

af = accumulated for

# Free Trade Agreement

## *FTA Chapters & Contents Listing contd.,*

### *Appendices*

#### *General Provisions & Exceptions*

General Exceptions & Essential Security

Taxation & Information Disclosure

Anti-Corruption

#### *Final Provisions*

Accession to entering countries

Annexes & Amendments

Entry into Force & Termination

# Preferential Trade Agreement

## *PTA key components – Differing from FTA*

### *Balance of Payment Measures*

Balance of Payment Difficulties

Provisional Suspension of

Preferential Treatment

Consultations Opportunity

Preferential Treatment Stability

Preferential Treatment =

Tariff Reduction / Elimination

On Goods Movement



# Compreh Econ Co-op Agreement - Framework Agmt Amend Protocol

## **CECA FwAP key components – Differing from FTA**

### **Depository**

Where to deposit the FwAP

# Compreh Econ Co-op Agreement - FrmWk Dispute Settle Mech Agmt

## **CECA FwDSMA key components – Differing from FTA**

Rights of 3<sup>rd</sup> parties under DSMA

Arbitration Panel Rules

Official Language

# Compreh Econ Co-op Agreement - Trade-in Goods Framework Agmt

## ***CECA TiGFwA key components – Differing from FTA***

Non-Tariff Measures

General & Security Exceptions

Special & Highly-Sensitive Products

Excluded products

Wholly produced or obtained products

Not Wholly produced or obtained products

# Compreh Econ Co-op Agreement - Trade-in Goods Framework Agmt

## *CECA TiGFwA key components – Differing from FTA*

### *Originating Product with*

### *AIFTA Content – ASEAN-India FTA Content*

AIFTA Material Cost + Direct Labour Cost  
+ Direct Overhead Cost + Other Cost + Profit  
 $\times 100 \% \geq 35\% \text{ FOB Price}$

Value of Imported Non-AIFTA Materials,  
Parts or Produce + Value of Undetermined  
Origin Materials, Parts or Produce  
 $\times 100 \% \leq 65\% \text{ FOB Price}$

### *AIFTA Content Calc Method*

# Compreh Econ Co-op Agreement - Trade-in Goods Framework Agmt Article 4 Understanding

## **CECA TiGFwA A4U key components –**

### **Differing from FTA**

Article 4 – Tariff Reduction & Elimination

Article 12 – General Exceptions –

Article XX GAoT&T 1994

Article 4 & Article 12 can be applied together