

CUSTOMS & TRADE FACILITATION 2018

An update on previous recommendations



© EU-ASEAN Business
Council 2018

Issued by the EU-ASEAN
Business Council
March 2018

1 Phillip Street
#12-01
One Royal Phillip
Singapore 048692

info@eu-asean.eu

Contents

EXECUTIVE SUMMARY	3
Short-term Recommendations (12 to 18 Months)	5
Medium-term Recommendations (24-36 months)	10
The Role of Trade Facilitation	11
MSMEs and International Trade	13
Trade Facilitation Initiatives in ASEAN	13
Recommendations for Implementation in the Short-term (12-18 months)	145
Simplification of Certificates of Origin	15
Tracking and transparency of customs declarations.....	15
ASEAN transport agreements	16
Facilitation of Clearance for E-Commerce Shipments to Support MSMEs	17
Recommendations for Implementation in the Medium-term (24-36 months)	20
Automated customs clearance procedures.....	20
Removal of Non-Tariff Barriers & Harmonisation of Standards	20
Mutual recognition of AEO programmes	21
Pre-arrival clearance and post-clearance audits.....	22
Advance rulings.....	22
WTO-Trade Facilitation Agreement	23
Private Sector Consultation	24
About the EU-ASEAN Business Council	25
Annex A.....	26

EXECUTIVE SUMMARY

**ASEAN WILL CONTINUE
TO REDUCE OR
ELIMINATE BORDER AND
BEHIND-THE-BORDER
REGULATORY BARRIERS
THAT IMPEDE TRADE,
SO AS TO ACHIEVE
COMPETITIVE,
EFFICIENT AND
SEAMLESS MOVEMENTS
OF GOODS WITHIN THE
REGION**

AEC Blueprint 2025

This paper provides an update of the position papers that the EU-ASEAN Business Council produced in April 2016 and in May 2017 on Customs Procedures and Trade Facilitation issues in ASEAN.

Whilst there has been some progress in the region over the last couple of years, disappointingly it has been narrow and slow. We believe that for ASEAN economies and its rising MSMEs, it is now the time to push for growth and prosperity.

We welcome the move to have a single ASEAN Harmonised Tariff Nomenclature across all of the region and also the move to a single programme for self-certification of Certificates of Origin. We also welcome the renewed impetus on advancing trade facilitation across ASEAN through the reconstituted ASEAN Trade Facilitation - Joint Consultative Committee (ATF-JCC), and the participation in that group by the private sector under the auspices of the ASEAN Business Advisory Council. **It is hoped that the involvement of the private sector in the ATF-JCC is both meaningful and ongoing.**

This updated paper has been with a view to assist ASEAN and its Member States in achieving some of the key aims and objectives set out in the ASEAN Economic Community (AEC) Blueprint 2025, i.e. “to facilitate the seamless movement of goods...”¹ and the commitment

that “ASEAN will continue to reduce or eliminate border and behind-the-border regulatory barriers that impede trade, so as to achieve competitive, efficient and seamless movements of goods within the region”². **More action on these fronts is undoubtedly needed if the benefits of the AEC are to be felt across the region, particularly for MSMEs.**

During the course of the Philippines’ Chairmanship of ASEAN in 2017, the ASEAN leadership adopted key targets for measuring progress on trade facilitation in the region. Twin targets of reducing trade transaction costs by 10% by 2020 and doubling intra-ASEAN trade by 2025 are now in place³. These targets are to be welcomed, though measuring the first one and establishing a reasonable baseline will be challenging: the private sector should be involved in that process. The EU-ABC also welcomes the adoption of the ASEAN Seamless Trade Facilitation Indicators (ASTFI) that should provide a tool for measuring trade facilitation at the national and regional levels. **We request that the ASTFI will be made publicly available, with updates published at regular intervals. We also note that ASEAN is working on guidelines for assessing Non-Tariff Measures: whilst some movement in this area is also welcomed, it should be noted that UNCTAD, World Bank and others already have such guidelines⁴.**

The fast paced development of e-Commerce in Southeast Asia continues to present both an opportunity and a challenge to the region. Today, as it stands, the governments in ASEAN are witnessing economic growth fueled to a large extent by e-Commerce. This is a success story which mainly is driven by MSMEs but which also has a positive impact on MNCs. However, there are many policies and regulations, particularly around customs procedures and Certificates of Origin

¹ See Section II.A, paragraph 7 of the AEC Blueprint 2025

² See Section II.A.1, paragraph 9 of the AEC Blueprint 2025

³ See paragraph 53 of the ASEAN Chairman’s Statement, 31st ASEAN Summit, November 2017: <http://asean.org/storage/2017/11/final-chairman%E2%80%99s-statement-of-31st-asean-summit.pdf>

⁴ See: http://siteresources.worldbank.org/INTRANETTRADE/Resources/Pubs/303936-1334932249017/SNM_AppendixC.pdf for an example.

(CoOs), that hinder or inhibit the ability of MSMEs to grow and fully benefit from the extensive possibilities that e-Commerce gives them to enter new markets. **It is imperative, therefore, that ASEAN continues to focus on trade facilitation in assisting the growth of this area.** The recommendations presented in this paper will not only help more traditional cross border trade, but will also assist with e-Commerce and fostering the growth of ASEAN's MSMEs and help their involvement in the global supply chain.

The paper focusses mainly on customs procedures and trade facilitation practices across ASEAN. These are viewed by many companies across the region, not just the members of the EU-ABC, as being overly complex, burdensome, and sometimes inconsistent in terms of application. Numerous studies have clearly indicated the economic and trade benefits of reducing and simplifying such procedures and practices. Doing so boosts trade and provides exponential assistance to MSMEs who are often less well placed to understand and navigate customs rules when exporting. ASEAN cannot grow MSMEs and national GDP quicker without applying these well-meant recommendations.

In this paper, we continue to present both short-term and medium-term recommendations which we believe are entirely implementable within reasonable time frames and which would, in turn, greatly boost the ease of cross-border trade within ASEAN and bring benefits to all parts of the economy, not just to the larger traders and MNCs, but primarily to MSMEs. **Without implementing such recommendations ASEAN will not be able to hit the twin targets mentioned above.**

We also recognise that Customs authorities, in particular, are faced with what is often seen as competing requirements, i.e. the need to raise and maintain revenues from tariffs, duties and taxes, whilst simultaneously facilitating more trade. We do not see these as opposing objectives. Moves to automate customs procedures should allow, when used properly, increase risk management by customs and law enforcement authorities, whilst allowing for increased cross-border trade which in turn will allow for increased opportunity to raise revenue. The bigger government revenue picture should also be borne in mind: more trade means more economic growth, which increases wealth and therefore increases the potential for wider government revenues.

In the following tables we have colour coded our recommendations: Red means there has been no progress; Yellow some progress; Green - our concerns have been met fully.

WE WELCOMED THE ADOPTION OF THE ASEAN SEAMLESS TRADE FACILITATION INDICATORS (ASTFI) THAT PROVIDES A TOOL FOR MEASURING TRADE FACILITATION AT THE NATIONAL AND REGIONAL LEVELS, AND IMPROVING THE OVERALL TRADING ENVIRONMENT IN THE REGION. WE LOOKED FORWARD TO THE POTENTIAL CONTRIBUTION OF THIS METHODOLOGY IN ACHIEVING THE 10% TARGET REDUCTION IN TRADE TRANSACTIONS COST BY 2020 SIMULTANEOUS TO THE DOUBLING OF INTRA-ASEAN TRADE BETWEEN 2017 AND 2025."

Paragraph 53, Chairman's Statement at 31st ASEAN Summit, 13th November 2017 (emphasis added)

Short-term Recommendations (12 to 18 Months)

Issue	Recommendation	Progress Since April 2016	Progress Since May 2017
Simplification of Certificates of Origin (CoO)	To stimulate intra-ASEAN trade for MSMEs, increase the threshold for waiver of Certificates of Origin below a certain threshold - from USD 200 to a higher level.	There has been no discernible progress on this issue. Accelerating moves to remove the need for CoOs for low-value goods would boost trade for MSMEs and e-Commerce	Despite a proposal submitted to the Co-ordinating Committee on Customs from the Joint Business Councils (JBC), aimed at simplifying procedures for low value shipments designed specifically to assist MSMEs in ASEAN, there again has been no discernible progress on this issue. The CCC, at its October 2017 meeting, rejected the JBC proposal outright. The JBC accepted that its proposal was far from perfect, but it did represent a good starting point for further discussion. <i>It is the EU-ABC's recommendation that the ASEAN Trade Facilitation-Joint Consultative Committee takes up the JBC proposal and instigate a working group to examine and develop it further.</i> <i>The EU-ABC continues to recommend that the need for a CoO be waived for goods below a certain threshold with the current USD200 threshold to be raised to a mutually agreed level across ASEAN. Abuse of Self-certification can be minimised by post-clearance audits by customs authorities.</i> We note that CPTPP includes provision for self-certification amongst the 11 members of that agreement, including Singapore, Malaysia, Brunei and Vietnam.
	To increase intra-ASEAN trade and the utilisation of ATIGA, align the two ATIGA self-certification pilots to enable certified traders to issue their own Certificates of Origin valid in all ASEAN Member States.	It is our understanding that there are plans to merge to the two schemes. <i>It is the EU-ABC's recommendation that the 1st scheme should be used as the basis for the merged scheme.</i> The EU-ABC also suggests that ASEAN, perhaps as part of the RCEP process, looks to streamline the CoO	The EU-ABC welcomes the significant progress that has been made on merging the two self-certification pilot schemes and urges the ASEAN Member States to move to implement the single scheme as soon as possible.

Issue	Recommendation	Progress Since April 2016	Progress Since May 2017
		process for the ASEAN+1 FTAs in order to simplify processes for exporters from the region.	
ASEAN Harmonised Tariff Nomenclature (AHTN)	We recommend that all ASEAN Member States implement the AHTN as the sole and prevailing tariff nomenclature across ASEAN.	We are pleased to note that as from 1 April 2017 this recommendation has been achieved. We continue to urge the Customs authorities to involve the private sector in any reviews of the AHTN.	Latest indications from ASEAN are this is now in the process of being fully implemented. Again, this is welcomed by the EU-ABC.
Tracking and transparency of customs declarations	For those ASEAN Member States that already possess an automated customs clearance environment, we recommend that import declarations are made retrievable for traders. This would enable visibility and certainty of the entire customs clearance and import process.	Issue is still outstanding and the EU-ABC recommends that Customs authorities continue to work on solutions that would increase transparency and availability of information.	Issue is still outstanding. <i>The EU-ABC recommends that Customs authorities continue to work on solutions that would increase transparency and availability of information.</i>
ASEAN transit transport agreements	Develop a proposal that advances the full ratification by all Member States of the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT) and the ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST), including all related Protocols; Develop a proposal that requires ASEAN Member States to provide a timeline for preparation and finalisation of national legislation that operationalises Protocol 7 of AFAFGIT as well as the ASEAN Customs Transit System (ACTS).	Public information on this issue remains hard to come by, but it remains our understanding that the full ratification of AFAFGIT and AFAFIST remains outstanding. Certainly, operationalisation of these Framework Agreements remains somewhat off. We welcome the completion of initial parallel runs under ACTS in the pilot scheme. Developing ACTS to include the full range of activities and extending ACTS to the CLMV countries should be a priority going forward.	We understand that the remaining protocols of both AFAFGIT and AFAFIST have now been signed by all ASEAN Member States and that ratification of them can be expected in 2018. This is very much welcomed. We further understand that ACTS will become fully operational in 2018 for Singapore, Malaysia and Thailand, and a road map to expand ACTS to the CLMV is being developed. <i>The EU-ABC recommends that ACTS be rolled out to the CLMV as soon as is possible and full implementation for Singapore, Malaysia and Thailand be in place well before the end of 2018.</i>
Facilitation of clearance for e-Commerce shipments to support MSMEs	To stimulate cross-border e-Commerce for MSMEs in ASEAN, undertake the following: ➤ Introduce simplified clearances for low-value shipments in line with WTO and WCO Guidelines for eg. minimal data elements, consolidated	This is linked to the CoO point above. For low-value shipments, the costs of customs procedures, in terms of time and bureaucracy can often outweigh the cost of the product itself. Customs authorities are encouraged to accelerate	The EU-ABC, as part of the Joint Business Councils and under the auspices of the ASEAN Business Advisory Council, has supported a proposal on expedited clearances and simplified customs procedures for low value shipments. That proposal, which has been

Issue	Recommendation	Progress Since April 2016	Progress Since May 2017
	clearance, importer/exporter registration exemptions, common value threshold for such shipments etc.; ➤ Introduce a moratorium on new border measures which may negatively impact cross-border clearances of e-Commerce shipments; ➤ Exempt, as far as possible, licensing or permit requirements by other government agencies for low-value shipments, bearing in mind the need for some licences to apply regardless of shipment value (e.g. those relating to public health and safety); ➤ Introduce/regularly review viable <i>de minimis</i> thresholds. Such <i>de minimis</i> levels to cover shipments transported by all modes of transport. ➤ Consider an ASEAN-wide ‘trusted trader accreditation program’ for e-Commerce sites and shippers to address customs control concerns, without impairing legitimate e-Commerce trade facilitation.	the implementation of simplified procedures for low-value items. The EU-ABC welcomes the move by the Philippines to raise its <i>de minimis</i> level to PHP10,000, and encourages other ASEAN Member States whose <i>de minimis</i> levels remain low to similarly increase them to at least USD100 if not more. If ASEAN Member States prefer not to increase <i>de minimis</i> levels, they should look to implement simplified procedures to reduce the cost and time of making relevant declarations, including increased automation, such as automated payments.	discussed at the Co-ordinating Committee on Customs (CCC) and at the ATF-JCC, was specifically designed to help e-Commerce and MSMEs in ASEANs. Regrettably, the CCC has dismissed the proposal. Whilst we remain open to discuss improvements to the proposal, it did represent a good starting point for looking at measures that would expedite clearances for low value shipments and reduce the cost of shipping and trade transaction costs. We hope that the ATF-JCC will revisit the proposal. <i>Recognising that there are some elements of the JBC proposal that are problematic for authorities, and the need to refine the proposal further, the EU-ABC recommends that the ATF-JCC establishes a sub-group to review the JBC proposal and develop a system that achieves the aims of the proposal and meets the concerns of ASEAN Member States. That group should involve directly members of the JBC.</i> For the second bullet point in the original recommendation (moratorium on new legislation) we suggest replacing it with a requirement that new legislation is evaluated and assessed on its necessity, usefulness and impact before it is implemented. Governments also need to bear in mind that any unilateral regulation taken will also work against other governments as every country importing goods is also a country exporting goods The EU-ABC has dropped its recommendations on <i>De Minimis</i>.

Issue	Recommendation	Progress Since April 2016	Progress Since May 2017
Private Sector Consultation	ASEAN to set up a dialogue mechanism with the private sector on a sectoral basis (Committee or Sub-Committee level) to more effectively involve the private sector in advancing ASEAN connectivity and trade facilitation issues; ASEAN to consider selected representatives from the private sector to participate in Committee or Sub-Committee meetings related to connectivity and transportation on an observer basis.	The involvement of the private sector in the ATF-JCC is most welcome and the EU-ABC looks forward to participating more in the future through its chairmanship of the ASEAN BAC Trade Facilitation Working Group. The EU-ABC requests involvement with the Customs Procedures Trade Facilitation Working Group (CPTFWG) as promised by the Customs DGs during our first dialogue session with them in May 2016. We also request involvement with the Customs Capacity Building Working Group and the Customs Enforcement Working Group - in both cases we see significant value-add for the private sector in increasing understanding on the challenges being faced by Customs authorities and in offering private sector assistance in tackling illicit trade. We also urge the setting up of an ASEAN-wide Trade Facilitation Committee following the entry into force of the WTO Trade Facilitation Agreement (TFA). The WTO TFA foresees the establishment of national committees involving the private sector - given the AEC process it would be logical for there to be a joint ASEAN equivalent.	The EU-ABC is pleased to participate in the ATF-JCC along with ASEAN BAC and other members of the Joint Business Council. We look forward to the consultation process be extended both in terms of time and quality, with regular and meaningful exchanges of ideas and responses between meetings and well in advance of any meetings. This requires more regular dialogue and more timely responses from the ASEAN Secretariat and ASEAN Member States to proposals and suggestions received. Maintaining an up-to-date and public register of ALL recommendations received with full details of actions taken or reasons for non-action is vital to this process. The EU-ABC requests, again, for involvement with the CPTFWG, the CCBWG, and the Customs Enforcement Working Group.
ASEAN Position on Trade Facilitation in RCEP negotiations	Given ASEAN centrality in the on-going negotiations with other parties for the Regional Comprehensive Economic Partnership (RCEP) Agreement, some of the proposals made in this paper can also be taken to the RCEP negotiations to amplify the benefits for ASEAN and other RCEP countries.	We support the schedule of progressing RCEP negotiations towards end of 2017.	Progress on the RCEP has not been as speedy as many had hoped or expected. We hope that the negotiations can be concluded now in 2018, as long as it is a deep and comprehensive agreement that improves conditions for trade and investment between the countries involved.

<u>Issue</u>	<u>Recommendation</u>	<u>Progress Since April 2016</u>	<u>Progress Since May 2017</u>
Ratification and Enforcement of the WTO Trade Facilitation Agreement (TFA)	ASEAN Member Countries to ratify the WTO Agreement on Trade Facilitation. As the Agreement is now in force at the WTO, ASEAN Member Countries to ensure its full and complete implementation, based on the commitments submitted to the WTO.	We note that 9 out of the 10 ASEAN Member States have ratified the Agreement, and we urge the remaining Member State to do so as soon as possible. We also urge the ASEAN Members States to establish their Trade Facilitation Committees as soon as possible and to involve the private sectors in them, perhaps through local European Chambers of Commerce in the case of European industry. We understand that under the WTO-TFA there is a requirement for countries to communicate all of their commitment. We would urge the ASEAN Member States to make those commitments publicly available to increase understanding for the private sector.	We are pleased to note that all 10 ASEAN Member States have now ratified the WTO-TFA. We continue to urge the ASEAN Members States to establish their Trade Facilitation Committees as soon as possible and to involve the private sectors in them, perhaps through local European Chambers of Commerce in the case of European industry. We understand that under the WTO-TFA there is a requirement for countries to communicate all of their commitments. We continue to urge the ASEAN Member States to make those commitments publicly available to increase understanding for the private sector and note that some ASEAN Member States have more readily filed with the WTO than others.

Medium-term Recommendations (24-36 months)

Issue	Recommendation	Progress Since April 2016	Progress Since May 2017
Automated customs clearance procedures	As a first step towards the implementation of NSWs, and ultimately the ASW, ASEAN Member States should commit to fully automating customs clearance procedures before the end of 2017. This should also imply removal of all duplicate paper procedures; Introduce a 24/7, fully electronic payment system for duties and taxes, which would lower costs for ASEAN's business and cut customs clearance times by one day, before the end of 2017.	We note that Vietnam has now implemented an automated Customs system, and that Myanmar is progressively implementing a system. We also note that Singapore, Malaysia, Philippines and Indonesia intend to implement new systems. We urge all ASEAN Member States to implement fully automated systems, including for payments, and remove the need for hardcopies of any documents.	We note the good progress that is being made across the region on fully establishing the NSWs and the moves towards the ASW, with several Member States now exchanging Form D data. We urge all ASEAN Member States to have their NSWs fully functional with all relevant agencies on the system by the end 2018. <i>We recommend that all Customs authorities move to fully automated paperless systems and set out clear timelines for doing so, with on line payments for taxes and duties.</i>
Removal of Non-Tariff Barriers & Harmonisation of Standards ⁵			In order to promote trade and reduce any non-tariff measures, the governments across ASEAN should have a strong commitment to implementing and abiding by harmonised standards, or at the very least to put in place binding Mutual Recognition Agreements (MRAs) to avoid country specific requirements and different interpretations. The recognition and deployment of international standards (e.g. UNECE in the Automotive sector or Organisation of Vine and Wine (OIV) for the wine sector) should occur in parallel with both the work of the ACCSQ and the removal of NTBs. Moves in this area would greatly enhance the capability of ASEAN Member States to participate fully in Global Value Chains. We recommend: 1) The implementation of the work plan, to a firm timeline, for the removal of the NTBs, and early

⁵ These recommendations first appeared in the EU-ABC's paper to the AEM in March 2017 "The AEC Blueprint 2025: Recommendations for advancing economic prosperity". See www.eu-asean.eu/publications

			involvement of Business Councils in the process of identification and prioritisation of NTBs 2) The development of harmonised standards across the region, or binding MRAs, in multiple sectors as a means of tackling the issue of NTBs in ASEAN. This should be done to a firm and clear timeline.
Mutual recognition of AEO programmes	All ASEAN Member States to formulate an Authorised Economic Operator (AEO) programme, which is aligned with the WCO SAFE Framework and which includes logistics providers and customs brokers; Drafting of an agreement that pursues intra-ASEAN Mutual Recognition Agreements (MRA) of AEO programmes, including Authorised Transit Trader programme as set out in AFAFGIT Protocol 7.	There has been no discernible progress on this issue.	There has been no discernible progress on this issue. The EU-ABC remains ready to assist in this.
Pre-arrival and post-clearance audits	Introduction of pre-arrival clearance and post-clearance audits across all ASEAN Member States. By 2017, this could be done for reliable traders, logistics companies and customs brokers, as a way of building capacity and mutual trust.		There has been no discernible progress on this issue.
Advance rulings	Introduction of advance rulings in classification, valuation and determination of rules of origin, including “in principle” issues; utilisation of Advanced Customs Agreement to eliminate the uncertainty in trade transaction and prevent dispute between Customs authorities and traders. Introduction of a clear dispute resolution mechanism for national and region-wide valuation and classification matters.		We note that advance rulings have been introduced for some areas by some of the ASEAN Member States. We continue to urge broader and deeper implementation.

The Role of Trade Facilitation

Trade facilitation is an important driver for the expansion of international trade. Reducing time to market, and the cost of trade, is critical to be able to compete in today's globalised world and complex supply chains, and to improving the competitiveness of a nation or region. The global supply chain has in recent years become increasingly sophisticated, with different parts of the

manufacturing process spread around the world and around the region. Enhanced participation in global supply chain networks has also been identified as one of the key factors behind the rapid growth in ASEAN.

Trade facilitation seeks to reduce the transaction costs faced by exporters and importers to stimulate trade, investment and improve productivity. **Customs plays a critical role in facilitating trade as customs and other border procedures have a direct impact on trade costs.** Streamlined procedures, simplified documentation requirements and automation are the most critical aspects for efficient customs clearance procedures. **Striving to simplify, standardise and harmonise customs procedures across the region would greatly ease trade and have a direct positive impact on costs. This is clearly recognised in the AEC Blueprint 2025⁶.** Doing so would prove to a boon for MSMEs, the very companies that are presently less well placed to handle customs bureaucracy.

TRADE FACILITATION REFORMS HELP BOOST GOVERNMENT REVENUES BY INCREASING TRADE FLOWS, HENCE EXPANDING THE TAX BASE, INCREASING TAX COLLECTION EFFICIENCY FOR ANY GIVEN LEVEL OF IMPORTS, AND INCREASING DETECTION OF CUSTOMS FRAUD AND CORRUPTION

World Trade Report 2015, Executive Summary, Section D

Customs procedures have a direct impact on trade costs, and a report from OECD⁷ shows that customs requirements and lengthy administrative procedures can increase costs by 2 to 24 per cent of the value of traded goods. Revenue losses from inefficient border procedures may exceed 5 per cent of GDP, according to the same report, and a one-day decrease in time spent at sea could increase trade by 4.5 per cent. Hard physical infrastructure is for all modes of transport at least as important in determining time to trade as trade facilitation measures such as customs and other administrative procedures. These not only affect trade volumes, but also whether a company will trade at all, such as MSMEs and exporters of time-sensitive products.

Reducing supply chain barriers to trade could increase global gross domestic product (GDP) by up to six times more than removing tariffs. It could increase GDP by nearly 5 per cent (USD 2.6 trillion) and trade by 15 per cent (USD 1.6 trillion). Completely eliminating tariffs could increase global GDP by USD 0.4 trillion and exports by USD 1.1 trillion. In Southeast Asia, these figures are even more impressive: 9.3 per cent in increased GDP and 12.1 per cent increase in exports⁸.

An efficient, secure and integrated transport network as well as improved connectivity has been identified as vital building blocks for realising the full potential of ASEAN's economic integration as well as enhancing the attractiveness of the region as a single production and investment destination, in addition to narrowing development gaps. Trade facilitation initiatives are identified in the AEC Blueprint 2025 as a specific initiative towards a more strategic approach to increased participation in global value chains for ASEAN.

The EU-ABC applauds that most ASEAN Member States have already ratified both the Revised Kyoto Convention (RKC) of the World Customs Organisation (WCO) as well as all of them the Trade Facilitation Agreement (TFA) of the World Trade Organisation (WTO)⁹. These are important steps to align customs and border procedures with international standards, and to achieve the gains that trade facilitation brings. We believe that the adoption of the practices included in these

⁶ See Section II.A.1 Trade in Goods of the AEC Blueprint 2025

⁷ OECD Trade Policy Paper No. 150: "Trade Costs - What have we learned?" A Synthesis Report.

⁸ WEF (2013): "Enabling Trade, Valuing Growth Opportunities".

⁹ Indonesia was the last ASEAN Member State to ratify the WTO-TFA, in December 2017.

agreements and international best practices lay the foundation for a modernised customs regime, which is better equipped to respond to the needs of today's trade, especially since ASEAN seeks to further integrate into global production networks and move up the value-added production chain.

Trade facilitation is also a key feature of the AEC Blueprint 2025, which states that ASEAN should: "Streamline and simplify administrative regulatory regimes, documentary requirements, as well as import and export procedures, including customs procedures"¹⁰. It has been since been decided that ASEAN will seek to reduce trade transaction costs by 10% by 2020 and double intra-ASEAN trade by 2025¹¹. Our recommendations to ASEAN to achieve this include:

- *Automate customs clearance procedures and the removal of duplicate paper procedures;*
- *Simplify excessive controls at the border, and rely on risk profiling, intelligence assessment and post-clearance audits;*
- *Simplify data elements, paperwork requirements and abolish duplicative procedures;*
- *Reduce discretionary powers of frontline customs at international entry points;*
- *Allow for recourse by traders to challenge disputes with frontline customs; and,*
- *Implement the WCO Immediate Release Guidelines, the Revised Kyoto Convention and encourage ambitious implementation of the WTO Trade Facilitation Agreement.*

MSMEs and International Trade

Complicated customs procedures are a problem for all international trade, but they can be an even greater obstacle for MSMEs. Simplifying and harmonising customs procedures in line with international agreements and best practices are key for facilitating trade and reducing costs for importers and exporters. This is particularly important for ASEAN's many MSMEs, which are also increasingly benefiting from growing online retail trade (e-Commerce).

Many MSMEs have limited resources to participate in international trade and therefore do not take full advantage of the opportunities that are offered by ASEAN economic integration, let alone global production networks. The AEC Blueprint 2025 acknowledges that more emphasis on trade facilitation measures are necessary for MSMEs to create further business opportunities and to take advantage of technological innovation, both of which would create more inclusive economic growth in ASEAN.

E-Commerce creates opportunities for MSMEs to participate in the international trading system, reduces trade transaction costs and helps overcome logistic and geographic challenges to access new export markets. There is an impetus to address those since there is evidence that online trade provides new opportunities for MSMEs and women-led enterprises¹², again both key targets for ASEAN. For MSMEs to take advantage of e-Commerce opportunities, it is necessary to establish a business environment that is conducive to the growth of the digital economy and cross-border movement of goods and services in ASEAN. The recommendations in this paper are designed to assist with that.

Trade Facilitation Initiatives in ASEAN

ASEAN has agreed on a number of initiatives aligned with international best practices on facilitated cross-border procedures and greater coordination between ASEAN countries, including the Roadmap for the Integration of Logistics Services, the ASEAN Agreement on Customs, the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT), ASEAN Framework Agreement on Multimodal Transport, ASEAN Framework Agreement on the Facilitation on Inter-

¹⁰ AEC Blueprint 2025, Section II.A.1, paragraph 10.iii.d

¹¹ See paragraph 53 of the ASEAN Chairman's Statement, 31st ASEAN Summit, November 2017:

<http://asean.org/storage/2017/11/final-chairman%E2%80%99s-statement-of-31st-asean-summit.pdf>

¹² The Asian Development Bank (2015): *Thinking forward about trade costs and the digital economy*.

State Transport (AFAFIST), Roadmap for Integration of Air Travel Sector, ASEAN Air Cargo Processing Model, the ASEAN Strategic Transport Plan 2011-2015 as well as the Master Plan on ASEAN Connectivity 2025 which includes a section dealing with seamless logistics.

The Comprehensive Strategic Action Plan¹³ for the implementation of the AEC Blueprint 2025 also contains a number of concrete measures designed specifically to help improve trade facilitation across the ASEAN region. The EU-ABC has provided a full commentary¹⁴ on some of the measures contained in that document, including those aimed at trade facilitation and easing logistics in ASEAN.

The importance of the ASEAN Trade Repository (ATR)¹⁵ should also be emphasised as key tool for companies to understand measures in ASEAN that could impede on their ability to trade across borders. In line with the ASEAN Trade in Goods Agreement (ATIGA), the ASEAN Trade Repository (ATR) is intended to provide transparency on the trade and customs laws and procedures of all ASEAN Member States. The ATR is an electronic interface through which the public can freely access the information available on the National Trade Repositories (NTRs) of each AMS.

¹³ <http://asean.org/storage/2017/02/Consolidated-Strategic-Action-Plan.pdf>

¹⁴ See: <https://www.eu-asean.eu/publications>

¹⁵ <http://atr.asean.org/>

Recommendations for Implementation in the Short-term (12-18 months)

Simplification of Certificates of Origin

The experiences from the ground by our members show that, most often, MSMEs do not utilise the numerous Free Trade Agreements (FTAs) that ASEAN have negotiated, neither ATIGA, nor other ASEAN+1 FTAs. Utilisation of ATIGA has been constant at around 40 per cent of intra-ASEAN trade, with no signs of it increasing. MSMEs do not utilise ATIGA due to the burdensome and costly procedures in many countries to obtain Certificates of Origin. Instead, smaller companies export on a Most Favoured Nation basis, hence, the companies that need benefits from the FTAs the most, do not get to enjoy them.

In ASEAN, it is mandatory to present the original (hardcopy) certificate of origin (CoO) “Form D” during import declaration in order to use the preferential ATIGA duty rates and only government authorised bodies are allowed to issue and endorse the Form D. Self-certification shall gradually replace the Form D whereas certified exporters will be able to make declarations about the origin of goods on invoices or other commercial documents (e.g. packing list). In 2010, ASEAN member states agreed to implement a self-certification scheme for the ATIGA¹⁶. The result of this were two independent Self-Certification Pilot Schemes with different member states, different scopes and different rules that were supposed to be merged to one ASEAN-wide final Self-Certification Scheme once the pilot period was over.

Initially, the ASEAN-wide final Self-Certification Scheme was meant to be in place in 2012, however, it remains incomplete and is now a key measure in the AEC Blueprint 2025¹⁷. The EU-ABC, therefore, believes that it would be an opportunity for ASEAN to introduce a simplified mechanism of issuing CoOs, in particular for MSMEs. Such an action would be in line with the AEC Blueprint 2025 which states: “ROO implemented by ASEAN Member States should be simplified, business-friendly and trade-facilitative, to benefit the region’s trade, in particular the participation of MSMEs to encourage them to expand, upgrade, and deepen their linkages within the region. Towards this end, priority sectors for Product Specific Rules (PSRs) can be negotiated, and processes for the determination of origin criteria streamlined”¹⁸.

Recommendations:

- *To stimulate intra-ASEAN trade for MSMEs, increase the threshold for waiver of Certificates of Origin below which the CoO is not required;*
- *ASEAN to look to develop streamlined CoO processes for the ASEAN+1 FTAs, perhaps as part of the RCEP process.*

Tracking and transparency of customs declarations

Trade Management visibility is an important element to improve the level of quality customs declarations. Currently, most ASEAN countries do not have the mechanism to download Import and Export declarations from the customs declaration portal. If Importers and Exporters of record are given the option to download their declaration records from the Customs authority’s portal, it will facilitate self-assessment and verification which complements the voluntary disclosure process.

Recommendation:

- *For those ASEAN Member States that already possess an automated customs clearance environment, we recommend that import declarations are made retrievable for traders.*

¹⁶ See: <http://www.asean.org/the-pilot-project-for-the-implementation-of-a-regional-self-certification-system-brunei-darussalammalaysiasingaporeasean-secretariat-29-october-2010/>

¹⁷ AEC Blueprint 2025, Section II.A.1, paragraph 10.iii.e

¹⁸ AEC Blueprint 2025, Section II.A.1, Paragraph 10.ii

This would enable visibility and certainty of the customs clearance and the entire import process.

ASEAN transport agreements

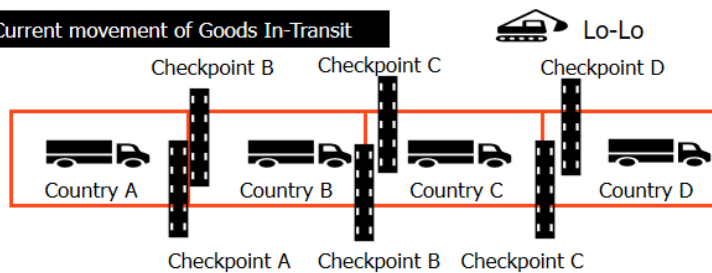
The EU-ABC welcomes all initiatives on facilitated cross-border procedures and greater coordination between ASEAN countries. Connectivity is a critical aspect of ASEAN's competitiveness, and it will greatly help boost intra-ASEAN trade, facilitate growth of MSMEs and connect ASEAN to global production networks and supply chains. Appropriate steps taken to remove restrictions and facilitate cross-border movement of goods will encourage trade and investment, improve productivity and lower business cost.

As stated in the ASEAN Strategic Transport Plan, cross-border shipments are often hindered by the lack of seamlessness for trucks servicing supply chains throughout the ASEAN region and the lack of harmonisation and mutual recognition of documentation, procedures and standards (e.g. duplication of customs documentation, absence of proper transit procedures, varying vehicle standards, drivers' licenses, insurance) for inter-modal and multimodal transport of goods. In particular, proper transit procedures for less-than-truck load (LTL) shipments are lacking in most ASEAN countries, which means that transit goods have to go through formal import and export procedures at each border crossing. Facilitating cross-border land and multimodal transport would help maximise the efficiency of logistics services and lower costs for consumers.

The ASEAN Customs Transit System (ACTS) has been piloted by Singapore, Malaysia and Thailand, with subsequent roll-out in the CLMV countries planned in the coming years. The pilot scheme was, unfortunately, beset by delays and a reduction in scope. Nevertheless, it did represent an important step forward for the region. In order to prepare for the full implementation of ACTS, which inevitably will lead to concrete integration of the cross-border movement of goods between the land-connected ASEAN countries, there are some critical steps that should be undertaken urgently. The EU-ABC believes that these proposals would not entail great cost for the individual ASEAN Member States, but bring significant momentum to ASEAN economic integration and benefits to ASEAN businesses.

Below, we have produced a schematic showing the current situation for cross-border road transport compared to the ideal scenario that could exist under the full implementation of ACTS.

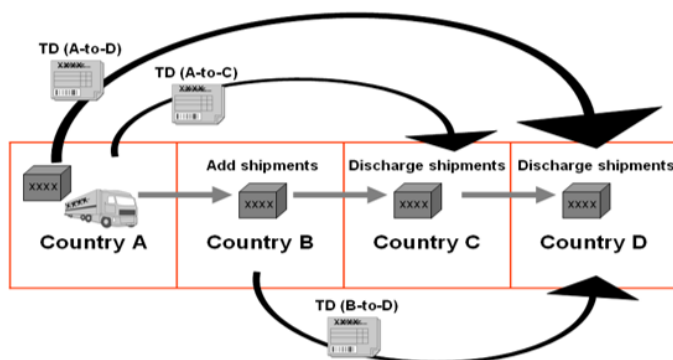
Current movement of Goods In-Transit



Explanatory Notes:

- 1) Truck with container moves from Country A to Country D
- 2) Cross A-B border on same chassis (B vehicle plate)
- 3) At B-C border, container has to be Lo-Lo from B chassis as B chassis not allowed to cross border and vice versa
- 4) Theoretically, ACTS should avoid this

Proposed use of TAD to cover the movement of Goods In-Transit



Explanatory Notes:

- 1) A single truck operating from Country A to B, C, D
- 2) Transit Accompanying Document (TAD) – A single TAD generated at origin to cover the movement of multiple shipments from 1 origin to 1 destination
- 3) Each TAD to be accompanied by a manifest listing all the shipments moving from 1 origin to 1 destination

At present, trucks need to navigate numerous checkpoints and customs procedures, with the load often having to be transhipped to another vehicle. All of this adds time and cost to the movement of goods across borders. With ACTS such inhibitors to trade should be removed, speeding the movement of goods and lower the cost of trade.

Recommendations:

- Develop a proposal that advances the full ratification and implementation by all Member States of the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT) and the ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST), including all related Protocols, to pave the way for the implementation of the ACTS;
- Develop a proposal that requires ASEAN Member States to provide a timeline for preparation and finalisation of national legislation that operationalises Protocol 7 of AFAFGIT as well as the ACTS;
- Expedite the expansion of the ACTS pilot programme to its original full scope.

Facilitation of Clearance for E-Commerce Shipments to Support MSMEs

E-Commerce lowers barriers to entry by eliminating costs, connects the supply side to the demand without the traditional physical limitations and without certain transaction costs.

E-Commerce is the sale and purchase of goods and services through electronic networks and the internet, encompassing a broad range of commercial activity. While widespread adoption of e-Commerce in advanced economies is evident, physical and institutional barriers to its application in developing countries must first be overcome. Governments, multilateral organizations, and the private sector must cooperate in fostering an environment that is conducive to its implementation.

- E-Commerce facilitates trade and leads to job creation, which leads to economic growth.
- Multilateral organisations, national governments, and private firms contribute to its widespread adoption and sophistication.
- Inadequate infrastructure and disharmonious regulatory procedures restrain ASEAN from fully realising the potential of cross-border digital trade.

- International cooperation and a more focused national strategy are needed to further e-Commerce.

E-Commerce will play an increasingly important role in supporting economic growth in ASEAN and will help ASEAN's MSMEs to expand beyond their home markets. These are primarily the sale of goods through an online portal by individuals in another country, resulting in the export of these shipments. The economic changes wrought by e-Commerce have already had a large impact on the global economy. Consumers across ASEAN have embraced the convenience and savings of being able to order goods online and have them delivered to their home or office. Many MSMEs have taken the opportunity to market their goods directly to consumers. Studies have shown that MSMEs that trade online can reach up to ten times more export markets compared with conventional ways of exporting.

However, the regulations on the clearance of such cross-border shipments could impair an SME's ability to import these shipments since the requirements can be onerous, costly and time consuming. In addition, individuals who buy these shipments online may not have the capability to meet complex customs clearances and documentation requirements for these shipments.

Since MSMEs, in particular those companies involved in e-Commerce, typically ship goods with a low-value but on a frequent basis, there is scope to facilitate the clearance of such shipments. The following are *possible* best practice clearance requirements:

- a) *Simplify customs clearance requirements for low-value shipments by:*
 - i. *Introducing a common/baseline low-value threshold across ASEAN countries;*
 - ii. *Minimising data elements required for the clearance to include only basic shipment details sufficient for Customs to undertake risk assessment and controls. This excludes for e.g. HS Codes, tax ID numbers, etc;*
 - iii. *Simplify taxes for low-value shipments;*
 - iv. *Allow consolidated clearance i.e. one declaration for multiple shipments;*
 - v. *Eliminate importer/exporter registration*
- b) *As other agencies frequently require licenses or permits for certain types of products with complex application and documentation requirements, exempt or limit these requirements for low-value shipments, save for those goods that are controlled for security or public health reasons;*

To address potential customs control issues on e-Commerce without impairing legitimate e-Commerce trade, Customs could consider establishing an "E-Commerce Trusted Trader Accreditation" program. ASEAN-wide compliance standards could be established for shippers or sites who are selling goods across borders online against which they can be audited and accredited. Such standards can include, among others, data and paperwork, processes and control procedures etc. It is recommended that such requirements should be co-created together with key stakeholders in the supply chain including freight forwarders and e-Commerce sites. Accredited traders should be given facilitation benefits positive risk rating and lower inspection rates. Where one ASEAN country accredits a shipper, this should be recognised by other ASEAN countries.

While many governments are concerned on the community safety and security risks pertaining e-Commerce and customs clearance mechanisms, the industry expectations for rapid clearance and light touch policy enforcement interventions means border agencies would have to more effectively facilitate the rapidly growing phenomenon. Hence working closely with experts within the industry to mitigate the security and customs clearance aspects cannot be avoided. Governments need to be open to work in partnership to implement risk mitigation mechanisms while ensuring expedited clearance.

It is imperative that whilst an ASEAN-wide policy on e-Commerce trade facilitation measures are discussed, we propose that any new measures that impact border clearance are evaluated and assessed on their necessity, value and impact, particularly for MSME, so that a moratorium on

new border measures which may unnecessarily negatively impact cross-border clearances of e-Commerce shipments can be achieved.

Recommendations:

To stimulate cross-border e-Commerce for MSMEs in ASEAN, undertake the following:

- *Introduce simplified clearances for low-value shipments in line with WTO and WCO Guidelines for e.g. minimal data elements, consolidated clearance, importer/exporter registration exemptions, common value threshold for such shipments etc.; Introduce a requirement that new legislation on new border measures which may negatively impact cross-border clearances of e-Commerce shipments is evaluated and assessed on its necessity, usefulness and impact before it is implemented.*
- *Exempt or limit, as far as possible, licensing or permit requirements by other government agencies for low-value shipments, bearing in mind the need for some licences to apply regardless of shipment value (e.g. those relating to public health and safety);*
- *Consider an ASEAN-wide ‘trusted trader accreditation program’ for e-Commerce sites and shippers to address customs control concerns, without impairing legitimate e-Commerce trade facilitation.*
- *Governments need to be open to work in partnership to implement risk mitigation mechanisms while ensuring expedited clearance.*

The EU-ABC fully supports the proposal submitted by the Joint Business Councils to ASEAN in 2017 on expedited clearances and simplified customs procedures for low value shipments that we saw as directly benefitting MSMEs and e-Commerce. That proposal is annexed to this paper.

Recommendations for Implementation in the Medium-term (24-36 months)

Automated customs clearance procedures

Automation is essential for an efficient and predictable customs clearance procedure. A report by the OECD¹⁹ points to that the important components to reduce costs for trading for non-OECD countries include automation, transparency, harmonisation and simplification of documents, streamlining of procedures and good governance.

The report found that a 10 per cent reduction in the number of documents needed to import could increase trade by 11.1 per cent for certain agricultural and manufactured products, while a 10 per cent reduction in the number of days and signatures needed to import would result in 6.3 per cent increase in trade for agricultural products and 9.9 per cent for manufactured products. For Asia, the report shows that the most important set of measures are: automation, which can reduce total trade costs by 3 per cent, simplification of procedures (2.5 per cent) and simplification of documentation (2.1 per cent).

ASEAN Member States are to establish NSWs and connect them through a regional ASW. Through an NSW, traders should be able to electronically submit forms for export, import and transit procedures only once, without duplicate manual, paper procedures, and then processed and cleared by multiple government agencies in a single integrated process. Unfortunately, automation is not fully implemented across ASEAN and the NSWs are in various stages of implementation.

The EU-ABC, therefore, suggests a more realistic and gradual approach towards achieving the ASW, in line with Article 37 of the ASEAN Agreement on Customs.

Recommendation:

- *As a first step towards the implementation of NSWs, and ultimately ASW, ASEAN Member States should commit to fully automating customs clearance procedures before the end of 2018. This should also imply doing away with all duplicate paper procedures;*
- *Introduce a 24/7, fully electronic payment system for duties and taxes, which would lower costs for ASEAN's business and cut customs clearance times by one day, before the end of 2018*

Removal of Non-Tariff Barriers & Harmonisation of Standards

The EU-ABC recognises and applauds the great strides that ASEAN has taken to reduce and eliminate tariffs across the region. We encourage the acceleration of the process to remove the few remaining tariffs. However, we also note that NTMs across the region have, unfortunately, increased disproportionately as tariffs have come down²⁰. Whilst not all NTMs are Non-Tariff Barriers, it is likely that many are. NTBs remain a significant problem across ASEAN, inhibiting trade and economic development. The EU-ABC welcomes the road map and plans set out in the Masterplan on ASEAN Connectivity (MPAC) to identify and remove behind the border barriers to trade. We believe that the timelines and process set out in the MPAC are more realistic for dealing with this crucial issue. The EU-ABC also welcomes the commitment in the MPAC to involve the private sector in the process for the removal of NTBs and hopes that it will be able to play a role in the process. It is disappointing that more progress has not been made in tackling NTBs in

¹⁹ Summary of OECD Trade Policy Paper No. 150: "Trade Costs - What have we learned? A Synthesis Report.

²⁰ ERIA Report: Non-Tariff Barriers in ASEAN, Figure 2.2 - <http://www.eria.org/RPR-FY2015-01.pdf>

the region, especially given the commitments contained in both the AEC Blueprint 2015 and the AEC Blueprint 2025. Deadlines for removing NTBs in ASEAN have repeatedly been missed.

One area that it ought to be relatively easy move forward is in harmonising standards across the region so as to eliminate or drastically reduce the need for different testing and compliance regimes for goods in ASEAN. For many different product types, such as processed foods, alcohol beverages, toys, automotive parts, pharmaceuticals etc. there are differing standards and testing regimes across the region, many of which are often repetitive (and therefore redundant) or are not in line with generally accepted international norms (e.g. UNECE for automotive products or Organisation of Vine and Wine (OIV) for the wine sector). The need to get undertake different or multiple tests across the region adds significantly to costs, increases time to market for new products, and ultimately disadvantages the consumer. Using international standards, and mutually recognising or accepting tests and clearances done by other countries within ASEAN would reduce costs, ease the movement of goods, speed access to new markets and ultimately bring advantages to the consumer.

In order to promote trade and reduce any non-tariff measures that may occur, the governments across ASEAN should have a strong commitment to implementing and abiding by harmonised standards to avoid country specific requirements and different interpretation. The recognition and deployment of international standards should occur in parallel with both the work of the ACCSQ and the removal of NTBs. Moves in this area would greatly enhance the capability of ASEAN Member States to participate fully in Global Value Chains.

We recognise that the ACCSQ, and its various working groups, are making some progress on the harmonisation of standards, but in many areas progress is slow. We firmly believe that it would be to the advantage of all concerned for the ACCSQ and its various working groups to operate in a more transparent and inclusive manner, with private sector experts being invited regularly to participate fully in their meetings.

We recommend:

- *The implementation of the work plan, to a firm timeline, for the removal of the NTBs, and early involvement of Business Councils in the process of identification and prioritisation of NTBs*
- *The development of harmonised standards across the region, or binding MRAs, in multiple sectors as a means of tackling the issue of NTBs in ASEAN. This should be done to a firm and clear timeline.*

Mutual recognition of AEO programmes

Authorised Economic Operator (AEO) programmes are aimed at offering facilitation benefits such as faster processing rates for customs clearance to those traders and logistics companies which apply certain laid down customs compliance, financial viability, automation and supply chain security standards. An AEO programme may include, for example: a reduced data set for cargo release, expedited processing and release of shipments, a minimum number of cargo security inspections, priority processing by customs during periods of elevated threat conditions or following an incident requiring the closing of a port and/or borders, etc.

According to the World Customs Organisation (WCO), mutual recognition of AEO authorisations between Customs authorities is considered to be one of the principal benefits. A longer-term goal is a global system of mutual recognition.

The ASEAN 2025 Vision states that: “Deepen regional implementation of trade-facilitative ASEAN initiatives such as Authorised Economic Operators (AEO) programme and Self-Certification programme” (Chapter A.1 Trade in Goods, point 10.iii.e) as well as ASEAN Agreement on Customs Article 35.

Recommendation:

- *All ASEAN Member States to formulate an AEO programme, which is aligned with the WCO SAFE Framework and which includes logistics providers and customs brokers;*
- *Drafting of an agreement that pursues intra-ASEAN Mutual Recognition Agreements (MRA) of Authorised Economic Operator (AEO) programmes, including Authorised Transit Trader programme as set out in AFAFGIT Protocol 7.*

Pre-arrival clearance and post-clearance audits

Key to facilitating trade is for Customs to apply risk management in inspections and control. This would help facilitate imports and exports for reliable and compliant traders which are considered low risk for breach of customs rules or undervaluation, allowing Customs to focus their efforts on high-risk shippers and origins.

Customs clearance and release can be further expedited through early submission of data. With the use of electronic data interchange, traders can submit required documents and data to Customs ahead of the goods arriving with the aircraft or vessel. Customs can then process the data, including risk management and calculation of duties, and advise traders prior to the arrival of the goods. In cases where goods are selected for physical inspection, the importer can also be advised in advance so that the presentation of the goods to be handed over to Customs for inspection can be arranged without delay. The EU-ABC believes that the adoption of pre-arrival clearance would help reduce delays at key gateways and expedite clearance and release times. This is also in line with international guidelines including the WTO Agreement on Trade Facilitation and WCO's Immediate Release Guidelines.

Customs may instead apply audits to importers and customs brokers with regular intervals, to ensure that all procedures have been followed and that documentation is complete.

Recommendation:

- *Introduction of pre-arrival clearance and post-clearance audits across all ASEAN Member States. Before the end of 2018, this could be done for reliable traders, logistics companies and customs brokers, as a way of building capacity and mutual trust.*

Advance rulings

Advance rulings in both classification and valuation matters increases transparency and certainty for traders, especially businesses which trade frequently. Applying the concept of advance rulings also increases efficiency and lowers costs, both for the trading community and Customs authorities.

The lack of clarity of the legal framework on customs valuation and regulations makes compliance difficult for traders. The legal and enforcement system should provide transparency and opportunity for the trading community to comply with prevailing regulations without neither subjectivity nor unclear, case-by-case interpretations of the law.

Customs should also recognise reasonable care by the trading community to encourage compliance with laws and regulations. This addresses intent of a non-compliance of violation: distinguishing them between unintentional non-compliance or administrative errors versus intentional/fraudulent violations.

Recommendations:

- *Introduction of advance rulings in classification and valuation matters, including “in principle”, in all ASEAN countries with regional, ASEAN-wide validity and acceptance;*

- *Introduction of a clear dispute resolution mechanism for national and region-wide valuation and classification matters.*

WTO-Trade Facilitation Agreement

The EU-ABC has strongly welcomed the entry into force of the WTO Trade Facilitation Agreement on 22 February 2017 following its ratification by two-thirds of the members of the WTO, including all of the ASEAN Member States. The TFA is designed to simplify and reduce the burden of customs procedures globally, thus facilitating trade. It sets out measures for effective cooperation between customs and other relevant authorities on trade facilitation and customs compliance issues. According to the WTO's own estimates, full implementation of the TFA could reduce the cost of trade by 14.3% and boost global trade by US\$1 trillion²¹. Given that the stated goal of ASEAN is to improve trade facilitation across Southeast Asia to such an extent as to reduce the cost of trade within ASEAN by 10%, the EU-ABC urges all ASEAN Member States to operationalise the provisions of the TFA as soon as possible. Doing so should help ASEAN achieve this target.

A key aspect of implementing the TFA is for countries to establish “a Committee on Trade Facilitation to periodically review the Agreement’s operation and implementation”²². The EU-ABC believes such Committees should include representatives of the private sector in order to ensure transparency and improve knowledge and understanding of developments in trade facilitation between agencies and the end-users.

Recommendations:

- *We urge that all ASEAN Members States to fully implement the WTO Trade Facilitation Agreement as soon as possible;*
- *We urge the ASEAN Member States to establish their Trade Facilitation Committees as soon as possible and to involve private sector bodies in them, perhaps through local European Chambers of Commerce in the case of European Industry. We further urge the ASEAN Member States to make their commitments under the WTO-TFA public to ensure better understanding.*
- *We suggest that ASEAN establish a region-wide Trade Facilitation Committee to help ensure and improve regional co-operation in line with the objectives of the AEC. This could be done through the ASEAN Trade Facilitation Joint Consultative Committee.*

²¹ See World Trade Report 2015: https://www.wto.org/english/res_e/booksp_e/world_trade_report15_e.pdf

²² See https://www.wto.org/english/tratop_e/tradfa_e/tradfa_introduction_e.htm

Private Sector Consultation

Moving forward, the EU-ABC would welcome greater involvement and transparency in policy making, and that Governments consult the foreign business sector on planned policy initiatives and draft laws and regulations. We believe that wide consultation with various stakeholders will lead to better and more efficient regulations.

The current mechanism is haphazard and *ad hoc*, and there is a need for an institutionalised call for inputs from all sectors of industry since they are the users of various Agreements and initiatives under the AEC. Obtaining industry inputs from all quarters to new or forthcoming ASEAN schemes or agreements would be a first step. Currently, there is a lack of recourse for industry where Member States have backtracked, in particular in the field of trade facilitation. There is the need for a mechanism through which industry could use at the ASEAN level and which could be adequately addressed. To that end, the EU-ABC has welcomed the involvement of the private sector in the ATF-JCC, including its own involvement through its chairmanship of the ASEAN BAC Trade Facilitation Working Group.

Effective public-private sector engagements in the policy formulation and implementation would be mutually reinforcing. We would therefore support regular formal dialogues between in the private-sector, relevant business associations and government in policy discussions regarding sectors of crucial importance for ASEAN integration, i.e. connectivity and logistics. This would be in line with the AEC Blueprint 2025, section 10.iii.f: “Strengthen public-private sector cooperation, collaboration, and partnership in improving the process, institutional and infrastructural foundations of efficient and effective trade facilitation within the region”.

Recommendations:

- *ASEAN to set up dialogue mechanism with the private sector on a sectoral basis (Committee or Sub-Committee level) to more effectively involve the private sector in advancing ASEAN connectivity;*
- *ASEAN to consider selected representatives from the private sector to participate in Committee or Sub-Committee meetings related to connectivity and transportation on an observer basis;*
- *Private sector bodies, including the EU-ABC, to be regularly involved in the CPTFWG, CCBWG and Customs Enforcement Working Group.*

About the EU-ASEAN Business Council

The EU-ASEAN Business Council (EU-ABC) is the primary voice for European business within the ASEAN region.

It is recognised by both the European Commission and the ASEAN Secretariat. Independent of both bodies, the Council has been established to help promote the interests of European businesses operating within ASEAN and to advocate for changes in policies and regulations which would help promote trade and investment between Europe and the ASEAN region. As such, the Council works on a sectorial and cross-industry basis to help improve the investment and trading conditions for European businesses in the ASEAN region through influencing policy and decision makers throughout the region and in the EU, as well as acting as a platform for the exchange of information and ideas amongst its members and regional players within the ASEAN region.

The EU-ABC conducts its activities through a series of advocacy groups focused on particular industry sectors and cross-industry issues. These groups, usually chaired by a multi-national corporation, draw on the views of the entire membership of the EU-ABC as well as the relevant committees from our European Chamber of Commerce membership, allowing the EU-ABC to reflect the views and concerns of European business in general. Groups cover, amongst other areas, Insurance, Automotive, IPR & Illicit Trade, Customs & Trade Facilitation, Healthcare and FMCG.

Executive Board

The EU-ABC is overseen by an elected Executive Board consisting of corporate leaders representing a range of important industry sectors and representatives of the European Chambers of Commerce in South East Asia. The Executive Board is led by its Chairman Mr Donald Kanak.

Membership

The EU-ABC's membership consists of large European Multi-National Corporations and the nine European Chambers of Commerce from around South East Asia. As such, the EU-ABC represents a diverse range of European industries cutting across almost every commercial sphere from car manufacturing through to financial services and including Fast Moving Consumer Goods and high-end electronics and communications. All our members have a vested interest in enhancing trade, commerce and investment between Europe and ASEAN.

Our Members



To find out more about the benefits of Membership and how to join the EU-ASEAN Business Council please either visit www.eu-asean.eu or write to info@eu-asean.eu.

Annex A

FORMAL PROPOSAL FROM JOINT BUSINESS COUNCILS - ASEAN LOW VALUE SHIPMENT PROGRAM TO SIMPLIFY CUSTOMS PROCEDURES AND FACILITATE TRADE PRIMARILY FOR MSMEs

Executive Summary

The ASEAN Joint Business Councils recommend the development of a simplified set of procedures for import, export, and clearance of intra-ASEAN low value shipments, with the aim of reducing time, cost, and complexity in trade. The proposal below is in line with the WTO Trade Facilitation Agreement and based on provisions and guidelines provided by the World Customs Organization (WCO), in particular the Revised Kyoto Convention and Immediate Release Guidelines.

The ASEAN Joint Business Councils recommend adopting a value of < SDR 1000 (approximately \$1400), coinciding with the Category 3 dutiable threshold, as a simple common threshold to build a program around. We believe SDR 1000 is an appropriate value as recommended by the WCO Immediate Release Guidelines. Further, we believe SDR 1000 encompasses a majority of e-Commerce goods purchased for individual consumption and is already an approximate value to what some governments (e.g. Japan, Korea, Indonesia) have identified as their Category 3 threshold, above which shipments would be deemed high value requiring formal entry procedures. Note that shipments below this threshold continue to be dutiable and taxable and adopting the value is therefore not expected to have revenue implications.

Features of our proposal include:

- Scope covers intra-ASEAN shipments below the value of SDR 1000 regardless of weight or mode of transportation. Not applicable to prohibited or controlled items.
- Simplified procedures - for example, a simplified exporter's declaration (self-certification) is adequate without the need for a Certificate of Origin or Form D; and ASEAN minimum data elements based on category of shipment per WCO Immediate Release Guidelines.
- Facilitated Clearance - Permit consolidated declarations, immediate release, and a time release benchmark.
- Simplification of Tax and Payments - Simplify and publish tax rates, review duty/tax waiver threshold, allow electronic payments of duty and tax, and adopt smart tax collection methodologies.
- Simplification of Returns - Establish mechanisms for return shipments, duty & tax drawback, and allow informal export declarations when matched with import details.

Justification:

Complicated customs procedures are a problem for all international trade, but they can be an even greater obstacle for MSMEs. Simplifying and harmonising customs procedures in line with international agreements and best practices are key for facilitating trade and reducing costs for importers and exporters. In addition, since many intra-ASEAN shipments today are potentially eligible for ASEAN Trade in Goods Agreement (ATIGA) duty rates (i.e. zero), the cost of processing these shipments for clearance will often outweigh the returns to governments in terms of revenue. This is particularly the case where these shipments are of low value. Finally, the compliance costs for companies to obtain the Form D Certificate of Origin can be high, particularly for MSMEs, and are greater than any benefits to the companies from zero ATIGA duty rates especially given the low differential with Most Favoured Nation (MFN) rates (i.e. the lower cost advantage of trading under ATIGA is outweighed by the cost of the obtaining the CoO). Today, only around 40% of the goods moved within ASEAN take advantage of ATIGA due to the complex procedures involved.

Augmenting ASEAN commitments to simplify customs clearance is particularly important for ASEAN's many MSMEs, which are also increasingly benefiting from growing online retail trade (e-Commerce). Many MSMEs have limited resources to participate in international trade and therefore do not take full advantage of the opportunities that are offered by ASEAN economic

integration, let alone global production networks. The AEC Blueprint 2025 acknowledges that more emphasis on trade facilitation measures are necessary for MSMEs to create further business opportunities and to take advantage of technological innovation, both of which would create more inclusive economic growth in ASEAN. This was further acknowledged by the ASEAN Economic Ministers during their dialogue with the EU Trade Commissioner in March 2017²³ and also in the Chairman's Statement from the 30th ASEAN Summit in Manila in April 2017²⁴.

Customs procedures have a direct impact on trade costs, and a report from OECD²⁵ shows that customs requirements and lengthy administrative procedures can increase costs by 2 to 24 per cent of the value of traded goods. Revenue losses from inefficient border procedures may exceed 5 per cent of GDP, according to the same report, and a one-day decrease in time spent at sea could increase trade by 4.5 per cent. It therefore follows that simplifying Customs procedures will reduce the cost of the trade (a key objective set to the ATF-JCC) and will also increase trade volumes.

Since ATIGA eliminates duties on almost all products traded in ASEAN, implementing this proposal would boost intra-ASEAN trade without impacting government revenues.

Detailed Proposal ASEAN Low Value Shipment Program

The ASEAN Joint Business Councils recommend adopting a value of < SDR 1000 (approximately \$1400), coinciding with the Category 3 dutiable threshold, as a simple common threshold to build a program around. We believe SDR 1000 is an appropriate value as recommended by the WCO Immediate Release Guidelines. Further, we believe SDR 1000 encompasses a majority of e-Commerce goods purchased for individual consumption and is already an approximate value to what some governments (e.g. Japan, Korea, Indonesia) have identified as their Category 3 threshold, above which shipments would be deemed high value requiring formal entry procedures. Note that shipments below this threshold continue to be dutiable and taxable and adopting the value is therefore not expected to have revenue implications.

The intent of the ASEAN Low Value Shipment Program is to enhance intra-regional trade and capture the proportion of trade that is already enjoying zero ATIGA duty rates, in addition to promoting further intra-ASEAN trade. We propose the following criteria to ensure flexibility:

- The ASEAN Low Value Shipment Program would apply to all intra-ASEAN trade across all modes of transport as supply chains are complex and cover all modes of transport.
- The program would apply to qualifying shipments below SDR 1000 regardless of weight.

Proposed elements of the ASEAN Low-Value Shipment Program are:

1. Simplification of Procedures

a. Waiver of Certification of Origin (Form D): Under ATIGA, certificates of origin (Form D) are waived for shipments below the value of FOB \$200. We propose for this threshold to be raised to SDR 1000 (\$1400), and permit the shipper's/consignee's declaration with value and country of origin for release/clearance purposes. Customs to institute enhance risk management, border inspection procedures and post audit to support this facilitation.

b. Common Data Elements: As recommended by the WCO Immediate Release Guidelines, Customs administrations are encouraged to limit particular data to only those deemed necessary to ensure compliance with Customs Laws. We recommend the following data elements for ASEAN to adopt, which we believe provides the information necessary to undertake profiling for risk management purposes as well as for the calculation of other border taxes like GST/VAT. Note the elimination of the need for HS Codes for Category 3 dutiable shipments as almost all of ASEAN trade is now zero-rated.

²³ See <http://asean.org/storage/2017/03/AEM-EU-15-JMS-Final.pdf> at Paragraph 8

²⁴ See http://asean.org/storage/2017/04/Chairs-Statement-of-30th-ASEAN-Summit_FINAL.pdf at Paragraph 42.

²⁵ OECD Trade Policy Paper No. 150: "Trade Costs - What have we learned?" A Synthesis Report.

Category of Shipment	Required Data Elements
Cat 1: Correspondence & Documents	Declaration, Total Gross Weight, sender and receiver information. (4)
Cat 2: Low value consignments for which no duties and taxes are collected	Declaration (Self-Certification of Origin), Total Gross Weight, Customs Value, description of goods, consignee name, consignor name, importer name. (7)
Cat 3: Low Value dutiable consignments	Declaration (Self-Certification of Origin), Total Gross Weight, Customs Value, description of goods, consignee name, consignor name, importer name (7)

c. Paperless Trade: We encourage ASEAN to transition fully to paperless trade using the ASEAN Single Window interface for exchange of all relevant documents, including licenses as needed. Where no automation currently exists, it is proposed that manual submissions be temporarily accepted and processed for release.

d. Import Licenses: Ideally, licenses would be waived for all shipments below SDR 1000. However, should licenses be necessary for reasons such as public health or safety, license application requirements should be transparent and if possible accorded on a blanket/periodic approval basis to enhance trade facilitation.

2. Simplified Clearance / Immediate Release: Adopt simplified-entry clearance and immediate release procedures for such shipments below SDR 1000, per WCO Immediate Release Guidelines.

a. Consolidated Declaration: As is currently practised in a number of countries, one declaration to be submitted for all shipments in a vessel or aircraft, so long as each bill of loading or waybill is below SDR1000. Supporting paperwork like invoices would not be required at the time of lodgement, unless they have been flagged for paperwork inspection.

b. Immediate Release / Simultaneous Clearance: Consignments may be granted immediate release with simultaneous clearance subject to any Customs selective documentary or/or physical examination of the goods based on risk management techniques, and provided that i) information required by Customs is given in advance of the arrival of goods for the purposes of processing information, calculating the amount of duties and taxes payable and for selecting consignments for documentary and/or physical examination if deemed necessary; ii) a simplified declaration containing the information required by Customs is presented prior to the arrival of goods; iii) all duties & taxes are paid or deferred payment terms are accepted.

3. Simplify Tax and Payments

a. Simplify and publish tax rates: In addition to tariffs and duty rates that ASEAN Member States (AMS) already makes available publicly, indirect tax rates and other relevant fees and charges administered at the border should be published to allow buyers to understand full landed costs. AMS to consider how to further simplify tax rates individually and amongst each other.

b. Review duty and/or tax waiver thresholds: Customs administrations should carry out regular reviews of the value or the duty and/or tax payable below which no duties and taxes will be levied to simplify processing of low value goods.

c. Electronic payment of duties & taxes: We encourage ASEAN in the medium term to provide automated interfaces for paperless submissions to Customs at the same time allowing for electronic payment of taxes;

d. Smart Tax Collection: Move away from per transaction basis border tax administration towards smart tax collection methodologies such as periodical, account based payments.

4. Simplification of Returns: Establish seamless returns procedures, including duty and tax drawback schemes, timely refunds, and informal declarations when matched with outbound invoice details.

ASEAN Joint Business Councils recognise Customs' right for controls and inspections and note these are not diminished by this program. The program would not apply to prohibited or controlled items. To promote compliance, we propose enhanced ASEAN Customs cooperation mechanisms, risk management through technology, and post clearance audit to prevent abuse. Further, in order to incentivise compliance among ASEAN exporters and importers, we encourage ASEAN to develop compliance guidelines and standards to educate them on the do's and don'ts, including responsibilities, liabilities, penalties and fines.

Notes:

