

# ASEAN Free Trade Area (AFTA)

ASEAN was first formed in 1967 with six member countries: Brunei, Indonesia, Malaysia, Singapore, Thailand and the Philippines; and was subsequently joined by Cambodia, Laos, Myanmar and Vietnam. The first six members are commonly referred to as the ASEAN-6 while the latter four entrants are commonly known as the CLMV countries.

## The main aims of ASEAN are to:

- 1) accelerate the economic growth, social progress and cultural development in the region; and
- 2) promote regional peace and stability.

The ASEAN Free Trade Area (AFTA) came into force on 1 January 1993. The ASEAN member countries also signed an agreement on the Common Effective Preferential Tariff (CEPT) Scheme on 28 January 1992 to eliminate tariffs and non-tariff barriers in the region. This agreement was subsequently updated on 31 January 2003.

On 17 May 2010, ASEAN Trade in Goods Agreement (ATIGA) entered into force, upon the notification of the ratification of all ASEAN Member States. The ATIGA is an enhancement of the CEPT-AFTA into a more comprehensive legal instrument. With this, certain ASEAN agreements relating to trade in goods, such as the CEPT Agreement and selected Protocols would be superseded by ATIGA.

With the coming into force of ATIGA, Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand will issue their legal enactments in 90 days, while Cambodia, Lao PDR, Myanmar and Vietnam will do so in 180 days. Thereafter, tariff liberalisation commitments under the ATIGA will be implemented retroactively from 1 January 2010.

With regards to services, ASEAN signed the ASEAN Framework Agreement on Services (AFAS) in 1995. The AFAS aims to eliminate restrictions to trade in services and enhance cooperation in services within ASEAN.

The ASEAN Ministers signed the Framework Agreement on the ASEAN Investment Area (AIA) on 7 October 1998 in Manila. The AIA encourages investors to adopt a regional investment strategy and network of operations. It will provide greater scope for division of labour and industrial activities across the region, creating opportunities for greater industrial efficiency and cost competitiveness.

## Benefits to Singapore Exporters to ASEAN

Singapore exporters to ASEAN will benefit from lower tariffs due to AFTA. Singapore exporters are able to export to other ASEAN member economies with most of the tariffs in the region of zero to five per cent.

**To enjoy the CEPT rates, an exporter has the flexibility to meet the following:**

### Rules of Origin (ROO):

- 1) Wholly produced or obtained in the exporting country; or
- 2) At least 40 per cent single country or ASEAN cumulative content.

### Product-Specific Rules (PSRs):

- 1) Processing rules for textiles and textile products; or
- 2) Change in tariff classification for wheat flour, wood-based products, aluminium products, iron and steel products and priority sector products.

Furthermore, with the announcement of the Priority Integrated Sector initiative for about nine sectors under the goods segment in 2004, an accelerated liberalisation process is being implemented by Member Economies. Hence, more goods will enjoy tariff reduction or elimination.

## Trade in Goods

The Common Effective Preferential Tariff (CEPT) is an agreed effective tariff, preferential to ASEAN, to be applied to goods originating from ASEAN Member Economies, and which have been identified for inclusion in the CEPT Scheme. This is applied to all manufactured products, including capital goods, processed agricultural products and those products falling outside the definition of agricultural products as set out in this Agreement. Agricultural products shall be excluded from the CEPT Scheme.

The ASEAN Member Economies agree to the following schedule of effective preferential tariff reductions:

- 1) The reduction from existing tariff rates to 20 per cent shall be done within a time frame of five to eight years, from 1 January 1993, subject to a programme of reduction to be decided by each Member Economy, which shall be announced at the start of the programme.
- 2) The subsequent reduction of tariff rates from 20 per cent or below shall be done within a time frame of seven years. The rate of reduction shall be at a minimum of five per cent quantum per reduction. A programme of reduction to be decided by each Member Economy shall be announced at the start of the programme.
- 3) For products with existing tariff rates of 20 per cent or below as at 1 January 1993, Member Economies shall decide upon a programme of tariff reductions and announce at the start, the schedule of tariff reductions. Two or more Member Economies may enter into arrangements for tariff reduction to zero to five per cent on specific products at an accelerated pace to be announced at the start of the programme.

The above schedules of tariff reduction shall not prevent Member Economies from immediately reducing their tariffs to zero to five per cent or following an accelerated schedule of tariff reduction.

## Type of CEPT List

The commitments are covered in different types of CEPT list:

- 1) Inclusion List: refers to products that Member Economies are ready to commit to eliminate import duties, quantitative restrictions and non-tariff barriers.  
The schedule is as follows:
  - a) Not later than 1 January 2010 for ASEAN-6 countries; and
  - b) Not later than 1 January 2015 for CLMV countries.

The preferential rates will only apply if the product is in the Inclusion List of both economies.

- 2) Temporary Exclusion List: refers to a list of products that economies are temporarily not ready to commit to the CEPT scheme.
- 3) Sensitive and Highly Sensitive List: Comprises unprocessed agricultural products that will be phased into Inclusion List according to the following schedule:

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- a) Beginning 1 January 2001 and to be completed not later than 1 January 2010 for ASEAN-6 countries
  - b) Beginning 1 January 2006 and to be completed not later than 1 January 2013 for Vietnam
  - c) Beginning 1 January 2008 and to be completed not later than 1 January 2015 for Laos and Myanmar
  - d) Beginning 1 January 2008 and to be completed not later than 1 January 2017 for Cambodia
- 4) General Exclusion List: products permanently excluded from CEPT scheme due to national security, public morals and health reasons.

### Priority Integrated Sector

The Priority Integrated Sector (PIS) was announced with the objective of accelerating the liberalisation of about 11 sectors. The 'priority sectors' refer to

- 1) sectors listed below:
  - a) Agro-based products
  - b) Air travel
  - c) Automotives
  - d) E-ASEAN
  - e) Electronics
  - f) Fisheries
  - g) Healthcare
  - h) Rubber-based products
  - i) Textiles and apparels
  - j) Tourism
  - k) Wood-based products
- 2) such other sectors as may be identified by the Ministers responsible for ASEAN economic integration of this Framework Agreement.

Out of 11 sectors, nine cover trade in goods. For these sectors in the PIS, Member Economies shall eliminate all CEPT tariff lines except for the sensitive, highly sensitive and general exception lists by January 2012.

### Rules of Origin

The CEPT Rules of Origin have undergone further revision, which has become effective on 1 August 2008.

### Origin Criteria

Goods imported under the CEPT Scheme into the territory of a Member State from another Member State shall be eligible for preferential tariff treatment if they conform to the origin requirements under any one of the following conditions:

- 1) A good that is wholly obtained or produced in the exporting Member State as set out and defined in Article 3; or
- 2) A good not wholly obtained or produced in the exporting Member State, provided that the said products are eligible under Article 4 or Article 5.

### Not Wholly Owned or Produced

In Article 4, a good shall be deemed to be originating in the Member State where working or processing of the good has taken place:

- 1) If at least 40 per cent of its content [hereinafter referred to as 'ASEAN Value Content' or the 'Regional Value Content (RVC)'] originates from that Member State or it has undergone a change in tariff classification at a four-digit level (change in tariff heading) of the Harmonised System; or

- 2) If it is specified in Appendix C and satisfies the criteria set out therein.

A product may be considered as originating from an ASEAN country if at least 40 per cent of its contents originate from any ASEAN country. The following formula is used for calculating the local content or ASEAN content:

### Direct Method:

$$\text{RVC} = \frac{\text{Local/ASEAN raw material cost} + \text{Direct labour cost} + \text{Direct overhead cost} + \text{Profit} + \text{Other cost}}{\text{FOB Price}} \times 100\%$$

### Indirect Method:

$$\text{RVC} = \frac{\text{FOB Price} - \text{Non-Originating Materials, Parts or Produce}}{\text{FOB Price}} \times 100\%$$

The FOB Price refers to the total raw materials cost + direct labour cost + direct overhead cost + profits + other costs.

### Accumulation

Article 5 stipulates that a good originating in a Member State, which is used in another Member State as materials for a finished good eligible for preferential tariff treatment, shall be considered to be originating in the latter Member State where working or processing of the finished good has taken place.

Secondly, if the RVC of the material is less than 40 per cent, the qualifying ASEAN Value Content to be cumulated using the RVC criterion shall be in direct proportion to the actual domestic content provided that it is equal to or more than 20 per cent.

### Product-Specific Rules

Product-Specific Rules (PSR) refer to rules that specify that the materials have undergone a change in tariff classification or a specific manufacturing or processing operation, or satisfy an ad valorem criterion or a combination of any of these criteria.

A good not wholly obtained or produced in the territory of the exporting Party could satisfy the origin requirements under the PSRs. The PSRs will enable each product to be assessed in terms of its particular production method in ASEAN Member Economies. This rule will enable manufacturers in the region to easily work out if their products will qualify as originating goods under AFTA.

### Customs Documentation

The usual procedure in the case of ASEAN for direct shipment is for a product to be shipped directly from the originating country to the destination using Form D. 'Form D' is the preferential certificate of origin (CO) issued by the respective ASEAN country's Customs Authority to prove the originating status of the product under the AFTA CEPT Scheme. This is a more straightforward model whereby the exporter of the product will apply for the Form D, and then send it to the importer to claim tariff savings.

### Back-to-Back Certificate of Origin Arrangement

The Back-to-Back (B2B) CO arrangement allows for a product, which is exported from one ASEAN Member Economy X through an intermediate ASEAN Member Economy Y while en route to another

ASEAN Member Economy Z, to enter and undergo operations in an ASEAN Member Economy Y such as bulk breaking, packaging and other necessary operations, and to facilitate the transport without losing its originating status. The re-exporter is only required to present the valid original CO to the issuing authority of intermediate ASEAN Member Economy in order to verify the originating status of the good. The product should be included in the Inclusion List of both originating and importing ASEAN Member Economies.

### Third-Party Invoicing

In addition to the above, AFTA allows for third-party invoicing arrangements. This means that the Customs authority in the importing Party may accept a CO in cases where the sales invoice is issued either by a company located in a third country or by an exporter for the account of the said company, provided that the good meets the requirements. The exporter of the goods shall indicate "third country invoicing" and such information as name and country of the company issuing the invoice in the CO. The invoice can come from countries not within ASEAN. This provision is found in Rule 23 of the Operational Certification Procedures for the Rules of Origin of the AFTA CEPT Scheme.

### Mutual Recognition Goods

In December 1998, the Framework Agreement on Mutual Recognition Arrangements (MRAs) was signed. This led to key goods related associations to implement the MRAs.

### ASEAN Harmonized Cosmetic Regulatory Scheme (AHCRS)

The AHCRS was signed on 2 September 2003. The AHCRS lays down the requirements for cosmetic products for all signatory ASEAN Member Economies starting from 1 January 2008. A product produced or marketed in any signatory country and meeting the requirements of AHCRS would be able to enter other signatory countries. The most significant aspect of this harmonized scheme is that all ASEAN Member Economies will move from the traditional and preferred approach of 'pre-market approval' to the new approach of 'post-market surveillance' for cosmetic products.

### ASEAN Sectoral Mutual Recognition Arrangement for Electrical & Electronic Equipment (ASEAN EE MRA)

The ASEAN EE MRA is an agreement signed by the Economic Ministers of ASEAN Countries aiming to facilitate the free movement of electrical and electronic equipment (EEE) in the region through reduction on duplication of testing and certification for EEE manufactured in ASEAN.

The ASEAN EE MRA covers all new EEE that is intended to either directly be connected or plugged into a low voltage power supply or is battery-powered. It does not cover medical devices and products already included in the ASEAN Telecommunications MRA.

### Trade in Services

The ASEAN Framework Agreement on Services (AFAS) aims to eliminate restrictions to trade in services and enhance cooperation in services within ASEAN.

Negotiations on AFAS began in 1996 and to-date, four rounds of negotiations have been completed. The Protocol to implement the Fifth Package of Commitments under the ASEAN Framework Agreement on Services has begun.

The packages signed by the ASEAN Economic Ministers provide the following main details of commitments from each ASEAN country to the others:

- 1) Air transport: aircraft repair and maintenance, computer reservation, sales and marketing of air transport services.
- 2) Business services: accounting, architecture, auditing, engineering, IT, legal, market research.
- 3) Construction: civil engineering, construction of commercial buildings, installation works, rental of construction equipments.
- 4) Financial services: banking, consumer finance, financial advisory, insurance, securities and broking.
- 5) Maritime transport: international passenger and freight transport, storage and warehousing.
- 6) Telecommunication: business networks services, data and message transmission, mobile phone services, public telephone services.
- 7) Tourism: food serving, hotel and lodging services, travel agency, tour operator.

Through these commitments, ASEAN services suppliers can expect an increasingly freer trade regime. Furthermore, ASEAN countries are working on the expansion of negotiations to cover all sectors and all modes of supply. Steps are being taken to achieve a free flow of services by 2020 or earlier.

### Mutual Recognition Arrangements for Services

Mutual Recognition Arrangements (MRAs) is the more recent development in ASEAN cooperation in trade in services. MRAs enable the qualifications of professional services suppliers to be mutually recognised by signatory member countries, hence facilitating easier flow of professional services providers in the ASEAN region. The MRA on Engineering Services and MRA on Nursing Services has been concluded and signed.

### Investment

The ASEAN Investment Area (AIA) has taken on the following measures to make ASEAN a competitive, conducive and liberal investment area:

- 1) Implementing coordinated ASEAN investment cooperation and facilitation programmes;
- 2) Implementing a coordinated promotion programme and investment awareness activities;
- 3) Immediate opening up of all industries for investment, with some exceptions as specified in the Temporary Exclusion List (TEL) and the Sensitive List (SL), to ASEAN investors by 2010 and to all investors by 2020;
- 4) Granting immediate national treatment, with some exceptions as specified in the Temporary Exclusion List (TEL) and the Sensitive List (SL), to ASEAN investors by 2010 and to all investors by 2020;
- 5) Actively involving the private sector in the AIA development process;
- 6) Promoting freer flows of capital, skilled labour, professional expertise and technology amongst the member countries;
- 7) Providing transparency in investment policies, rules, procedures and administrative processes;
- 8) Providing a more streamlined and simplified investment process; and
- 9) Eliminating investment barriers and liberalizing investment rules and policies in the sectors covered by the Agreement.