

## FACTSHEET

### ENHANCING THE ASEAN COMPREHENSIVE INVESTMENT AGREEMENT (ACIA)

- The 17<sup>th</sup> ASEAN Economic Community Council Meeting saw ASEAN Member States (AMS) agree on enhancements to the ASEAN Comprehensive Investment Agreement (ACIA) through the finalisation of a *Fourth Protocol to Amend the ACIA*.
  - Specifically, AMS agreed to stronger commitments prohibiting the imposition of performance requirements on investors. Coupled with the earlier agreement this year for AMS to transition their ACIA Reservation Lists to a two-annex negative list format<sup>1</sup>, these enhancements will help improve the integration of ASEAN investment regimes through greater liberalisation and transparency.
- Our efforts to continually enhance the investment environment in ASEAN are important in maintaining our ability to attract foreign direct investment (FDI), drive growth, and secure our investments in the region.
  - Inbound investments generate around 20,000 jobs each year for Singapore.<sup>2</sup>
  - Singapore is the second largest investor in ASEAN with USD18.3 billion worth of investments in 2017<sup>3</sup>. Singapore businesses surveyed continue to identify ASEAN as the top choice for overseas expansion<sup>4</sup>.
  - FDI is critical for fulfilling the region's infrastructural development needs. Some studies estimate that ASEAN needs more than USD2.1 trillion of investments in infrastructure spending by 2030<sup>5</sup>, but current trends only cover USD910 billion.

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<sup>1</sup> Under a negative list approach, all sectors are considered as liberalised by default, except for specified measures or sectors/sub-sectors. The ACIA Reservation Lists are currently in the form of a single-annex. However, many international agreements have progressed to a two-annex negative list. In two-annex negative lists, a State would schedule existing non-conforming measures that are in force in its first annex, while scheduling reservations for full policy discretion (i.e. sectors/sub-sectors in which a State wishes to enact any measures it deems necessary – even in the future) in its second annex. This contrasts with the single-annex negative list, where a State schedules all existing or future measures in a single list. The two-annex negative list is thus more transparent for investors, enabling them to make better-informed investment decisions.

<sup>2</sup> **Source:** Singapore Economic Development Board, 2008-2017.

<sup>3</sup> **Source:** ASEAN Secretariat.

<sup>4</sup> **Source:** SBF's ASEAN Outlook Survey 2017/2018.

<sup>5</sup> **Source:** HSBC Research, 2017.

## **Benefits of Enhancements to the ACIA**

- AMS agreed to enhance the ACIA by introducing clearer and additional commitments prohibiting the imposition of performance requirements by governments on investors.
  - Performance requirements are stipulations imposed by governments on investors that require the latter's investment operations to meet specified goals as a condition for entering or expanding in a host State. This can potentially distort investment decisions, or even deter investments.
- In order to remove such restraints on investments in ASEAN, Singapore proposed a set of performance requirements that governments should be prohibited from imposing on investors, and to incorporate these into the ACIA as binding commitments upon AMS.
- We are pleased that this has been successfully completed this year, with AMS agreeing to a *Fourth Protocol to Amend the ACIA* that will put this into effect.
  - This is the first instance in which AMS will undertake specific commitments in the area of performance requirements, as this is not previously committed to in the ACIA or any of ASEAN's agreements in force with its external partners.
    - This improves the transparency of AMS' commitments in this area, with a clear listing of the performance requirements that are prohibited under the ACIA.
  - AMS have committed to extend these commitments to both the pre-establishment and post-establishment phases of investments.
    - This provides investors with guarantees against such performance requirements throughout the entire life-cycle of their investment.
  - The commitments also cover both mandatory performance requirements (those linked to the conditions for entry and operation of the investment) and non-mandatory performance requirements (those linked to the access or continued access to benefits or advantages).
  - Importantly, AMS have gone above and beyond their multilateral commitments, by undertaking commitments that exceed those found in the World Trade Organization's (WTO) Trade-Related Investment Measures Agreement (TRIMS).

- In particular, AMS have committed to not restrict the sales of goods in their territories, or to relate such sales to the volume or value of its exports or foreign exchange earnings.
  - AMS have also committed to not require an investor to supply exclusively from their territories the goods that their investment produces to a specific regional market or to the world market.
  - Both of these commitments will provide ASEAN investors with a greater guarantee to sell the goods that their investments produce, free from restrictions.
- When in force, ASEAN investors can enjoy greater confidence and ease-of-mind when investing in the ASEAN region.
    - This can, in turn, promote stronger investment flows into our region resulting in other positive spill over effects on our economies.

#### **Need for Continuous Review**

- AMS recognise the need to continually re-assess and review our investment regimes, and have thus agreed to consider, in the future, additional commitments on prohibiting performance requirements to again improve the ACIA.

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