



# ASEAN INTEGRATION IN SERVICES



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The Association of Southeast Asian Nations (ASEAN) was established on 8 August 1967. The Member States of the Association are Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam. The ASEAN Secretariat is based in Jakarta, Indonesia.

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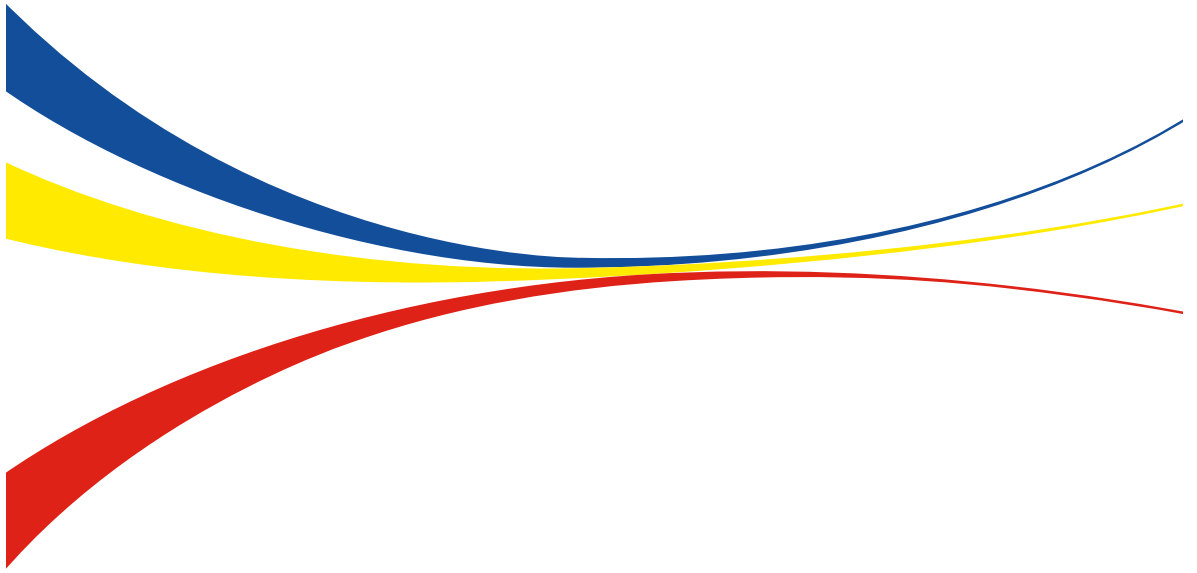
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# **ASEAN Integration in Services**

**The ASEAN Secretariat  
Jakarta**



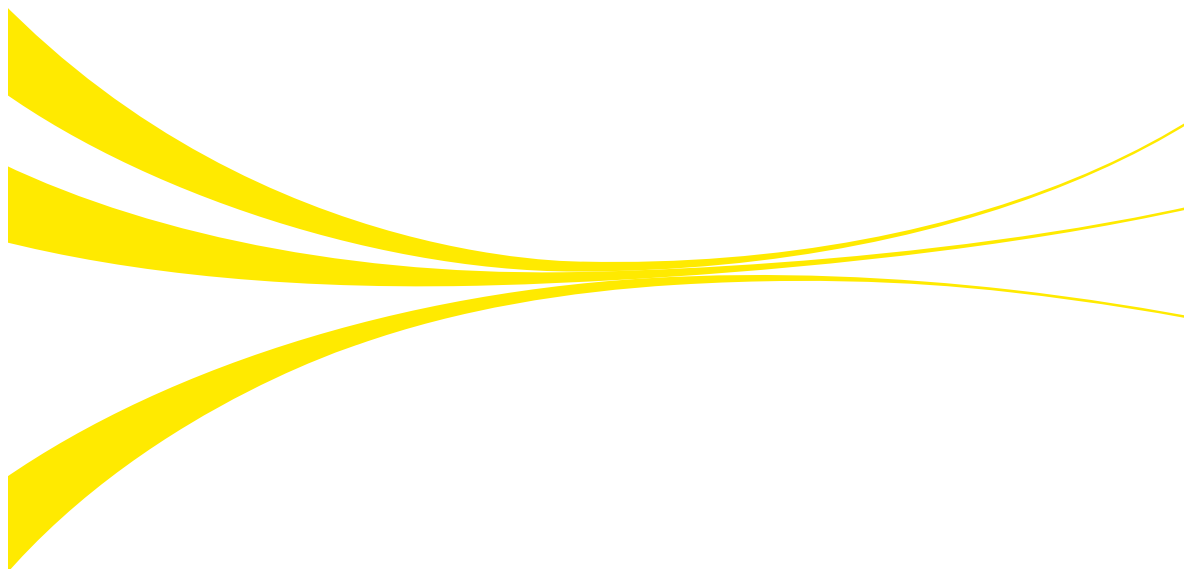


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**A.****INTRODUCTION**

*“The ASEAN Economic Community is the realisation of the end-goal of economic integration as outlined in the ASEAN Vision 2020, to create a stable, prosperous and highly competitive ASEAN economic region in which **there is a free flow of goods, services,** investment and a freer flow of capital, equitable economic development and reduced poverty and socio-economic disparities in year 2020.” (Bali Concord II, October 2003)<sup>1</sup>*

*“Free flow of trade in services is one of the important elements in realising ASEAN Economic Community, where there will be substantially no restriction to ASEAN services suppliers in providing services and in establishing companies across national borders within the region, subject to domestic regulations.” (ASEAN Economic Community Blueprint, November 2007)*

Trade in services is an important initiative to achieve ASEAN economic integration. In 1995, which was only two years after ASEAN launched the initiative to work towards ASEAN Free Trade Area (AFTA) for trade in goods through the ASEAN Agreement on Common Effective Preferential Trade Scheme under AFTA (CEPT) signed in 1993, ASEAN Member States signed the ASEAN Framework Agreement on Services (AFAS), mandating progressive negotiations on the liberalisation of trade in services. This was also in recognition that intra-ASEAN economic cooperation will strengthen and enhance trade and investment among ASEAN Member States.

AFAS is based closely on the provisions of the General Agreement on Trade in Services (GATS), the first multilateral agreement on services which was concluded under the Uruguay Round of multilateral trade negotiations<sup>2</sup> in 1994. The GATS is a recent phenomenon, being the first multilateral arrangement on cross-border trade in services, although services have had a vital role in global trade for many years.

Integration in trade in services is also one of the essential elements in building the ASEAN Economic Community (AEC), as envisaged by the ASEAN Heads of States/Governments in the Declaration of Bali Concord II. The subsequent decision at the 11<sup>th</sup> ASEAN Summit in December 2005 to accelerate the liberalisation of trade in services by 2015, re-affirms the seriousness of ASEAN to further integrate its services sector and deepen its economic integration process.<sup>3</sup> In November 2007, ASEAN economic integration was taken one step further when Heads of State/Government at the 13<sup>th</sup> ASEAN Summit on 20 November 2007 in Singapore, adopted the ASEAN Economic Community (AEC) Blueprint,<sup>4</sup> which has the

<sup>1</sup> Declaration of ASEAN Concord II done at the 9th ASEAN Summit held on 7 October 2003 in Bali, Indonesia (also referred to as “Bali Concord II”).

<sup>2</sup> This compares with the General Agreement on Tariffs and Trade (GATT) signed in 1947. The Uruguay Round also resulted in the establishment of World Trade Organisation (WTO).

<sup>3</sup> Subsequently, at the 12th ASEAN Summit in January 2007 ASEAN Heads of States/Governments accelerated the establishment of the ASEAN Community to 2015 in all three pillars of the ASEAN Community- i.e. the Political Security Community (APSC), ASEAN Economic Community (AEC), and ASEAN Socio-Cultural Community (ASCC).

<sup>4</sup> <http://www.asean.org/archive/5187-10.pdf>

aim of transforming ASEAN into a single market and production base, a highly competitive economic region, a region of equitable economic development, and a region fully integrated into the global economy.

The AEC Blueprint provides for an important mandate on liberalisation of trade in services in ASEAN, through the actions, targets, and timelines for the free flow of services and integration of trade in services in ASEAN as part of the goal of the integrated single market and production base.

The following sections provide an overview of the benefits and challenges of services liberalisation, trade in services in ASEAN, the institutional processes in ASEAN for services liberalisation, the status of the negotiations on trade in services, and the initiatives taken to move forward services integration.

## **B. THE IMPORTANCE OF LIBERALISATION OF TRADE IN SERVICES IN ASEAN**

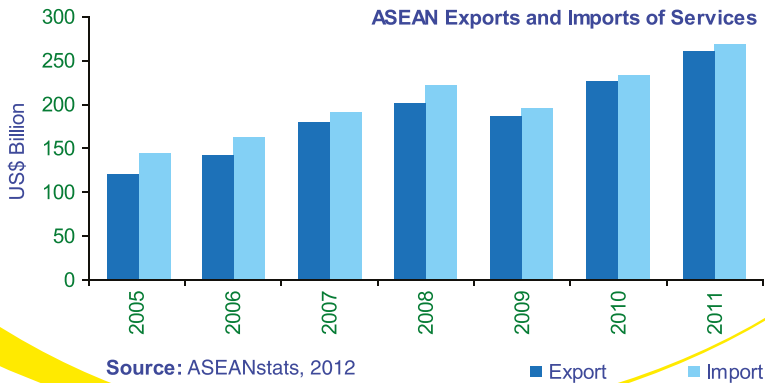
The liberalisation of the services sector in ASEAN is expected to create a competitive environment that leads to better and more efficient services delivery. The modern economy relies on rapid and efficient services delivery network to function and to facilitate the development in other sectors of the economy. The services sector makes up for at least 40–50% of the Gross Domestic Product in ASEAN Member States. It is also the fastest growing sector in the region. With the progressive liberalisation in ASEAN, local services providers will be able to take advantage of the market openings as well as to benefit from new ideas and processes arising out of the opening up of the services sector.

The export of services is also expected to break new ground as ASEAN services exporters strive to emulate the success made in the area of goods exports. With the progressive liberalisation of the services sector in ASEAN, this sector will assume an even greater role in generating growth, broadening the economic base, and increasing contribution to exports. The challenges are keeping pace with new trends and technological innovations, benchmarking with international standards for greater efficiency and competitiveness, enhancing investment and trade flows, and building up human capital in ASEAN.

The gains to ASEAN from services liberalisation are potentially very high. With liberalisation, investment in services, which is vital for economic development, is expected to increase. In 2011, the services sector in ASEAN received 58% of total ASEAN FDI flows amounting to US\$ 51.4 billion. Increasing investment in the services sector in ASEAN will promote the development of a sound and modern financial, telecommunications, distribution, and transport sectors for economies in the region. ASEAN will also benefit from technology flows, know-how and management skills from the free flow of services in the region. In addition, trade in services is expected to keep pace with the economic growth of the region. The key to realise these benefits will be a well-managed and progressive liberalisation of services by ASEAN that will lead to expansion of productive capacity and economic development.

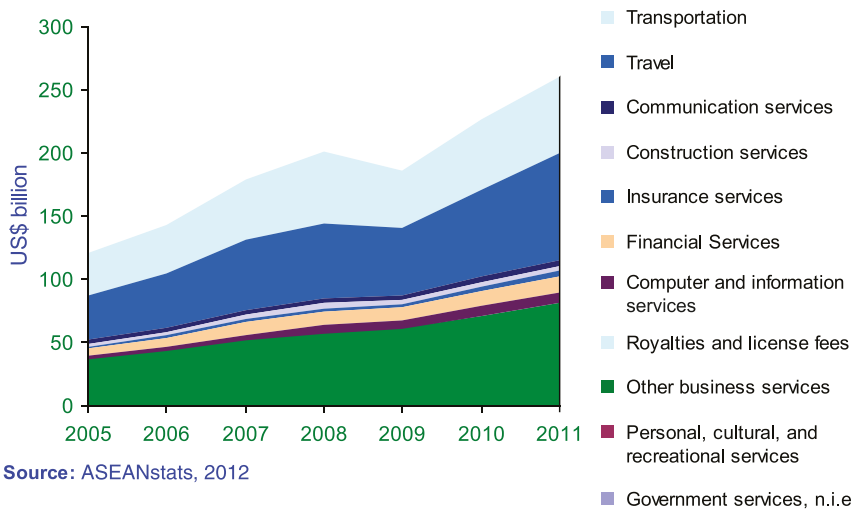
### C. TRADE IN SERVICES IN ASEAN

ASEAN export of services to the world market has grown steadily, more than doubled from US\$ 120.7 billion in 2005 to US\$ 260.9 billion in 2011. ASEAN import of services from the world market has also expanded markedly, of similar trend and magnitude as exports, doubling from US\$143.1 billion in 2005 to US\$269.1 billion in 2011.



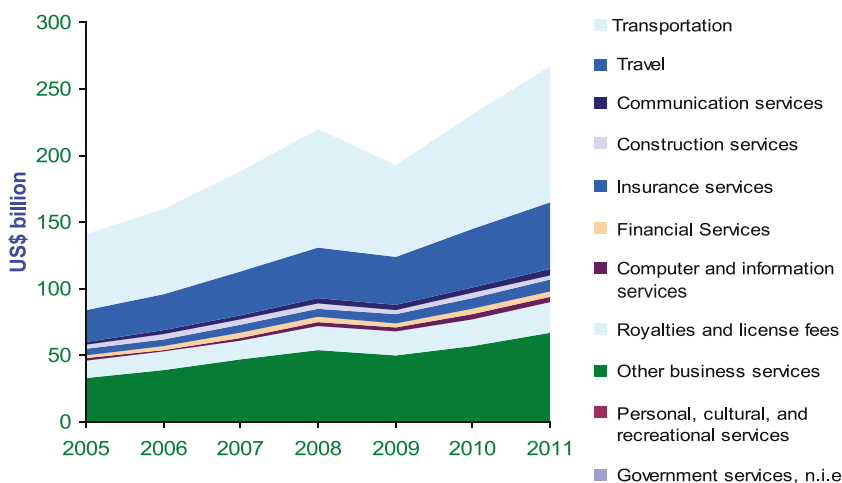
Transport, travel, and other business services continued to be the main sectors of ASEAN trade in services. Travel and other business services are top export sectors at around 30% of all export values, followed by transport at around 24% to 28%. However, transport is the top import sector at around 35% to 40% of all import values, followed by other business services at around 24% and travel at around 18%.

### ASEAN Services Export by Sectors



In terms of growth, computer and information services is far ahead of all other services sectors. During this 2005-2011 period, export grows by 30.3% annually and import grows by 19% annually. Construction services is the slowest sector, which grow at only 6.6% within the same period, and even showed a decreasing trend over the period of 2008-2011. Note that ASEAN trade in services, like most other economic activities in ASEAN as well as in many parts of the world, experience an overall decline around end of 2008 to 2009 following the global economic downturn around this period. ASEAN has recovered afterwards.

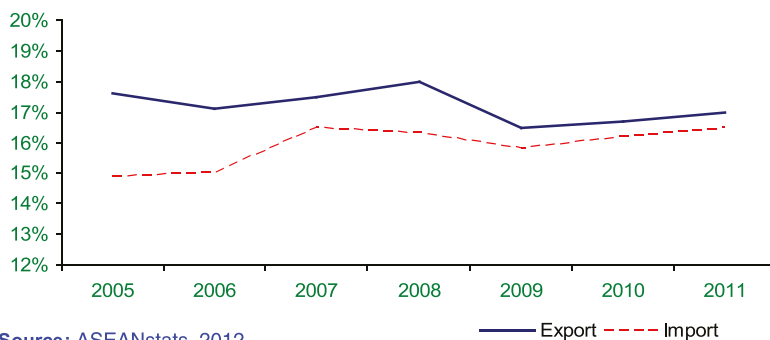
### ASEAN Import in Services



Source: ASEANstats, 2012

Around this 2005-2011 period, ASEAN Member States exported around 16.5% to 18% of their services to other Member States, and imported around 15% to 16.5% of their services from other Member States. Also note that similar to the performance of overall trade value as mentioned above, intra-ASEAN trade in services also decline slightly in 2009 and then has recovered.

### Intra-ASEAN Trade in Services



Source: ASEANstats, 2012

## D. ASEAN FRAMEWORK AGREEMENT ON SERVICES

The ASEAN Economic Ministers (AEM) signed the ASEAN Framework Agreement on Services (AFAS)<sup>5</sup> on 15 December 1995 during the 5th ASEAN Summit in Bangkok, Thailand, recognising the growing importance of services to the economy and the need to enhance and strengthen trade in services within ASEAN.

AFAS aims to:

- Enhance cooperation in services amongst Member States in order to improve the efficiency and competitiveness, diversify production capacity, and supply and distribution of services of their service suppliers within and outside ASEAN.
- Eliminate substantially restrictions to trade in services amongst Member States.
- Liberalise trade in services by expanding the depth and scope of liberalisation beyond those undertaken by Member States under the GATS with the aim to realising a free trade area in services.

AFAS provides the enabling legal framework for setting out the broad parameters that enables that enables Member States to progressively improve market access and provide national treatment to services suppliers of ASEAN Member States.<sup>6</sup> All AFAS rules are consistent with international rules for trade in services as provided for under the GATS Agreement<sup>7</sup> of the World Trade Organisation (WTO).

As mentioned above, one of the objectives of AFAS is to liberalise services trade towards achieving liberalisation beyond Member States' commitments under GATS. This is often referred to as the GATS-plus principle. It means that ASEAN Member States shall schedule commitments under AFAS that go beyond their GATS commitments or offer new service sectors/sub-sectors that have not been scheduled under GATS<sup>8</sup>. With the adoption of the ASEAN Economic Community (AEC) Blueprint in 2007, the subsequent liberalisation commitments under AFAS follows the targets and thresholds as laid out under the AEC Blueprint and any additional parameters set forth by the AEM.

## E. INSTITUTIONAL MECHANISM

There are currently several ASEAN bodies which are undertaking work on the integration of trade in different services sectors:

- The Coordinating Committee on Services (CCS) which reports to the ASEAN Economic Ministers through the Senior Economic Officials Meeting (SEOM)

<sup>5</sup> <http://www.asean.org/news/item/asean-framework-agreement-on-services>

<sup>6</sup> See Appendix 2 for technical explanations of "Market Access" and "National Treatment".

<sup>7</sup> [http://www.wto.org/english/docs\\_e/legal\\_e/26-gats.doc](http://www.wto.org/english/docs_e/legal_e/26-gats.doc)

<sup>8</sup> When AFAS was signed in 1995, Cambodia, Lao PDR, and Myanmar had not joined ASEAN, while Cambodia, Lao PDR, and Viet Nam were not WTO Members. All are now ASEAN Members and have acceded to the WTO. Commitments have since been integrated into AFAS schedules.

- The Coordinating Committee on Investment (CCI) which reports to the ASEAN Economic Ministers – ASEAN Investment Area Council (AEM-AIA Council), and through the Senior Economic Officials Meeting
- The Air Transport Sectoral Negotiation (ATSN) of the Air Transport Working Group (ATWG) which reports to the ASEAN Transport Ministers (ATM) through the Senior Transport Officials' Meeting (STOM)
- The Working Committee on ASEAN Financial Services Liberalisation under AFAS (WC-FSL/AFAS) which reports to the ASEAN Finance Ministers Meeting (AFMM) through the ASEAN Finance and Central Bank Deputies Meeting (AFDM).

### ***Coordinating Committee on Services (CCS)***

The Coordinating Committee on Services (CCS) was established in January 1996, subsequent to the signing of the ASEAN Framework Agreement on Services (AFAS). At that time, CCS was tasked to undertake services integration initiatives under the AFAS with emphasis on 7 priority sectors: air transport, business services, construction, financial services, maritime transport, telecommunications, and tourism (Bangkok Declaration, 1995)<sup>9</sup>.

Following the decision of the Informal AEM Meeting in June 1999, there was a realignment of of responsibilities, with the CCS mandated to undertake work on the integration of all services sectors, except for air transport, financial services;<sup>10</sup> and since 2001, also excludes services incidental to manufacturing, agriculture, fishery, forestry, and mining and quarrying. These services sectors were transferred to other ASEAN bodies as listed above, and the role of these groups are elaborated in the following sub-sections.

There are six sectoral working groups under the CCS: business services, construction, healthcare, logistics and transport services, telecommunication and IT services, and tourism sectoral working groups, and a caucus on education services. At present, only the business services, healthcare, and logistics and transport services actively meet back-to-back with the CCS. Notwithstanding these formalised arrangements, ASEAN Member States could and are encouraged to undertake integration activities and/or make commitments in the whole range of the services sectors. The CCS comprises officials responsible for negotiations on liberalisation in services and come from different ministries/agencies. CCS officials are typically represented from the trade/commerce ministry and/or economic planning agency.

<sup>9</sup> The Bangkok Declaration made at the 5th ASEAN Summit that also witnessed the signing of AFAS.

<sup>10</sup> The Informal AEM meeting held in June 1999 in Auckland, New Zealand, agreed that work in services sectors that fall under the purview of other Ministerial Bodies shall be led by these respective Ministerial Bodies, and areas not covered by any existing ASEAN bodies would continue to be under the purview of the CCS/SEOM/AEM. However, overall coordination of liberalisation in services would still be under the purview of the AEM/SEOM. At the 33rd AEM meeting held in September 2001 in Ha Noi, Viet Nam, it was noted that the Tourism Sectoral Working Group, Maritime Transport Sectoral Working Group, and the Telecommunication Negotiation Group indicated readiness to return to CCS for subsequent rounds of negotiations.



### ***Coordinating Committee on Investment (CCI)***

The Coordinating Committee on Investment (CCI) was established at the inaugural meeting of the ASEAN Investment Area (AIA) Council in October 1998, and tasked to assist the Council in implementing the AIA Agreement.<sup>11</sup> Through a subsequent Protocol to Amend the Framework Agreement on the ASEAN Investment Area<sup>12</sup> signed in 2001, the portfolio on the economic integration of services incidental to manufacturing, agriculture, fishery, forestry, and mining and quarrying was transferred to the AIA process (i.e. the CCI) in order to ensure coherence with CCI's existing work portfolio in investment in the manufacturing, agriculture, fishery, forestry, and mining and quarrying sectors.

In 2008, ASEAN concluded the ASEAN Comprehensive Investment Agreement (ACIA)<sup>13</sup> which consolidated the AIA and the 1987 ASEAN Agreement for the Promotion and Protection of Investments and its protocols. Under the ACIA, investment in these services sectors would be deemed liberalised unless reservations are scheduled in respect of national treatment and senior management and board of directors in these sectors.

### ***Air Transport Sectoral Negotiations (ATSN)***

The Air Transport Sectoral Negotiations (ATSN) is a specific negotiating group under the Air Transport Working Group (ATWG) which undertakes work on the liberalisation of air transport services under AFAS. It was established in January 2000 following the instructions of the 5th ASEAN Transport Ministers (ATM) Meeting in September 1999 in Ha Noi, Viet Nam, which tasked the Senior Transport Officials Meeting (STOM) process to include AFAS transport services liberalisation in their work programme through the relevant Working Groups.<sup>14</sup>

### ***Working Committee on ASEAN Financial Services Liberalisation under AFAS (WC FSL/AFAS)***

The Working Committee on ASEAN Financial Services Liberalisation under AFAS (WC-FSL/AFAS) was established at the 4th ASEAN Finance Ministers Meeting (AFMM) held on 25-26 March 2000 in Bandar Seri Begawan, Brunei Darussalam. It was known by its abbreviated name of the "WC-AFAS" until the decision of its 12th Meeting held on 26 February 2007 in Pattaya, Thailand, to adopt the current abbreviation.

## **F.**

## **APPROACHES OF SERVICES LIBERALISATION UNDER AFAS**

AFAS requires Member States to enter into negotiations on measures affecting trade in specific service sectors, and the results shall be set out in schedules of commitments. The first few rounds of negotiations were undertaken on a three-year cycle for each round of

<sup>11</sup> [http://www.asean.org/images/2012/Economic/AIA/Agreement/Framework%20Agreement%20on%20the%20ASEAN%20Investment%20Area%20\(AIA\)%201998.pdf](http://www.asean.org/images/2012/Economic/AIA/Agreement/Framework%20Agreement%20on%20the%20ASEAN%20Investment%20Area%20(AIA)%201998.pdf)

<sup>12</sup> <http://www.asean.org/images/2012/Economic/AIA/Agreement/Protocol%20to%20Amend%20the%20Framework%20Agreement%20on%20the%20ASEAN.pdf>

<sup>13</sup> [http://www.asean.org/images/2012/Economic/AIA/Agreement/ASEAN%20Comprehensive%20Investment%20Agreement%20\(ACIA\)%202012.pdf](http://www.asean.org/images/2012/Economic/AIA/Agreement/ASEAN%20Comprehensive%20Investment%20Agreement%20(ACIA)%202012.pdf)

<sup>14</sup> Please cross-refer to the decision of the Informal AEM meeting in June 1999 explained above that works in services sectors that fall under the purview of other Ministerial Bodies shall be led by these respective Ministerial Bodies, and the subsequent return of Maritime Transport negotiations back to CCS in 2001.

negotiations. In the first four rounds, liberalisation of the services sector was undertaken based on the parameters agreed for each respective round. Liberalisation thresholds for subsequent rounds of negotiations are based on the ASEAN Economic Community (AEC) Blueprint (See also section G).

### ***First Round (1996–1998)***

The Bangkok Declaration of the 5th ASEAN Summit in 1995 called for immediate commencement of the first round of negotiations starting 1 January 1996 to be concluded no later than 31 December 1998. The negotiations will give emphasis to financial services, maritime transport, telecommunications, air transport, tourism, construction, and business services.

During this round, ASEAN adopted the GATS-style of Request and Offer Approach for its services liberalisation. The process was initiated with an exchange of information among ASEAN Member States on each other's GATS commitments and services trade regime. This resulted in the First and Second Packages of AFAS Commitments.

### ***Second Round (1999– 2001)***

ASEAN adopted a Common Sub-Sector Approach in this round. A common sub-sector is defined as a sub-sector where four (4) or more Member States had made commitments in that sub-sector under the GATS and/or under previous AFAS packages.<sup>15</sup> Under this approach, Member States were requested to schedule commitments in the identified common sub-sectors. These concessions will then be extended to other ASEAN Member States. This round of negotiations resulted in the Third Package of AFAS Commitments.

### ***Third Round (2002–2004)***

ASEAN adopted the Modified Common Sub-Sector Approach in this round. The approach is basically the same as the Common Sub-Sector Approach except that the threshold was made more rigorous to include sub-sectors where three (3) or more Member States had made commitments under the GATS and/or previous AFAS packages, instead of four or more Member States; thus increasing the number of sub-sectors to be liberalised.

In addition to this approach, ASEAN also started negotiations based on an ASEAN Minus X Formula.<sup>16</sup> Under this approach, two or more Member States may proceed to liberalise an agreed services sector/sub-sector and extend the concessions among the participating Member States. Others may join at a later stage or whenever they are ready to participate. The third round resulted in the Fourth Package of AFAS Commitments.

### ***Fourth Round (2005–2007)***

The fourth round of AFAS negotiations was launched at the 36<sup>th</sup> AEM Meeting held on 3 September 2004. The fourth round is even more progressive than previous rounds. It required Member States to schedule a number of subsectors from an agreed list of subsectors based on certain threshold levels, consisting of:

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<sup>15</sup> See also Section J 1999.

<sup>16</sup> See also Section J 2002-2003.

- (a) Scheduling “None” for Modes 1 and 2 commitments<sup>17</sup> i.e. there shall be no limitations on market access and national treatment in these two modes. In sub-sectors where a Member State is not able to schedule such a commitment, justifiable reasons have to be provided.
- (b) Scheduling Mode 3 foreign equity participation targets of 49% for the priority services sub-sectors, 51% for the construction sub-sector, and 30% for the other services sectors.

The fourth round of negotiations concluded with the Fifth and Sixth Packages of AFAS Commitments.

### **2007 Onwards**

From 2007 onwards up to 2015, ASEAN Member States agreed to schedule liberalisation commitments based on the targets and timelines as outlined in the AEC Blueprint (see Section G for more details) as well as any applicable subsequent decisions from the AEM.

To-date, the 7th and 8th Packages of AFAS commitments have been completed in line with these requirements.

## **G. ASEAN ECONOMIC COMMUNITY (AEC) BLUEPRINT**

Following the adoption of the AEC Blueprint in 2007<sup>18</sup>, the subsequent rounds of negotiations under AFAS will be based on the parameters and timelines as outlined in this Blueprint. The Blueprint contains the following actions on the liberalisation of trade in services:

- i. Remove substantially all restrictions on trade in services for 4 priority services sectors, air transport, e-ASEAN, healthcare and tourism, by 2010 and the fifth priority services sector, logistics services, by 2013;
- ii. Remove substantially all restrictions on trade in services for all other services sectors by 2015;
- iii. Undertake liberalisation through consecutive rounds of every two years until 2015, i.e. 2008, 2010, 2012, 2014 and 2015;
- iv. Target to schedule minimum numbers of new sub-sectors for each round: 10 sub-sectors in 2008, 15 in 2010, 20 in 2012, 20 in 2014 and 7 in 2015, based on GATS W/120 universe of classification;
- v. Schedule packages of commitments for every round according to the following parameters:
  - No restrictions for Modes 1 and 2, with exceptions due to bona fide regulatory reasons (such as public safety) which are subject to agreement by all Member States on a case-by-case basis;
  - Allow for foreign (ASEAN) equity participation of not less than 51% by 2008, and 70% by 2010 for the 4 priority services sectors; not less than 49% by 2008, 51% by 2010, and 70% by 2013 for logistics services; and not less than 49% by 2008, 51% by 2010, and 70% by 2015 for other services sectors; and
  - Progressively remove other Mode 3 market access limitations by 2015.

<sup>17</sup> See also Appendix 2 for technical explanations of “None” and Modes of Supply.

<sup>18</sup> <http://www.asean.org/archive/5187-10.pdf>

- vi. Set the parameters of liberalisation for national treatment limitations, Mode 4 and limitations in the horizontal commitments for each round by 2009;
- vii. Schedule commitments according to agreed parameters for national treatment limitations, Mode 4 and limitations in the horizontal commitments set in 2009;
- viii. Complete the compilation of an inventory of barriers to services by August 2008;
- ix. Allow for overall flexibilities<sup>19</sup>, which cover the sub-sectors totally excluded from liberalisation and the sub-sectors in which not all the agreed parameters of liberalisation of the modes of supply are met, in scheduling liberalisation commitments. The scheduling of liberalisation commitments in each round shall be accorded with the following flexibilities:
  - Possibility of catching up in the next round if a Member State is not able to meet the parameters of commitments set for the previous round;
  - Allowing for substitution of sub-sectors that have been agreed to be liberalised in a round but for which a Member State is not able to make commitments, with subsectors outside of the agreed sub-sectors; and
  - Liberalisation through the ASEAN Minus X formula.
- x. Complete mutual recognition arrangements (MRAs) currently under negotiation, i.e. architectural services, accountancy services, surveying qualifications, medical practitioners by 2008, and dental practitioners by 2009;
- xi. Implement the MRAs expeditiously according to the provisions of each respective MRA;
- xii. Identify and develop MRAs for other professional services by 2012, to be completed by 2015; and
- xiii. Strengthen human resource development and capacity building in the area of services.

For the financial services sector<sup>20</sup>, the AEC Blueprint provides that liberalisation measures of the financial services sector should allow members to ensure orderly financial sector development and maintenance of financial and socio-economic stability.

Member States would be guided by the following principles in pacing their liberalisation measures:

- (a) Liberalisation through ASEAN Minus X formula where Member States that are ready to liberalise can proceed first and be joined by others later; and
- (b) The process of liberalisation should take place with due respect for national policy objectives and the level of economic and financial sector development of the individual Member States.

The AEC Blueprint contains the following actions for the liberalisation of financial services:

- i. Progressively liberalise restrictions in sub-sectors or modes as identified by each Member State by 2015; and
- ii. Progressively liberalise restrictions in the remaining sub-sectors or modes, which are not identified under “pre-agreed flexibilities”, by 2020.

<sup>19</sup> The modality for overall flexibility of up to 15% was subsequently endorsed at the 41st AEM meeting held on 13-14 August 2009 in Bangkok, Thailand.

<sup>20</sup> All measures for the financial services sector will be subject to prudential measures and balance of payment safeguards as provided for under the WTO General Agreement on Trade in Services.

**H.****WHAT HAVE BEEN ACHIEVED?**

As set forth by AFAS Article IV Paragraph 2, numerous packages of AFAS commitments have been concluded and signed by ASEAN Member States since the signing of AFAS in 1995. All of these contribute to progressively deeper level and wider coverage of ASEAN Member States' commitment to substantially eliminate restrictions to trade in services among them. These packages include the following:

***AFAS Packages Signed by ASEAN Economic Ministers***

ASEAN has concluded eight packages of commitments in a wide range of services sectors under the purview of ASEAN Economic Ministers (AEM)<sup>21</sup>. These packages are implemented via Protocols signed by the AEM and provide details of liberalisation of the services sub-sectors where commitments are made.<sup>22</sup> These 8 packages are:

Round 1 (1996 – 1998)

- 1<sup>st</sup> Package, signed on 15 December 1997 in Kuala Lumpur, Malaysia
- 2<sup>nd</sup> Package, signed on 16 December 1998 in Ha Noi, Viet Nam

Round 2 (1999 – 2001)

- 3<sup>rd</sup> Package, signed by 31 December 2001 (Ad-Referendum Signing)

Round 3 (2002 – 2004)

- 4<sup>th</sup> Package, signed on 3 September 2004 in Jakarta, Indonesia

Round 4 (2005 – 2006)

- 5<sup>th</sup> Package, signed on 8 December 2006 in Cebu, the Philippines
- 6<sup>th</sup> Package, signed on 19 November 2007 in Singapore

2007 onwards

- 7<sup>th</sup> Package, signed on 26 February 2009 in Cha-am, Thailand
- 8<sup>th</sup> Package, signed on 28 October 2010 in Ha Noi, Viet Nam

The compilation of AFAS services commitments of each ASEAN Member State can be downloaded from the ASEAN Secretariat website.<sup>23</sup>

It should be noted that beginning from the 5th Package, all the previous AFAS and GATS commitments were consolidated into a single comprehensive schedule<sup>24</sup> along with new/improved commitments made under the subsequent packages.

***AFAS Packages Signed by ASEAN Finance Ministers***

The initial financial services commitments of ASEAN Member States under AFAS appear in the 2<sup>nd</sup> Package of Commitments signed by the ASEAN Economic Ministers in 1998. Following the decision to move financial services liberalisation to the ASEAN Finance Ministers' track, succeeding rounds of negotiations on financial services commencing in 2000 were pursued under this process. Consequently, subsequent commitments of ASEAN Member States in financial services are made under the Protocol to Implement the Package of Commitments

<sup>21</sup> Please cross-refer to Section E.

<sup>22</sup> See Appendix 2 for technical explanations on the schedules of services commitments.

<sup>23</sup> <http://www.asean.org/news/item/member-countries-horizontal-commitments-schedules-of-specific-commitments-and-the-list-of-most-favoured-nation-exemptions>

<sup>24</sup> Excluding commitments made in financial services, air transport, and services incidental to manufacturing, agriculture, fishery, forestry, and mining and quarrying. Please cross-refer to section E above on the institutional mechanism.

on Financial Services under AFAS signed by ASEAN Finance Ministers. Since 2002, four (4) Protocols had been signed by the ASEAN Finance Ministers, which are referred to as the Second, Third, Fourth, and Fifth Packages of Commitments of Financial Services under the AFAS<sup>25</sup>:

- 2<sup>nd</sup> Package, signed on 6 April 2002 in Yangon, Myanmar
- 3<sup>rd</sup> Package, signed on 6 April 2005 in Vientiane, Lao PDR
- 4<sup>th</sup> Package, signed on 4 April 2008 in Da Nang, Viet Nam
- 5<sup>th</sup> Package, signed on 4 May 2011 in Ha Noi, Viet Nam

It should be noted that, similar with the AFAS Packages signed by the AEM, beginning from the 5<sup>th</sup> Package, all the previous AFAS and GATS commitments related to financial services were consolidated into a single comprehensive schedule along with the new/improved commitments made under this and future packages.

#### ***AFAS Packages Signed by ASEAN Transport Ministers***

There are four additional packages of commitments in air transport signed by the ASEAN Transport Ministers (the Fourth, Fifth, Sixth, and Seventh Package of Commitments on Air Transport Services under the AFAS)<sup>26</sup>:

- 4<sup>th</sup> Package, signed on 23 November 2004 in Phnom Penh, Cambodia
- 5<sup>th</sup> Package, signed on 8 February 2007 in Bangkok, Thailand
- 6<sup>th</sup> Package, signed on 10 December 2009 in Ha Noi, Viet Nam
- 7<sup>th</sup> Package, signed on 16 December 2011 in Phnom Penh, Cambodia

It should be noted that ASEAN Member States' commitments in air transport services are still are still scheduled in the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> packages of AFAS commitments signed by the AEM. After the re-assignment of responsibilities, the AFAS transport packages signed by the ASEAN Transport Ministers began from the 4<sup>th</sup> package. Also similar with the AFAS Packages signed by the AEM, beginning from the 7<sup>th</sup> Package, all the previous AFAS and GATS commitments related to air transport services were consolidated into a single comprehensive schedule along with the new/improved commitments made under this and future packages.

Other important ASEAN agreements related to the liberalisation of air transport services include the following:

- ASEAN Memorandum of Understanding on Air Freight Services, signed on 19 September 2002 in Jakarta, Indonesia and its amending Protocol signed on 8 February 2007 in Bangkok, Thailand
- ASEAN Multilateral Agreement on Air Services, also signed on 20 May 2009 in Manila, the Philippines
- ASEAN Multilateral Agreement on the Full Liberalisation of Air Freight Services, signed on 20 May 2009 in Manila, the Philippines

<sup>25</sup> These financial services packages, along with other ASEAN agreements on finance are available at <http://www.asean.org/communities/asean-economic-community/category/agreements-declarations-6>

<sup>26</sup> These packages, along with other ASEAN agreements on transport and communication are available at <http://www.asean.org/communities/asean-economic-community/category/agreements-on-transportation-and-communication>



- ASEAN Multilateral Agreement on the Full Liberalisation of Passenger Air Services, signed on 12 November 2010 in Bandar Seri Begawan, Brunei Darussalam
- Implementation Framework of the ASEAN Single Aviation Market (ASAM), signed on 16 December 2011 in Phnom Penh, Cambodia

### ***Commitments of ASEAN Member States in Trade in Services at the WTO***

For further information and reference, the commitments of ASEAN Member States under the GATS/WTO can be cross-referred to, and these are available on the WTO website<sup>27</sup>.

### ***Expected Outcomes***

It is expected that through the various liberalisation packages, ASEAN can experience freer flow of trade and investment in the services sector through progressively higher levels of commitments and more certain and predictable rules in all sub-sectors that have been committed, such as:

- Air transport: sales and marketing of air transport services, computer reservation, aircraft repair and maintenance, etc.
- Business services: IT services, accounting, auditing, legal, architecture, engineering, research and development, computer-related services, advertising, etc.
- Construction: construction of commercial buildings, civil engineering, installation works, rental of construction equipment, etc.
- Distribution: commission agent services, wholesale trade, retail trade, etc.
- Education: adult education, primary education, secondary education, etc.
- Environment: sewage, sanitation, noise abatement, nature and landscape protection services, etc.
- Financial services: banking, insurance, capital markets, etc.
- Healthcare: medical and dental services, hospital services, nursing, ambulance, etc.
- Telecommunication: voice telephone services, mobile phone services, business network services, data and message transmission, e-mail, etc.
- Transport: international passenger and freight transport, maintenance and repair of transport equipment, storage and warehousing, freight forwarding, etc.
- Tourism: hotel and lodging services, food serving, tour operator, travel agency, etc.

ASEAN continues to work on further expanding and deepening services liberalisation to cover all sectors and sub-sectors. Steps are being taken to achieve a free flow of services by 2015, subject to flexibility as outlined in the AEC Blueprint.

## **I. MUTUAL RECOGNITION ARRANGEMENTS (MRAS)**

Mutual Recognition Arrangements (MRAs) is another important initiative in ASEAN integration on trade in services. MRAs can facilitate trade in services by mutual recognition of authorisation, licensing, or certification of professional service suppliers. The goal of the MRA is to facilitate the flow of foreign professionals taking into account relevant domestic regulations and market demand conditions.

<sup>27</sup> [http://www.wto.org/english/tratop\\_e/serv\\_e/serv\\_commitments\\_e.htm](http://www.wto.org/english/tratop_e/serv_e/serv_commitments_e.htm)

At the 7<sup>th</sup> ASEAN Summit held on 5 November 2001 in Bandar Seri Begawan, Brunei Darussalam, ASEAN Heads of States/Governments mandated the start of negotiations on MRAs to facilitate the flow of professional services under AFAS. The ASEAN Coordinating Committee on Services (CCS) established an Ad-hoc Expert Group on MRAs under its Business Services Sectoral Working Group in July 2003 to begin negotiations on MRAs in services. Subsequently, the CCS established the Healthcare Sectoral Working Group in March 2004, which undertook negotiations on MRAs in the healthcare sector under its regular agenda.

Seven MRAs have been concluded signed by the ASEAN Economic Ministers (AEM)<sup>28</sup> :

- Mutual Recognition Arrangement on Engineering Services, signed on 9 December 2005 in Kuala Lumpur, Malaysia
- Mutual Recognition Arrangement on Nursing Services, signed on 8 December 2006 in Cebu, the Philippines
- Mutual Recognition Arrangement on Architectural Services, signed on 19 November 2007 in Singapore
- Framework Arrangement for the Mutual Recognition of Surveying Qualifications, signed on 19 November 2007 in Singapore
- Mutual Recognition Arrangement Framework on Accountancy Services, signed on 26 February 2009 in Cha-am, Thailand
- Mutual Recognition Arrangement on Medical Practitioners, signed on 26 February 2009 in Cha-am, Thailand
- Mutual Recognition Arrangement on Dental Practitioners, signed on 26 February 2009 in Cha-am, Thailand

These MRAs enable the professional services suppliers certified or registered by the relevant authorities in their home country to be mutually recognised by other signatory Member States. They are currently in various stages of implementation and follow-up initiatives, with mechanisms being established to administer the implementation of the MRAs.

In addition to these 7 MRAs signed by the AEM, there is also an ASEAN Mutual Recognition Arrangement on Tourism Professionals signed by the ASEAN Tourism Ministers on 9 November 2012 in Bangkok, Thailand<sup>29</sup>.

## **J. MOVEMENT OF NATURAL PERSONS (MNP)**

With a desire for an effective mechanism to further liberalise and facilitate movement of natural persons towards free flow of skilled labour in ASEAN and to eliminate substantially

<sup>28</sup> <http://www.asean.org/communities/asean-economic-community/category/agreements-declarations-12>

<sup>29</sup> [http://www.asean.org/images/2013/economic/matm/MRA\\_Tourism\\_Professionals\\_bw.pdf](http://www.asean.org/images/2013/economic/matm/MRA_Tourism_Professionals_bw.pdf)



all restrictions in the temporary cross-border movement of natural persons involved in the provision of trade in goods, trade in services and investment, the ASEAN Economic Ministers (AEM) signed the ASEAN Agreement on Movement of Natural Persons (MNP)<sup>30</sup> on 19 November 2012 in Phnom Penh, Cambodia.

The schedules of commitments annexed to this agreement were endorsed by the Ministers during the 9th ASEAN Economic Community (AEC) Council on 10 April 2013 in Brunei Darussalam.<sup>31</sup> Upon entry into force of this agreement, Mode 4 commitments made by Member States under the various AFAS packages, including those signed by the AEM, ASEAN Finance Ministers (AFMM), and ASEAN Transport Ministers (ATM), would be superseded by the Schedule of Commitments of Member States under this MNP Agreement, which will be subject to review within one year after its entry into force.

## **K. ASEAN ECONOMIC POLICIES RELATED TO SERVICES**

### ***1997: ASEAN Vision 2020***

The Heads of States/Governments of ASEAN Member States adopted the ASEAN Vision 2020<sup>32</sup> during their Second Informal Summit held on 15 December 1997 in Kuala Lumpur, Malaysia. The Vision 2020 states the determination of ASEAN to, amongst others:

- Create a stable, prosperous and highly competitive ASEAN Economic Region in which there is a free flow of goods, services and investment, a freer flow of capital, equitable economic development and reduced poverty and socio-economic disparities.
- Accelerate liberalisation of trade in services.
- Accelerate free flow of professional and other services in the region.

### ***1998: Ha Noi Plan of Action***

The Sixth ASEAN Summit held on 16 December 1998 in Ha Noi, Viet Nam, adopted the Ha Noi Plan of Action (HPA)<sup>33</sup> as the first in a series of plans of action building up to the realisation of the goals of the Vision 2020. The HPA has a six-year timeframe covering the period from 1999 to 2004.

During this Summit, the ASEAN Heads of States/Governments also issued the Statement on Bold Measures<sup>34</sup>, aiming to regain business confidence, enhance economic recovery and promote growth after the economic and financial crisis.

### ***1999: Parameters to Guide Services Liberalisation***

In response to the decision of the Sixth ASEAN Summit calling for a new round of negotiations in services, the ASEAN Economic Ministers (AEM) at their 31<sup>st</sup> Meeting held on 30 September 1999 in Singapore, endorsed the following set of parameters to guide liberalisation in trade in services:

<sup>30</sup> [http://www.asean.org/images/2012/Economic/sectoral\\_aem/service/agreement/ASEAN%20AGREEMENT%20ON%20THE%20MOVEMENT%20OF%20NATURAL%20PERSONS.pdf](http://www.asean.org/images/2012/Economic/sectoral_aem/service/agreement/ASEAN%20AGREEMENT%20ON%20THE%20MOVEMENT%20OF%20NATURAL%20PERSONS.pdf)

<sup>31</sup> Available individually at the MNP section of <http://www.asean.org/communities/asean-economic-community/category/agreements-declarations-12>

<sup>32</sup> <http://www.asean.org/news/item/asean-vision-2020>

<sup>33</sup> <http://www.asean.org/news/item/hanoi-plan-of-action>

<sup>34</sup> <http://www.asean.org/news/item/statement-on-bold-measures-6th-asean-summit-hanoi-16-december-1998>

- In the short-term, the target will be for all Member States to make commitments in common sub-sectors. A common services sector/sub-sector is defined as a service sector/sub-sector in which four or more ASEAN Member States have made commitments under the GATS or previous AFAS packages.
- In the long-term, the target will be to achieve free flow of services in all services sectors and all modes of supply.

### ***2001–2002: Roadmap for Integration of ASEAN***

The 7<sup>th</sup> ASEAN Summit held on 5 November 2001 in Bandar Seri Begawan, Brunei Darussalam agreed on the need for a Roadmap for Integration of ASEAN (RIA) charting the milestones along the way including specific steps and timetables.

The following 34<sup>th</sup> AEM held on 12 September 2002 in Bandar Seri Begawan, Brunei Darussalam, endorsed a set of RIA. In the area of trade in services, a number of action plans was laid out, including:

- Develop and adopt alternative approaches to liberalisation
- Endeavour to put the regulatory frameworks in place
- Remove all impediments to facilitate free flow of trade in services in the region
- Conclude Mutual Recognition Arrangements (MRAs) for professional services

### ***2002-2003: ASEAN Minus X Formula and the Protocol to Amend AFAS***

With a desire to expedite liberalisation of trade in services within ASEAN, the AEM during their Retreat on 6 July 2002 in Genting Highlands, Malaysia called for a “10 Minus X Principle” be applied in services negotiation. Under this principle (subsequently renamed as the “ASEAN Minus X Formula”), two or more Member States may proceed with the agreed service sector liberalisation without having to extend the concessions to non-participating Member States. Others may join at a later stage or whenever ready.

At the 34<sup>th</sup> AEM Meeting held subsequently on 12 September 2002 in Bandar Seri Begawan, Brunei Darussalam, the Ministers endorsed a set of parameters to guide the implementation of this ASEAN Minus X Formula. To enable the application of this formula, the 35<sup>th</sup> AEM Meeting held on 2 September 2003 in Phnom Penh, Cambodia signed the Protocol to Amend the ASEAN Framework Agreement on Services<sup>35</sup>.

### ***2003: Bali Concord II and Recommendations of the High Level Task Force on ASEAN Economic Integration***

The Special Informal AEM Meeting held on 12-13 July 2003 in Jakarta, Indonesia, identified 11 sectors for priority integration. Out of these 11 sectors, four are related to services, namely: tourism, e-ASEAN, air travel, and healthcare.

At the 9<sup>th</sup> ASEAN Summit held on 7 October 2003 in Bali, Indonesia, ASEAN Heads of States/Governments signed the Bali Concord II<sup>36</sup> and declared the establishment of an ASEAN Community, which comprises the political, economic and security communities. The ASEAN Economic Community (AEC) will be the realisation of the end-goal of economic

<sup>35</sup> [http://www.asean.org/images/archive/AFAS\\_Amendment\\_Protocol.pdf](http://www.asean.org/images/archive/AFAS_Amendment_Protocol.pdf)

<sup>36</sup> <http://www.asean.org/news/item/declaration-of-asean-concord-ii-bali-concord-ii>

integration as outlined in the ASEAN Vision 2020. To achieve AEC, the Summit adopted the Recommendations of the High Level Task Force on ASEAN Economic Integration (HLTF)<sup>37</sup>.

The HLTF outlined a number of measures for trade in services, including:

- Set clear targets and schedules of liberalisation towards achieving free flow of trade in services earlier than 2020, with accelerated liberalisation of priority sectors by 2010.
- Accelerate liberalisation in specific sectors earlier than end-date through the application of ASEAN Minus X formula.
- Complete Mutual Recognition Arrangements (MRAs) for major professional services by 2008.

#### ***2004: Vientiane Action Programme and ASEAN Framework Agreement for the Integration of Priority Sectors***

The 10<sup>th</sup> ASEAN Summit held on 29 November 2004 in Vientiane, Lao PDR noted the Assessment Report on the Implementation of the Ha Noi Plan of Action (HPA) and signed the Vientiane Action Programme (VAP)<sup>38</sup>, a six-year plan which is the successor of the HPA to realise the end goal of the ASEAN Vision and the Declaration of ASEAN Concord II.

To further deepen regional economic integration, the ASEAN Heads of States/Governments also signed the ASEAN Framework Agreement for the Integration of Priority Sectors.<sup>39</sup> This agreement lists out measures to be implemented, with clear timelines, by Member States in respect of the priority sectors.

#### ***2005: Logistics Services and End-Date of Services Liberalisation***

The 37<sup>th</sup> AEM Meeting held on 28 September 2005 in Vientiane, Lao PDR identified logistics services as the 12<sup>th</sup> priority sector for integration in ASEAN.

The 11<sup>th</sup> ASEAN Summit held on 12 December 2005 in Kuala Lumpur, Malaysia endorsed the decision of AEM to accelerate the liberalisation of trade in services not covered in the Priority Integration Sectors by 2015, subject to agreed flexibilities.

#### ***2007: ASEAN Economic Community Blueprint and Logistics Roadmap***

The 12<sup>th</sup> ASEAN Summit held on 13 January 2007 in Cebu, Philippines agreed to accelerate the establishment of ASEAN Community to 2015 in the three pillars of the ASEAN Security Community, ASEAN Economic Community and ASEAN Socio-Cultural Community. Subsequently, the 13<sup>th</sup> ASEAN Summit held on 20 November 2007 in Singapore adopted the ASEAN Economic Community (AEC) Blueprint<sup>40</sup>, which each ASEAN Member States shall abide by and implement the AEC by 2015.

The 39<sup>th</sup> AEM held on 24 August 2007 in Manila, Philippines signed the ASEAN Sectoral Integration Protocol for Logistic Services Sector<sup>41</sup>, which includes the Roadmap for Integration of Logistics Services Sector.<sup>42</sup> The roadmap calls for substantial liberalisation of trade in logistics services by 2013.

<sup>37</sup> Contained in the Declaration of the Bali Concord II.

<sup>38</sup> <http://www.asean.org/images/archive/VAP-10th%20ASEAN%20Summit.pdf>

<sup>39</sup> <http://www.asean.org/news/item/asean-framework-agreement-for-the-integration-of-priority-sectors-vientiane-29th-november-2004>

<sup>40</sup> <http://www.asean.org/archive/5187-10.pdf>

<sup>41</sup> <http://www.asean.org/news/item/asean-sectoral-integration-protocol-for-the-logistics-services-sector>

<sup>42</sup> AEM also signed the Protocol to Amend Article 3 of the Framework (Amendment) Agreement for the Integration of Priority

### ***2009: Cha-am Hua Hin Declaration on the Roadmap for the ASEAN Community (2009-2015)***

On 1 March 2009, the ASEAN Leaders at the 14<sup>th</sup> ASEAN Summit signed the Roadmap for an ASEAN Community (2009-2015)<sup>43</sup>, a new initiative to ensure the timely implementation of the 3 ASEAN Community Blueprints (the ASEAN Political-Security Community Blueprint, the ASEAN Economic Community Blueprint, and the ASEAN Socio-Cultural Community Blueprint) as well as the Initiative for ASEAN Integration (IAI) Strategic Framework and IAI Work Plan 2 (2009-2015).

The Roadmap would replace the Vientiane Action Programme (VAP), and would be implemented as well as monitored by the ASEAN Sectoral Ministerial Bodies and the Secretary-General of ASEAN, supported by the Committee of Permanent Representatives. The progress of implementation of these three Roadmaps would be regularly presented to ASEAN Leaders through the respective ASEAN Community Councils.

### ***2009-2010: Master Plan on ASEAN Connectivity***

The ASEAN Leaders discussed and issued the Statement on ASEAN Connectivity at their 15th Summit in Cha-am Hua Hin, Thailand, on 24 October 2009 with the aim to enhance intra-regional connectivity within ASEAN and its sub-regional grouping through enhanced trade, investment, tourism, and development, as well as people-to-people exchanges. It also seeks to complete the physical road, rail, air, and sea linkages within ASEAN in parallel with addressing software-related issues such as intra-regional Information and Communication Technology (ICT) linkages. Following from this, at the 17<sup>th</sup> ASEAN Summit held on 28 October 2010 in Ha Noi, Viet Nam the Leaders adopted the Master Plan on ASEAN Connectivity.<sup>44</sup>

## **L. SERVICES ELEMENTS IN ASEAN'S FTA WITH DIALOGUE PARTNERS**

In recent years, ASEAN has begun active engagement in negotiations on Free Trade Area (FTA) and Comprehensive Economic Partnership (CEP) agreements with an increasing number of its Dialogue Partners. The liberalisation of the services sector is an important feature of these negotiations.

The first concluded services agreement under an FTA between ASEAN and a Dialogue Partner is the Agreement on Trade in Services of the Framework Agreement on Comprehensive Economic Co-operation between ASEAN and the People's Republic of China<sup>45</sup>, signed by AEM and Minister of Commerce of China on 17 January 2007 in Cebu, the Philippines. The market access commitments of the Parties to this Agreement are contained in the First Package of Specific Schedule of Commitments attached to the Agreement<sup>46</sup>. The second package of commitments under this FTA had been subsequently concluded and signed by the Ministers on 16 November 2011 in Bali, Indonesia<sup>47</sup>.

<sup>43</sup> <http://www.asean.org/news/item/cha-am-hua-hin-declaration-on-the-roadmap-for-the-asean-community-2009-2015>

<sup>44</sup> <http://www.asean.org/archive/documents/MPAC.pdf>

<sup>45</sup> <http://www.asean.org/images/archive/21627.pdf>

<sup>46</sup> <http://www.asean.org/images/archive/documents/acfta/TIS/SC1.zip>

<sup>47</sup> <http://www.asean.org/images/archive/documents/acfta/TIS/ASEAN-CHINA-TIS2.pdf>

This was then followed by the conclusion and signing of the Agreement on Trade in Services under the Framework Agreement on Comprehensive Economic Cooperation among the Governments of the Member Countries of ASEAN and the Republic of Korea<sup>48</sup> on 21 November 2007 in Singapore. The schedules of specific commitments for the first package of commitments are annexed to this Agreement<sup>49</sup>.

The latest completed FTA is the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area.<sup>50</sup> This is a comprehensive FTA agreement covering trade in goods, trade in services, investment, and various other Chapters. With respect to trade in services, the Agreement also contains an additional chapter on Movement of Natural Persons (MNP) and annexes on financial services and telecommunications. There are 2 separate schedules of commitments: one on specific services commitments and one on the Movement of Natural Persons (MNP).

ASEAN is currently close to completion of negotiation with India, expected to be signed in 2013, and is in the midst of negotiation with Japan.

ASEAN is also engaging in negotiations with all of its existing FTA partners (Australia, China, India, Japan, Korea, and New Zealand) in the Regional Economic Comprehensive Partnership (RCEP) which include trade in goods, trade in services, and investment. The RCEP negotiation was launched by the Leaders of ASEAN and these 6 FTA Partners on 20 November 2012 in Phnom Penh, Cambodia.<sup>51</sup>

## **M. MOVING FORWARD**

The ASEAN Economic Community is the realisation of the end goal of economic integration as espoused in the 2003 Declaration of Bali Concord II and the 2009 Cha-am Hua Hin Declaration on the Roadmap for the ASEAN Community. The AEC will establish ASEAN as a single market and production base, making ASEAN into a more dynamic and competitive integrated economic region. The free flow of services is one of the five core elements to achieve this goal.

The AEC Blueprint (2007) has outlined in the strategic schedule a number of actions with specific targets and timelines to be achieved in the realisation of the AEC by 2015. However, the achievement of this goal requires collective commitment and will from all ASEAN Member States.

The liberalisation of the services sector is a relatively recent development, compared with trade in goods and it is inherently different from goods trade. It is governed by a framework of myriad rules and regulations, and cross-border trade can be provided through

<sup>48</sup> <http://www.asean.org/images/archive/21111.pdf>

<sup>49</sup> <http://www.asean.org/news/item/schedule-of-specific-commitments-for-the-first-package-of-commitments-of-asean-korea-agreement-on-trade-in-services-2>

<sup>50</sup> <http://www.asean.org/images/archive/22260.pdf>

<sup>51</sup> <http://www.asean.org/images/2012/documents/Joint%20Declaration%20on%20the%20Launch%20of%20Negotiations%20for%20the%20Regional%20Comprehensive%20Economic%20Partnership.pdf>

different modes of supply. Services cover a very diverse and large number of sectors and sub-sectors, they come under the purview and are regulated by numerous government agencies and ministries, and some of these sectors may be regulated, unregulated or may not require regulation. The services sectors are at different levels of development, while the trade volume and significance of trade in services vary significantly between ASEAN Member States. Hence, the liberalisation and integration of services in ASEAN do present some significant challenges.

Despite these challenges, given the rapid pace of integration of ASEAN economies into the global trading system and the intensifying pace of FTA/CEP negotiations and implementation with ASEAN's Dialogue Partners, ASEAN is committed to work towards a higher degree of integration and cooperation in the area of trade in services among its Member States.

ASEAN continues to work towards achieving the free flow of trade in services by 2015 as tasked by ASEAN Heads of States/Governments and outlined in the AEC Blueprint. In achieving this goal, cooperation between all stakeholders (business communities, governments, academia, and civil society) will play a critical role in the endeavour to assist in the way forward and to ensure the realisation of ASEAN integration in services.

\* \* \*



## APPENDIX 1 : INQUIRIES AND CONTACT POINTS

National contact points of ASEAN Member States are provided as follows:

### **BRUNEI DARUSSALAM**

Trade Development Department  
Ministry of Foreign Affairs & Trade  
ICC, JLN Pulaie, BB 3910  
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Tel: (673) 2383374  
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### **CAMBODIA**

ASEAN & International Organisation  
Department Ministry of Commerce  
20AB, Preah Norodom Boulevard  
Phnom Penh  
Tel: (855) 1288 1111  
Fax: (855) 23 426396  
Email: ccscambodia2013@yahoo.com

### **INDONESIA**

Directorate of Trade in Services Negotiation  
Ministry of Trade  
Jalan M.I. Ridwan Rais No.5  
1st Building, 4th Floor, Jakarta, Indonesia  
Tel: (6221) 345 2621  
Fax: (6221) 345 2621  
Email: ccindonesia@kemendag.go.id

### **LAO PDR**

Department for Promotion and Management  
of Domestic and Foreign Investment  
Ministry for Planning and Investment  
01001 Luangprabang Road Vientiane  
Tel: (856 21) 218377 / 222690  
Fax: (856 21) 215491  
Email: ccslaos@yahoo.com

### **MALAYSIA**

ASEAN Economic Cooperation Division  
Ministry of International Trade & Industry  
Level 13, Block 8, Government Offices Complex  
Jalan Duta, 50622 Kuala Lumpur  
Tel: (603) 6200 0559  
Fax: (603) 6201 9799  
Email: allasean@miti.gov.my

Inquiries can also be addressed to:

Services and Investment Division  
ASEAN Economic Community Department  
The ASEAN Secretariat  
Jl. Sisingamangaraja 70A Jakarta 12110, Indonesia  
Tel: (6221) 7262991  
Fax: (6221) 7398234  
E-mail: services@asean.org

### **MYANMAR**

Foreign Economic Relations Department  
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### **PHILIPPINES**

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## APPENDIX 2: SOME BASIC CONCEPTS AND TERMS IN TRADE IN SERVICES

### *Defining “Trade in Services”: the 4 Modes of Supply*

In its most basic form, international trade refers to an economic exchange between residents and non-residents, either firms or persons, and imply gain or loss of foreign exchange. For trade in goods, the concept is relatively straightforward because the producers stay in one country and the goods travel across a border to the consumers in another country.

For services, the situation is more complex because in many cases the supplier and the customer need to be in the same location. There are four possibilities of international provision of services:

- the service moves across the border
- the customer moves across the border to receive the service
- the producer moves across the border to provide the service through commercial establishment
- the producer moves across the border only temporarily to provide the service

These four possibilities are known as “Modes of Supply” of services trade. They are referred to as Mode 1 (or the so-called Cross-Border Supply), Mode 2 (Consumption Abroad), Mode 3 (Commercial Presence), and Mode 4 (Movement of Natural Persons), respectively.

### *Basic Principles of Services Liberalisation*

Following the conclusion of the Uruguay Round in 1994 resulting in the first-ever multilateral services trade agreement, the General Agreement on Trade in Services (GATS), it is generally accepted that the key principles governing liberalisation of international trade in services shall include the following:

- **Transparency:** Members must notify each other of all relevant measures affecting services trade, including prompt publication, maintenance of enquiry points, and fair judicial review.
- **Most-Favoured-Nation (MFN):** Members must grant each other the most-favourable treatment accorded to any of their trading partners.
- **Non-Discrimination:** Members must treat services and services suppliers from one Member no less favourably than those from other Members.
- **Market Access:** In terms of access to the market of a Member, services and services suppliers of any other Member must be accorded the same treatment specified in its schedule of commitments.
- **National Treatment:** Services and services suppliers of a Member must be permitted access to the market of another Member on the same terms as those accorded to domestic services or services providers.
- **Progressive Liberalisation:** Members shall enter into successive rounds of negotiations, with a view to achieving a progressively higher level of liberalisation.

### *Schedule of Services Commitments*

In a GATS-style services liberalisation, including in AFAS, a Member State’s schedules of commitments to liberalise its services sectors comprise the following set of documents:



- Horizontal Commitments: specifies a Member State's commitments which are common and bound across all scheduled services sectors, unless otherwise specified.
- Schedule of Specific Commitments: specifies the details of a Member State's commitments in the scheduled services sectors and sub-sectors.
- List of MFN Exemptions: specifies the details of cases where MFN obligations of a Member State are exempted. Such exemptions, however, shall be subject to requirements stipulated in Article II of the GATS on MFN.

Both the horizontal commitments and schedule of specific commitments take the following format:

Sector/Sub-Sector	Market Access (MA) Commitments	National Treatment (NT) Commitments	Additional Commitments
Name of sector/sub-sector <sup>52</sup>	Details of Mode 1 MA Limitations Details of Mode 2 MA Limitations Details of Mode 3 MA Limitations Details of Mode 4 MA Limitations	Details of Mode 1 NT Limitations Details of Mode 2 NT Limitations Details of Mode 3 NT Limitations Details of Mode 4 NT Limitations	Details of Additional Commitments (if any)

The details of limitations for each mode of supply, are in many cases scheduled using the following common terms:

- None: In the schedules of specific commitments, meaning that the Member State does not limit market access or national treatment in the given sector/sub-sector and mode of supply, other than those prescribed in the horizontal commitments (if any).
- Unbound: the Member State remains free in the given sector/sub-sector and mode of supply to introduce or maintain measures inconsistent with market access or national treatment.<sup>53</sup>
- Unbound\* or Unbound due to Technical Feasibility: the supply of given services sector/sub-sector may not be technically feasible for this mode of supply.<sup>54</sup>

The List of MFN exemptions is detailed using the following format:

Sector/Sub-Sector	Description of Measure	Countries to which the Measure Applies	Intended Duration	Conditions Creating the Need for the Exemption
Name of sector/sub-sector	Detail descriptions of measure inconsistent with MFN provisions	List of Countries to which the measure applies	Intended duration of the MFN exemption	Details of reasons/conditions creating the need for the exemption

<sup>52</sup> Typically listed as "All sectors" in Horizontal Commitment.

<sup>53</sup> This case is only relevant where a commitment has been made in a sector with respect to at least one mode of supply. Where all modes of supply are "unbound", and no additional commitments have

been undertaken in the sector, the sector should not appear on the schedule.

<sup>54</sup> Where the mode of supply thought to be inapplicable is in fact applicable, or becomes so in the future, the entry means "unbound".

### APPENDIX 3: CLASSIFICATION OF SERVICES SECTORS AND SUB-SECTORS

The universally recognised and adopted classification of services sectors and sub-sectors is the one based on WTO Secretariat's Services Sectoral Classification List.<sup>55</sup> Each sector contained in this list is identified by a corresponding Central Product Classification (CPC) number.<sup>56</sup> If a Member State wishes to use its own sub-sectoral classification or definitions it should provide concordance with the CPC. If this is not possible, it should give a sufficiently detailed definition to avoid any ambiguity as to the scope of the commitment.

While the CPC coding had been updated a number of times to keep up with economic development and technology advancement, for the purposes of services trade negotiations, the so-called Provisional CPC published in 1990<sup>57</sup> remains the major reference point for classification of services sectors/sub-sectors.

Broad categories of services sectors provided in WTO Secretariat's Services Sectoral Classification List are as follows:

- Business Services
  - Professional Services
  - Computer-Related Services
  - Research and Development Services
  - Real Estate Services
  - Rental/Leasing Services without Operators
  - Other Business Services
- Communication Services
  - Postal Services
  - Courier Services
  - Telecommunication Services
  - Audio-Visual Services
- Construction and Related Engineering Services
- Distribution Services
- Education Services
- Environmental Services
- Financial Services
  - Insurance and insurance-related services
  - Banking and other financial services

<sup>55</sup> This list is contained in the WTO document coded MTN.GNS/W/120, dated 10 July 1991.

<sup>56</sup> CPC is a complete product classification covering goods and services published by the United Nations, and was intended to serve as an international standard for assembling and tabulating all kinds of data requiring product detail including industrial production, national accounts, service industries, domestic and foreign commodity trade, international trade in services, balance of payments, consumption and price statistics. Other basic aims were to provide a framework for international comparison and promote harmonisation of various types of statistics dealing with goods and services.

<sup>57</sup> Statistical Papers Series M No.77, Provisional Central Product Classification, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991.

- Health-Related and Social Services
- Tourism and Travel-Related Services
- Recreational, Cultural and Sporting Services
  - Entertainment services
  - News agency services
  - Libraries, archives, museums and other cultural services
  - Sporting and other recreational services
- Transport Services
  - Maritime Transport Services
  - Inland Water Transport Services
  - Air Transport Services
  - Space Transport
  - Rail Transport Services
  - Road Transport Services
  - Pipeline Transport
  - Services Auxiliary to All Modes of Transport
- Other Services not Included Elsewhere

Detail listing of services sectors and sub-sectors contained in the WTO Secretariat's Services Sectoral Classification List can be downloaded from:  
[www.wto.org/english/tratop\\_e/serv\\_e/mtn\\_gns\\_w\\_120\\_e.doc](http://www.wto.org/english/tratop_e/serv_e/mtn_gns_w_120_e.doc).

Detail structure and explanatory notes for each of the provisional CPC codes can be found at: <http://unstats.un.org/unsd/cr/registry/regcst.asp?Cl=9&Lg=1>.

## APPENDIX 4: GLOSSARY

ACIA	ASEAN Comprehensive Investment Agreement
AEC	ASEAN Economic Community
AEM	ASEAN Economic Ministers
AFAS	ASEAN Framework Agreement on Services
AFDM	ASEAN Finance and Central Bank Deputies Meeting
AFMM	ASEAN Finance Minister Meeting
AFTA	ASEAN Free Trade Area
AIA	ASEAN Investment Area
ASEAN	Association of South East Asian Nations
ATM	ASEAN Transport Ministers
ATSN	Air Transport Sectoral Negotiations
ATWG	Air Transport Working Group
CCI	Coordinating Committee on Investment
CCS	Coordinating Committee on Services
CEP	Comprehensive Economic Partnership
CPC	Central Product Classification
FTA	Free Trade Area
GATS	General Agreement to Trade in Services
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
HLTF	High Level Task Force on ASEAN Economic Integration
HPA	Ha Noi Plan of Action
MFN	Most Favoured Nation
MNP	Movement of Natural Persons
MRA	Mutual Recognition Arrangement
n.i.e	not included elsewhere
SEOM	Senior Economic Officials Meeting
VAP	Vientiane Action Programme
WC-FSL/AFAS	Working Committee on ASEAN Financial Services Liberalisation under AFAS
WTO	World Trade Organisation



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