Statement on Bold Measures

Hanoi, Vietnam, 16 December 1998

1. The financial and economic crisis has severely affected the ASEAN economies and business dynamism in the region. In order to regain business confidence, enhance economic recovery and promote growth, the ASEAN Leaders are committed to the realization of the ASEAN Free Trade Area (AFTA). In addition, the Leaders agreed on special incentives and privileges to attract foreign direct investment into the region. To enhance further economic integration of the region, the Leaders also agreed to further liberalize trade in services.

Acceleration of AFTA

2. To accelerate the ASEAN Free Trade Area (AFTA), the Leaders agreed that the six original signatories to the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA) — Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore and Thailand — would advance the implementation of AFTA by one year from 2003 to 2002. They also agreed to achieve a minimum of 90% of their total tariff lines with tariffs of 0–5% by the year 2000, which would account for 90% of intra-ASEAN trade.

3. Individually, each country would commit to achieve a minimum of 85% of the Inclusion List with tariffs of 0–5% by the year 2000. Thereafter, this would be increased to a minimum of 90% of the Inclusion List in the 0–5% tariff range by the year 2001. By 2002, 100% of items in the Inclusion List would have tariffs of 0–5% with some flexibility.

4. Member Countries also agreed to deepen, as soon as possible, tariff reduction to 0% and accelerate the transfer of products, which are currently not included in the tariff reduction scheme, into the Inclusion List.

5. The new members of ASEAN shall maximize their tariff lines between 0–5% by 2003 for Vietnam and 2005 for Laos and Myanmar, and expand the number of tariff lines in the 0% category by 2006 for Vietnam and by 2008 for Laos and Myanmar.

Short-Term Measures to Enhance [the] ASEAN Investment Climate

6. In the area of investments, each ASEAN country has agreed to extend additional special privileges to qualified ASEAN and non-ASEAN investors in the manufacturing sector, for applications received from 1 January 1999 to 31 December 2000 and approved thereafter. These incentives cover the following seven areas:

(i) minimum three-year corporate income tax exemption or a minimum 30% corporate investment tax allowance;

(ii) 100% foreign equity ownership;
(iii) duty-free imports of capital goods;
(iv) domestic market access;
(v) minimum industrial land leasehold period of 30 years;
(vi) employment of foreign personnel; and
(vii) speedy customs clearance.

Details of these measures are available in the attached ANNEX.

7. Highlights of the new measures offered by individual ASEAN countries include the following:

- Brunei Darussalam will allow 100% foreign equity in high-technology manufacturing and export-oriented industries.
- Indonesia offers wholesale and retail trade up to 100% foreign equity ownership to qualified investors, in addition to 100% foreign equity in all areas of the manufacturing sector. Indonesia has also reduced the processing time for approval in principle, for investments less than US$100 million, to 10 working days. In the banking sector, listed banks are open for 100% foreign equity ownership.
- Lao PDR offers duty exemption on imported capital goods required by the promoted investment projects.
- Malaysia allows 100% foreign equity ownership in all areas of manufacturing except for seven specific activities/products. No export conditions are imposed for all new investments, expansions and diversifications.
- Myanmar will extend minimum of 3 years corporate tax exemption to all investment projects in all sectors. In addition, Myanmar will also extend duty-free import of raw materials to all industrial investments for the first 3 years of operation.
- Philippines is in the process of opening up retail trade and distribution business to foreign equity. In addition, the Philippines has opened private construction in the domestic market to foreign companies.
- Singapore has substantially reduced business costs as part of a cost reduction package that amounts to S$10 billion in savings in addition to extending 30% corporate investment tax allowance on a liberal basis to industrial projects and to selected service industries in respect of productive equipment.
- Thailand will allow 100% foreign equity ownership for manufacturing investment projects regardless of locations.
- Vietnam extends duty exemptions on imported capital goods for all projects and on raw materials for projects located in mountainous or remote regions and for specially encouraged investments for the first 5 years of operation. Issuance of investment licences for several types of projects has been reduced to 15 days from the receipt of proper simplified documents.

8. Under the Framework Agreement on the ASEAN Investment Area signed on 7 October 1998 in Manila, national treatment will be made fully available within six months after the date of signing of the Agreement for ASEAN investors in the manufacturing sector, subject to certain exclusions. These exclusions will be progressively phased out by the year 2003 instead of waiting for 2010 as initially agreed. Myanmar will join the six ASEAN countries to progressively phase out the exclusions by 2003 instead of 2015. Vietnam and Laos would exert their best efforts to achieve dearly realization of AIA and shall do so no later than 2010, instead of 2013 and 2015, respectively.

ASEAN Industrial Cooperation (AICO) Scheme

9. To provide greater scope for industrial co-operation in the region, Member Countries agreed to waive the 30% national equity requirement under the AICO Scheme during the period 1999–2000.

Launching the Second Round of Negotiations on Services

10. In the area of trade in services, the Leaders have agreed to initiate a new round of negotiations beginning 1999 and ending 2001. The negotiations will be expanded beyond the seven priority sectors, identified at the Fifth ASEAN Summit, to cover all services sectors and all modes of supply.

ANNEX Short-term Measures to Enhance ASEAN Investment Climate

The following measures will be taken to stimulate investment in ASEAN. In particular, companies that submit relevant applications to the ASEAN Investment Agencies from 1 January 1999 to 31 December 2000 and approved thereafter, with regard to investment projects in the manufacturing sector, will be granted the following:

Section 1 Privileges Granted to New Investments/Projects or Expansion of Existing Investment Operations

1. Fiscal Incentives

Companies will be given:

(i) a minimum of 3 years corporate income tax exemption or a minimum 30% corporate investment tax allowance. This tax exemption is not granted on an incremental basis over and above existing incentive provisions.

(ii) duty exemption on imported capital goods required by the promoted investment projects.

2. Domestic Market Access

Companies will be given free market access to the domestic market of the host country.

3. Foreign Equity Ownership

Companies will be allowed 100% foreign equity ownership.

4. Right of Use of Industrial Land

Companies will be given the right of use or lease of factory or industrial land for a minimum period of 30 years.

5. Customs Clearance

Approved investment projects will be given speedy customs clearance through the ASEAN CEPT Green Lane or equivalent procedures adopted by the ASEAN Member Countries for all raw materials and capital goods required by the investment projects.

6. Employment of Foreign Personnel

The privileges cover a more relaxed policy on the following:

(i) Approval of foreign professional, managerial and technical personnel posts required by the investor;

(ii) At least one-year renewable multiple entry visas and exit permits for all foreign professional, managerial and technical personnel and their family members, where applicable; and

(iii) Restrictions and levies on the employment of foreign professional, managerial and technical personnel, if any.

Section 2 Privileges Granted to Investors Injecting Equity Into Existing Companies

All privileges available under Section 1, except for corporate tax incentives and land use privileges, also apply to investors under Section 2. However, with regard to tax incentives, the remaining period of the tax privileges enjoyed by the company being taken over, or into which capital is injected, will continue to be available to the new equity owners.

Section 3 Highlights of Specific Measures Extended by ASEAN Member Countries

Brunei Darussalam Brunei Darussalam will allow 100% foreign equity ownership in high-technology manufacturing and export-oriented industries.

Indonesia Indonesia offers wholesale and retail trade up to 100% foreign equity ownership to qualified investors, in addition to 100% foreign equity in all areas of the manufacturing sector. Indonesia has also reduced the processing time for approval in principle, for investments less than US$100 million, to 10 working days. In the banking sector, listed banks are open for 100% foreign equity ownership.

Lao PDR Lao PDR allows duty exemption on imported capital goods required by the promoted investment projects.

Malaysia Malaysia offers 100% foreign equity ownership for investment in the manufacturing sector with no export conditions imposed on all new investments, expansions and diversifications (except for seven specific activities and products). With limited exceptions, foreigners can also own land in Malaysia.

Myanmar Myanmar will extend [a] minimum of three years corporate tax exemption to all investment projects in all sectors. In addition, Myanmar will also extend duty-free import of raw materials to all industrial investments for the first three years of operation.

Philippines Philippines will open retail trade and distribution business to foreign equity. In addition, the Philippines has opened private construction in the domestic market to foreign companies.

Singapore Singapore has substantially reduced business costs as part of a cost reduction package that amounts to S$10 billion in savings in addition to extending 30% corporate investment tax allowance on a liberal basis to industrial projects and to selected service industries in respect of productive equipment. These activities include manufacturing, engineering or technical services and computer-related services.

Thailand Thailand allows 100% foreign equity ownership for manufacturing projects regardless of location. Furthermore, agricultural projects which export 80% of sales will receive import duty exemption on machinery, regardless of location.

Vietnam Vietnam extends duty exemption on imported capital goods for all projects. In respect of import of raw materials for production for specially encouraged investments and for projects located in mountainous or remote regions for the first 5 years of operation [*sic*]. Issuance of investment licences for several types of projects has been reduced to 15 days from the receipt of proper simplified documents. In addition, investment licensing for projects under US$5 million has been decentralized to all provinces and cities.

Section 4 Conditions

To qualify for the privileges stipulated in the above sections of this Memorandum, investors must satisfy the following specific conditions:

(i) Meet the minimum investment level specified by the host country, if any;

(ii) The industry must be in the published priority list for tax incentives to enjoy this particular privilege;

(iii) The industry must not be in any negative list, if any; and
(iv) The investor must show proof that foreign funds have been brought in for the entire amount of the investment, if required by the host country.

Some details on specific privileges are contained in the table below.

Measures	Comments	
1. Fiscal Incentives	Details of incentives, priority list and other terms and conditions can be obtained from the individual Member Countries' websites or the individual Member Countries' contact points listed in Section 6.	
2. Duty exemption on the import of capital goods	Malaysia	— duty-free for export zones and exemption for export-oriented projects. For others, applicable, if not locally manufactured.
	Philippines	— only in export-zones, free ports and selected sectors covered by special laws.
	Thailand	— duty free for export-oriented and special projects located in all zones and projects located in zone 3, if not manufactured locally.
3. Free market access to domestic market	Indonesia	— covers all industries except those in the negative list and those in the bonded zones.
	Lao PDR	— export condition may be imposed on selected products.
	Myanmar	— only a certain amount will be allowed for domestic market.
	Brunei Darussalam, Malaysia, Philippines, Singapore, Thailand and Vietnam	— covers all industries except those listed in the negative list.
4. 100% foreign equity ownership	Brunei Darussalam	— only for high-technology manufacturing and export-oriented projects.
	Indonesia	— after 15 years, companies must have at least some local equity ownership.
	Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam	— covers all industries except those listed in the negative list.
5. Removal of Restrictions and Levies on the Employment of Foreign Nationals, if any.	Indonesia	— any individual must pay an exit tax but this is deductible against income tax.
	Malaysia	— Foreign professionals, managerial and technical personnel paying income tax are exempted from paying levy.

The priority list of industries, the negative list of the respective Member Countries and other details relating to the privileges are available in the ASEAN website as well as the individual Member Countries' investment agencies websites or through the individual Member Countries contact points listed in Section 6.

The Investment Agencies are required to complete processing of the relevant applications within 60 working days from receipt of fully completed applications.

In addition to the specific conditions, an investor must submit an application to the Investment Agency of the host country before 31 December 2000. Investors or companies will receive official confirmation of privileges relating to incentives, market access and equity ownership in writing on approval of their applications.

Section 5 Duration of Privileges

Privileges will, unless otherwise specified in this Memorandum, or at the time of issue of approval, continue for the life of the investment project or such other period as may be specified by individual Member Countries at their websites. This will apply even if there are subsequent changes in the investment or other laws of the host country. If any approved project, under this Memorandum, is not implemented according to the project implementation schedule agreed to between the investor and the host government, during the promotion period, the above privileges may be withdrawn.

Section 6 Contact Points for Further Information and Enquiries

Brunei Darussalam
Brunei Industrial Development Authority (BINA)
Ministry of Industry and Primary Resources
Jalan Menteri Besar 2065
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Lao PDR
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SOURCE: ASEAN Secretariat, Jakarta.