

Appendix II

: RECOMMENDATIONS OF THE : HIGH-LEVEL TASK FORCE : ON ASEAN ECONOMIC INTEGRATION

INTRODUCTION

1. The realization of a fully integrated economic community requires implementation of both liberalization and cooperation measures. The Task Force while focusing its recommendations relating to liberalization and facilitation measures in the area of trade in goods, services and investment, acknowledges on the need to enhance cooperation and integration activities in other areas. These will involve among others, human resource development and capacity building; recognition of educational qualifications; closer consultations on macroeconomic and financial policies; trade financing measures; enhanced infrastructure and communications connectivity; development of electronic transactions through e-ASEAN; integrating industries across the region to promote regional sourcing; and enhancing private sector involvement.

ASEAN ECONOMIC COMMUNITY

2. As a step towards the realization of ASEAN Economic Community for trade in goods, services and investment, the HLTF took into account the experience of other Regional Trading Arrangements (RTAs), ASEAN's own experience, the development perspective in ASEAN and also the views contained in the following documents:

- (i) ASEAN Vision 2020, the Hanoi Plan of Action (HPA), and RIA;
- (ii) ASEAN Competitiveness Study;
- (iii) ASEAN Economic Community: Concept Paper by ISEAS; and
- (iv) ASEAN ISIS: Towards an ASEAN Economic Community.

3. The HLTF is of the view that the elements of the AEC in the area of goods, services and investment have been elaborated in ASEAN Vision 2020, HPA and RIA, and recommends that the AEC should be:

- (i) The end-goal of economic integration as outlined in the ASEAN Vision 2020;
- (ii) Characterized as a single market and production base, with free flow of goods, services, investment and skilled labour, and freer flow of capital by 2020; and
- (iii) Approached on a progressive basis with clear timelines by strengthening existing initiatives and building new initiatives to enhance economic integration.

RECOMMENDATIONS

4. Recognizing that not all ASEAN member countries can meet the recommended deadlines, the HLTF recommends that flexibility be allowed in its implementation to enable those member countries that are ready to proceed first.

I. CURRENT ECONOMIC COOPERATION INITIATIVES

5. The HLTF recommends that cooperation under the current economic initiatives be further strengthened in the following areas:

A. Trade in Goods

- (i) By end-2004, finalize the improvement to the CEPT Scheme Rules of Origin (ROO) by:
 - Making it more transparent, predictable and standardized and taking into account the best practices of other RTAs including the WTO ROO; and
 - Adopting substantial transformation as alternative criteria for conferring origin status.
- (ii) Ensure transparency on Non-Tariff Measures (NTMs) and eliminate those that are barriers to trade:
 - Establish ASEAN Database of NTMs by mid-2004;
 - Set clear criteria to identify measures that are classified as barriers to trade by mid-2005;
 - Set a clear and definitive work programme for the removal of the barriers by 2005; and
 - Adopt the WTO agreements on Technical Barriers to Trade; Sanitary and Phyto-Sanitary and Import Licensing Procedures and develop implementation guidelines appropriate for ASEAN by end-2004.

Customs

- (i) Ensure full implementation of the Green Lane system for CEPT products at entry points of all Member Countries by 2004;
- (ii) Adopt WTO agreement on Customs Valuation and develop implementation guidelines appropriate for ASEAN by end-2004;
- (iii) Adopt service commitment (client charter) by ASEAN customs authorities; and
- (iv) Adopt the Single Window approach including the electronic processing of trade documents at national and regional level.

Standards

- (i) Accelerate the completion and implementation of the Mutual Recognition Arrangements (MRAs) for the five identified priority sectors (electrical and electronic equipment, cosmetics, pharmaceuticals, telecommunications equipment and prepared foodstuff) within 2004/2005; and other sectors with significant potential for trade;
- (ii) Set specific targets for the harmonization of standards and technical regulations to trade focusing on sectors with significant trade value and those with potential for trade in the future; and
- (iii) Develop ASEAN technical regulations, where possible, for national applications.

B. Trade in Services

- (i) Set clear targets and schedules of services liberalization for each sector and each round towards achieving free flow of trade in services; and AEM to provide specific mandate in every round of services negotiations. The end date to achieve free flow of trade in services earlier than 2020;
- (ii) Accelerate services liberalization in specific sectors earlier than end-date by countries which are ready, through the application of the ASEAN-X formula;
- (iii) Complete MRAs for qualifications in major professional services by 2008 to facilitate free movement of professional/skilled labor/talents in ASEAN;
- (iv) Promote the use of ASEAN professional services through the establishment of a "Professional Exchange" by 2008;
- (v) Recognise the AEM as the coordinator for services liberalization across all sectors; and
- (vi) Each country to be represented by senior officials who are authorized to negotiate on behalf of the government.

C. Investment

- (i) Speed up the opening of sectors currently in the sensitive list to TEL, using the ASEAN-X formula, beginning 2004;
- (ii) Encourage and promote companies to relocate within ASEAN and where appropriate, special incentives should be given;
- (iii) Institute a mechanism to monitor the specific activities and timelines undertaken by each country vis-à-vis their submitted planned actions/ activities on annual basis;
- (iv) Establish a network of ASEAN free trade zones (FTZs) so that companies could structure their manufacturing processes across different ASEAN countries to take advantage of their comparative strengths; and in the process increase intra-ASEAN trade and investment. Special marketing efforts should be undertaken for ASEAN-based companies; and
- (v) Undertake more effective joint ASEAN facilitation and promotion measures and develop new sources of inward FDI, particularly from potential countries such as China, India and ROK.

D. Intellectual Property Rights (IPRs)

6. ASEAN IPR cooperation beyond trademarks and patents by including cooperation in copyrights information exchange and enforcement by 2004.

E. Capital Mobility

7. To facilitate trade and investment flows, expedite the implementation of the Roadmap for Integration of ASEAN in Finance.

II. NEW INITIATIVES AND MEASURES

Priority Integration Sectors

8. The Special Informal AEM agreed to accelerate 11 priority sectors for integration to be coordinated by the following countries.
 - (i) Indonesia: Wood-Based Products and Automotives;
 - (ii) Malaysia: Rubber-Based Products; Textiles and Apparels;
 - (iii) Myanmar: Agro-Based Products and Fisheries;
 - (iv) Philippines: Electronics;
 - (v) Singapore: e-ASEAN and Healthcare; and
 - (vi) Thailand: Air Travel and Tourism

9. The approach recommended for the integration of these priority sectors be premised on:

- (i) Combine the economic strengths of ASEAN Member Countries for regional advantage;
- (ii) Facilitate and promote intra-ASEAN investments;
- (iii) Improve the condition to attract and retain manufacturing and other economic activities within the region;
- (iv) Promote out-sourcing programme within ASEAN; and
- (v) Promote the development of "Made in ASEAN" products and services.

10. Roadmap should be developed for each of the priority sectors and be implemented with the active involvement of the private sector, beginning 2004.

11. Possible measures proposed for the goods sector:

- (i) Zero internal tariffs;
- (ii) Immediate removal of barriers to trade;
- (iii) Faster customs clearance and simplified customs procedures; and
- (iv) Accelerated development of MRAs and harmonization of products standards and technical regulations.

12. Integration of services sectors be implemented through:

- (i) Accelerated liberalization of these priority sectors by 2010;
- (ii) Accelerated development of MRAs; and
- (iii) Promote joint ventures and cooperation, including in third country markets.

13. Facilitate mobility of business people and tourists through:

- (i) Visa exemption for intra-ASEAN travel by ASEAN nationals by 2005;
- (ii) Harmonizing the procedures for issuing visas to international travelers in ASEAN by 2004; and
- (iii) Developing ASEAN agreement to facilitate movement of business persons and skilled labour and talents by 2005.

III. INSTITUTIONAL STRENGTHENING

14. To streamline the decision-making process and ensure effective implementation of all ASEAN economic initiatives, the following measures are recommended:

- (i) Re-affirm the AEM as the coordinator of all ASEAN economic integration and cooperation issues;
- (ii) Issues of policy in nature to be resolved by AEM/AFTA Council/AIA Council;
- (iii) Technical/operational issues to be resolved by SEOM and the various committees/working groups;
- (iv) Decision-making process by economic bodies to be made by consensus, and where there is no consensus, ASEAN to consider other options with the objective of expediting the decision-making process.
- (v) By end-2004, establish an effective system to ensure proper implementation of all economic agreements and expeditious resolution of any disputes. The new system should provide for advisory, consultative, and adjudicatory mechanisms as follows:
 - Establish a legal unit within the ASEAN Secretariat;
(Advisory — the legal unit will provide legal advice on trade disputes)
 - Establish the ASEAN Consultation to Solve Trade and Investment Issues (ACT);
(Consultative — the ACT is the ASEAN equivalent of the EU SOLVIT mechanism to provide quick resolution to operational problems)
 - Establish the ASEAN Compliance Body (ACB); and
(Adjudication — modeled after the WTO Textile Monitoring Body and make use of peer pressure)
 - Enhanced ASEAN DSM to make it more practical.
(Adjudication — amend the ASEAN DSM to ensure expeditious and legally binding decision in resolving trade disputes)

The proposed concept, elements and flow chart of the new system appear as **ANNEX 1**.

- (vi) Enhance the capability of the ASEAN Secretariat to conduct research and analytical studies related to trade, investment and finance.

IV. OUTREACH

15. To promote better appreciation and understanding of ASEAN economic issues among business/investor community and public sector agencies, the HLTF recommends the following:

- (i) Conduct out-reach programmes annually at both national and regional level; and

- (ii) Consult regularly with private sector representatives at national and regional level to address issues of concern/interest relating to the implementation of ASEAN economic initiatives.

V. DEVELOPMENT AND TECHNICAL COOPERATION

16. The recommendations to address the development divide and accelerate economic integration of CLMV:

- (i) Expand the coverage of the AISP products; and
- (ii) Implement IAI projects through mobilization of resources from within ASEAN.

CONCLUSION

17. The HLTF recommends that a review be made after one year of its implementation and the Secretary General of ASEAN to submit an annual progress report of its implementation to the AEM.

ANNEX 1

MECHANISM OF THE DISPUTE SETTLEMENT SYSTEM

ADVISORY MECHANISM

ASEAN Consultation to Solve Trade and Investment Issues (ACT)

- (i) The ACT is adapted from the EU SOLVIT mechanism. It is a network of government agencies (one from each country) to allow the private sector to cut through red tape and achieve speedy resolution of operational problems encountered, thus helping to create a pro-business environment in ASEAN.
- (ii) Private individuals and businesses faced with operational problems related to countries' ASEAN commitments, either at home or in other ASEAN countries, can highlight these problems to the ACT in their country (Host ACT). For problems encountered within the home country, the Host ACT will direct the problem to the appropriate government agencies, and ensure that a proposed solution is sent to the individuals/businesses within 30 calendar days.
- (iii) For problems encountered in other ASEAN countries, the Host ACT will forward the problem to the other countries' ACT (Lead ACT). The Lead ACT will be responsible for directing the problem to the appropriate government agencies in its country, and ensuring that a proposed solution is sent to the individuals/businesses via the Host ACT within 30 calendar days. To minimise delays, communication between Host and Lead ACTs should be via electronic means, for instance an online database accessible to all member countries.
- (iv) If the proposed solution does not resolve the problem highlighted, the private individuals/businesses can request that their government raise this issue to the other dispute settlement mechanisms described below.

ASEAN Legal Unit

- (i) The ASEAN Legal Unit will be staffed by qualified lawyers specialising in trade laws employed by the ASEAN Secretariat. The unit will offer legal interpretation/ advice on potential trade dispute issues upon request from countries. The advice is purely advisory and non-binding in nature.

(ii) The ASEAN Legal Unit would play a useful role in screening out issues that are operational/technical in nature which could be resolved through bilateral consultations, rather than being surfaced to the ASEAN Compliance Monitoring Body or the Enhanced ASEAN Dispute Settlement Mechanism. The ASEAN Legal Unit will also be responsible for providing legal advice and secretariat support to the ASEAN Compliance Monitoring Body and enhanced ASEAN Dispute Settlement Mechanism.

CONSULTATIVE MECHANISM

ASEAN Compliance Monitoring Body (ACMB)

(i) The ACMB is modelled after the Textile Monitoring Body of the WTO, and makes use of peer adjudication, which is less legalistic and offers a speedier channel, to help countries resolve their disputes.

(ii) In cases of non-compliance by one or more ASEAN Member Country/Countries in any ASEAN economic integration agreement, ACMB members from countries not involved in the dispute will upon request, review and issue findings on the case within a stipulated timeframe. The case findings of the ACB are not legally-binding. However, any opinion pointing to non-compliance should lead to the offending ASEAN Member Country/Countries to seriously consider measures to rectify the non-compliance. Moreover the ACMB's findings would be tabled as inputs to the DSM should the case be raised to the DSM.

(iii) Subject to agreement by both Parties, Member Countries who do not wish to avail of the ACMB after going through the ACT can go directly to the ASEAN DSM panel.

(iv) AEM had earlier directed SEOM to work out a Terms of Reference for this monitoring body.

Conciliation and Mediation Processes

(i) Upon mutual voluntary agreement, member countries can at any time, engage in conciliation and mediation procedures to resolve their dispute before it is surfaced for adjudication at the enhanced ASEAN Dispute Settlement Mechanism.

(ii) Proceedings under these conciliation and mediation procedures, including respective positions taken by parties to the dispute during the proceedings, shall be confidential.

(iii) The ASEAN Secretary General may, acting in an ex officio capacity, offer good offices, conciliation and mediation procedures.

ENFORCEMENT MECHANISM

Enhanced ASEAN Dispute Settlement Mechanism (DSM)

(i) To ensure that binding decisions can be made based solely on legal considerations, changes should be made to the procedures of the existing ASEAN DSM to depoliticise the entire process.

(ii) The enhanced ASEAN DSM would be modeled after the WTO DSM, which have already established a proven track record in resolving trade disputes. It would include the following key features: (i) having panels of three independent professionals from countries not involved in the disputes (including non-ASEAN countries) to rule on the disputes and administer the appellate process. To ensure de-politicisation of the processes, ASEAN should replace the AEM with an appellate body comprising of well-qualified, independent and experienced professionals as the appeal body for the panels' decisions, and adopt the existing WTO DSM panel selection procedures, including the listing of qualified individuals who can serve as panelists and members of the appellate body (maintained by the WTO Secretariat); (ii) strict and detailed procedures and timeline governing each stage of the dispute settlement process (adopted from the WTO DSM procedure) to ensure speedy progress towards a fair outcome, and (iii) effective mechanisms, including the possibility of imposing sanctions on non-compliant countries, to ensure full implementation of the DSM rulings.