



# EU-ASEAN BUSINESS COUNCIL

## Customs & Trade Facilitation in ASEAN



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1 Phillip Street  
#12-01  
One Royal Phillip  
Singapore 048692

[info@eu-asean.eu](mailto:info@eu-asean.eu)

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## EXECUTIVE SUMMARY

This paper has been produced by the Customs & Transit Advocacy Group of the EU-ASEAN Business Council (EU-ABC) with a view to assisting ASEAN and its Member States in achieving some of the key aims and objectives set out in the ASEAN Economic Community (AEC) Blueprint 2025, i.e. “to facilitate the seamless movement of goods...”<sup>1</sup> and the commitment that “ASEAN will continue to reduce or eliminate border and behind-the-border regulatory barriers that impede trade, so as to achieve competitive, efficient and seamless movements of goods within the region”<sup>2</sup>. It being presented to the ASEAN Finance Ministers as Customs fall within their purview, and many of the recommendations contained in this document relate to Customs.

**ASEAN WILL CONTINUE TO REDUCE OR ELIMINATE BORDER AND BEHIND-THE-BORDER REGULATORY BARRIERS THAT IMPEDE TRADE, SO AS TO ACHIEVE COMPETITIVE, EFFICIENT AND SEAMLESS MOVEMENTS OF GOODS WITHIN THE REGION**

AEC Blueprint 2025

The paper focusses mainly on customs procedures and trade facilitation practices across the ASEAN. These are seen by many companies across the region, not just the members of the EU-ABC, as being overly complex, burdensome, and sometimes inconsistent in terms of application. Numerous studies have clearly indicated the economic and trade benefits of reducing and simplifying such procedures and practices. Doing so boosts trade, and provides exponential assistance to Small and Medium Enterprises (SMEs) who are often less well placed to understand and navigate customs rules when exporting.

To its credit, ASEAN has recognised the need to move on trade facilitation issues, in particular those relating to customs. The AEC Blueprint 2025, which the EU-ABC has strongly welcomed and supports, makes frequent reference to the need for the region to move forward on these issues. In this paper, we have developed both short-term and medium-term recommendations which we believe are entirely implementable within reasonable time frames, which would, in turn, greatly boost the ease of cross-border trade within ASEAN and bring benefits to all parts of the economy, not just to the larger traders and MNCs, but primarily to SMEs.

The short-term recommendations are designed so that they could be reasonably achieved in the next 12 to 18 months. They are also designed to full in to line with one of the key objectives of Laos for its chairmanship of ASEAN in 2016, i.e.

to improve trade facilitation across the region.

The medium-term recommendations are designed so that they could be reasonably achieved in the next 24 to 36 months. Items such as the full establishment of National Single Windows and, ultimately, the ASEAN Single Window, naturally need more time for implementation due to the infrastructure and software requirements needed. However, we urge ASEAN and its Member States to put in place the necessary programmes, legislation and guidelines as soon as possible in order that these measures can be fully implemented within the suggested timelines.

<sup>1</sup> See Section II.A, paragraph 7 of the AEC Blueprint 2025

<sup>2</sup> See Section II.A.1, paragraph 9 of the AEC Blueprint 2025

## Summary of Short-term Recommendations (12-18 months)

Simplification of Certificates of Origin	<ul style="list-style-type: none"> <li>➤ To stimulate intra-ASEAN trade for SMEs, increase the threshold for waiver of Certificates of Origin below a certain threshold, from USD 200 to USD 2,000.</li> <li>➤ To increase intra-ASEAN trade and the utilisation of ATIGA, align the two ATIGA self-certification pilots to enable certified traders to issue their own Certificates of Origin valid in all ASEAN Member States.</li> </ul>
ASEAN Harmonised Tariff Nomenclature (AHTN)	<ul style="list-style-type: none"> <li>➤ We recommend that all ASEAN Member States to only implement the AHTN as the sole and prevailing tariff nomenclature across ASEAN.</li> </ul>
Tracking and transparency of customs declarations	<ul style="list-style-type: none"> <li>➤ For those ASEAN Member States that already possess an automated customs clearance environment, we recommend that import declarations are made retrievable for traders. This would enable visibility and certainty of the entire customs clearance and import process.</li> </ul>
ASEAN transport agreements	<ul style="list-style-type: none"> <li>➤ Develop a proposal that advances the full ratification by all Member States of the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT) and the ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST), including all related Protocols;</li> <li>➤ Develop a proposal that requires ASEAN Member States to provide a timeline for preparation and finalisation of national legislation that operationalises Protocol 7 of AFAFGIT as well as the ASEAN Customs Transit System (ACTS).</li> </ul>
Common <i>de minimis</i> threshold in ASEAN	<ul style="list-style-type: none"> <li>➤ To stimulate cross-border e-Commerce for SMEs in ASEAN, introduce a minimum <i>de minimis</i> of USD 100 across ASEAN, with gradual implementation for CLMV countries. Such <i>de minimis</i> should also include goods transported by road as this will help lower the costs for ASEAN's growing cross-border e-Commerce market.</li> </ul>
Private Sector Consultation	<ul style="list-style-type: none"> <li>➤ ASEAN to set up a dialogue mechanism with the private sector on a sectoral basis (Committee or Sub-Committee level) to more effectively involve the private sector in advancing ASEAN connectivity and trade facilitation issues;</li> <li>➤ ASEAN to consider selected representatives from the private sector to participate in Committee or Sub-Committee meetings related to connectivity and transportation on an observer basis.</li> </ul>

## Summary of Medium-term Recommendations (24-36 months)

Automated customs clearance procedures	<ul style="list-style-type: none"> <li>➤ As a first step towards the implementation of National Single Windows (NSWs), and ultimately the ASEAN Single Window (ASW), ASEAN Member States should commit to fully automating customs clearance procedures by 2017. This should also imply removal of all duplicate paper procedures;</li> <li>➤ By 2017, introduce a 24/7, fully electronic payment system for duties and taxes, which would lower costs for ASEAN's business and cut customs clearance times by one day.</li> </ul>
Mutual recognition of AEO programmes	<ul style="list-style-type: none"> <li>➤ All ASEAN Member States to formulate an Authorised Economic Operator (AEO) programme, which is aligned with the WCO SAFE Framework and which includes logistics providers and customs brokers;</li> <li>➤ Drafting of an agreement that pursues intra-ASEAN Mutual Recognition Agreements (MRA) of AEO programmes, including Authorised Transit Trader programme as set out in AFAFGIT Protocol 7.</li> </ul>
Pre-arrival clearance and post-clearance audits	<ul style="list-style-type: none"> <li>➤ Introduction of pre-arrival clearance and post-clearance audits across all ASEAN Member States. By 2017, this could be done for reliable traders, logistics companies and customs brokers, as a way of building capacity and mutual trust.</li> </ul>
Advance rulings	<ul style="list-style-type: none"> <li>➤ Introduction of advance rulings in classification and valuation matters;</li> <li>➤ Introduction of a clear dispute resolution mechanism for national and region-wide valuation and classification matters.</li> </ul>

## The Role of Trade Facilitation

Trade facilitation is an increasingly important driver for the expansion of international trade. Reducing time to market is critical to be able to compete in today's globalised world and complex supply chains. The global supply chain has in recent years become increasingly sophisticated, with different parts of the manufacturing process spread around the world and around the region. Enhanced participation in global supply chain networks has also been identified as one of the key factors behind the rapid growth in ASEAN.

Trade facilitation seeks to reduce the transaction costs faced by exporters and importers to stimulate trade, investment and improve productivity. **Customs plays a critical role in facilitating trade as customs and other border procedures have a direct impact on trade costs.** Streamlined procedures, simplified documentation requirements and automation are the most critical aspects for efficient customs clearance procedures. **Striving to simplify, standardise and harmonise customs procedures across the region would greatly ease trade and have a direct positive impact on costs. This is clearly recognised in the AEC Blueprint 2025<sup>3</sup>.**

Customs procedures have a direct impact on trade costs, and a report from OECD<sup>4</sup> shows that customs requirements and lengthy administrative procedures can increase costs by 2 to 24 per cent of the value of traded goods. Revenue losses from inefficient border procedures may exceed 5 per cent of GDP, according to the same report, and a one-day decrease in time spent at sea could increase trade by 4.5 per cent. Hard physical infrastructure is for all modes of transport at least as important in determining time to trade as trade facilitation measures such as customs and other administrative procedures. These not only affect trade volumes, but also whether a company will trade at all, such as small and medium-sized enterprises (SMEs) and exporters of time-sensitive products.

Reducing supply chain barriers to trade could increase global gross domestic product (GDP) by up to six times more than removing tariffs. It could increase GDP by nearly 5 per cent (USD 2.6 trillion) and trade by 15 per cent (USD 1.6 trillion). Completely eliminating tariffs could increase global GDP by USD 0.4 trillion and exports by USD 1.1 trillion. In Southeast Asia, these figures are even more impressive: 9.3 per cent in increased GDP and 12.1 per cent increase in exports<sup>5</sup>.

An efficient, secure and integrated transport network as well as improved connectivity has been identified as vital building blocks for realising the full potential of ASEAN's economic integration as well as enhancing the attractiveness of the region as a single production and investment destination, in addition to narrowing development gaps. Trade facilitation initiatives are identified in the AEC Blueprint 2025 as a specific initiative towards a more strategic approach to increased participation in global value chains for ASEAN.

The EU-ABC applauds that several ASEAN Member States have already ratified both the Revised Kyoto Convention (RKC) of the World Customs Organisation (WCO) as well as the Trade Facilitation Agreement of the World Trade Organisation (WTO). These are important steps to align customs and border procedures with international standards and to achieve the gains that trade facilitation bring. We believe that the adoption of the practices included in these agreements and international best practices lay the foundation for a modernised customs regime, which is better equipped to respond to the needs of today's trade, especially since ASEAN seeks to further integrate into global production networks and move up the value-added production chain.

<sup>3</sup> See Section II.A.1 Trade in Goods of the AEC Blueprint 2025

<sup>4</sup> OECD Trade Policy Paper No. 150: "Trade Costs - What have we learned?" A Synthesis Report.

<sup>5</sup> WEF (2013): "Enabling Trade, Valuing Growth Opportunities".

Trade facilitation is also a key feature of the AEC Blueprint 2025, which states that ASEAN should: “Streamline and simplify administrative regulatory regimes, documentary requirements, as well as import and export procedures, including customs procedures”<sup>6</sup>. Our recommendations to ASEAN to achieve this include:

- Automate customs clearance procedures and the removal of duplicate paper procedures;
- Simplify excessive controls at the border, and rely on risk profiling, intelligence assessment and post-clearance audits;
- Simplify data elements, paperwork requirements and abolish duplicative procedures;
- Reduce discretionary powers of frontline customs at international entry points;
- Allow for recourse by traders to challenge disputes with frontline customs; and,
- Implement the WCO Immediate Release Guidelines, the Revised Kyoto Convention and encourage ambitious implementation of the WTO Trade Facilitation Agreement.

## SMEs and international trade

Complicated customs procedures are a problem for all international trade, but they can be an even greater obstacle for SMEs. Simplifying and harmonising customs procedures in line with international agreements and best practices are key for facilitating trade and reducing costs for importers and exporters. This is particularly important for ASEAN’s many small and medium-sized enterprises (SMEs), which are also increasingly benefiting from growing online retail trade (e-Commerce).

Many SMEs have limited resources to participate in international trade and therefore do not take full advantage of the opportunities that are offered by ASEAN economic integration, let alone global production networks. The AEC Blueprint 2025 acknowledges that more emphasis on trade facilitation measures are necessary for SMEs to create further business opportunities and to take advantage of technological innovation, both of which would create more inclusive economic growth in ASEAN.

E-Commerce creates opportunities for SMEs to participate in the international trading system, reduces trade transaction costs and helps overcome logistic and geographic challenges to access new export markets. There is an impetus to address those since there is evidence that online trade provides new opportunities for SMEs and women-led enterprises<sup>7</sup>, again both key targets for ASEAN. For SMEs to take advantage of e-Commerce opportunities, it is necessary to establish a business environment that is conducive to the growth of the digital economy and cross-border movement of goods and services in ASEAN. The recommendations in this paper are designed to assist with that.

## Trade facilitation initiatives in ASEAN

ASEAN has agreed on a number of initiatives aligned with international best practices on facilitated cross-border procedures and greater coordination between ASEAN countries, including the Roadmap for the Integration of Logistics Services, the ASEAN Agreement on Customs, the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT), ASEAN Framework Agreement on Multimodal Transport, ASEAN Framework Agreement on the Facilitation on Inter-State Transport (AFAFIST), Roadmap for Integration of Air Travel Sector, ASEAN Air Cargo Processing Model as well as the ASEAN Strategic Transport Plan 2011-2015.

Connectivity in ASEAN refers to the physical, institutional and people-to-people linkages which are fundamental means to achieve an integrated ASEAN Community. While physical connectivity refers

<sup>6</sup> AEC Blueprint 2025, Section II.A.1, paragraph 10.iii.d

<sup>7</sup> The Asian Development Bank (2015): *Thinking forward about trade costs and the digital economy*.

to infrastructure, institutional connectivity is more multi-faceted. It comprises among other things trade liberalisation and facilitation, investment liberalisation and facilitation, regional transport agreements and cross-border procedures. The Roadmap for Integration of Logistics Services and the Master Plan for ASEAN Connectivity both intend to accelerate the economic integration of ASEAN, particularly as logistics is a priority sector for ASEAN integration.

Key features of the Roadmap for the Integration of Logistics Services (“ASEAN Logistics Roadmap”) include streamlining of processes and automating customs procedures for all types of shipments and a reduction of physical examination in favour of risk profiling techniques. The EU-ABC applauds the measures laid down in the Roadmap, and would welcome further dialogue with ASEAN SEOM, ASEAN Customs authorities, the ASEAN Trade Facilitation-Joint Consultative Committee and other relevant ASEAN Committees on the state of play of the commitments enshrined for implementation in ASEAN (see table below: II Enhancing Competitiveness of ASEAN Logistics Services Providers through Trade (including Documentation Simplification) and Logistics (Transport) Facilitation, section II(a) *Trade and Customs Facilitation*).

Number	Measure	Implementing body	Timeline
12	Implement provisions in the WTO Agreement on Customs Valuation	Coordinating Committee of Customs (CCC)/ Customs Procedures and Trade Facilitation Working Group (CPTF-WG)	On-going
13	Implement the WCO Immediate Release Guidelines and review, as appropriate, the <i>de minimis</i> levels (value thresholds) for express delivery of air shipments and implement/introduce EDI to speed up customs clearance.	CCC/CPTF-WG	On-going
14	Promote the implementation of the WCO Framework of Standards to Secure and Facilitate Global Trade	CCC/CPTF-WG	On-going
15	Identify suitable standards to secure the interoperability and interconnectivity in facilitating trade within customs jurisdiction, including those of Information and Communication Technology	CPTF-WG	2007-2009
16	Enact domestic legislation to provide legal recognition of electronic documents/ transactions	Telecommunication Senior Officials Meeting(TELSOM)/ CPTF-WG	2007-2008
17	Encourage application of standardised trade data and documents for trade facilitation through the adoption of International standards like WCO data model, UNTDED- United Nations Trade Data Elements Directory, UN-eDocs and the electronic submission of trade data and documents for customs clearance.	CPTF-WG and SEOM	2008 for ASEAN-6 and 2012 for CLMV
18	Adopt service commitments (Client Service Charters) by ASEAN customs authorities	CCC	December 2005

19	Encourage implementation of 24x7 customs operations to accelerate the cargo customs clearance as requested by the industry and subject to the relevant national regulations.	CPTF-WG and SEOM	2007-2008
20	Promote relevant technologies for advanced information systems to be shared among governmental agencies, shippers, and industry, in advancing supply-chain security initiatives.	Customs Enforcement Working Group (CEWG)/STOM/ TELSOM	On-going
21	Develop the Single Window approach for customs clearance.	ASEAN Single Window Steering Committee(ASWSC)/CPTF-WG/SEOM	2008 for ASEAN 6 and 2012 for CLMV
22	Promote the use of RFID (Radio Frequency Identification) applications to facilitate cross-border use of RFID in trade and customs as well as cross-border tracking of goods.	TELSOM/ CPTF-WG/ASW-SC	On-going
23	Facilitate cross border electronic transactions, information sharing, electronic payment and electronic signatures	TELSOM WG AII/ CPTFWG	2008
24	Encourage enterprises to adopt/develop interoperable supply chain management systems in ASEAN to link up planning solutions, automated storage and retrieval systems and wireless tracking technologies	TELSOM WG AII/ CPTFWG	On-going
25	Enhance cooperation and communications between customs and the business sector including through electronic means.	CCC/ CPTF-WG / ASEAN Freight Forwarders Association (AFFA) and ASEAN Shippers Council	On-going
26	Implement risk management practices to facilitate trade, while maintaining effective customs control	CPTF-WG	On-going
27	Enhance transport security and safety in the regional supply-chain networks, through capacity building initiatives, technical networking, and regular exchange of relevant technologies, best practices and information	STOM/ CPTF-WG	On-going
28	Conduct regular formal dialogues between private sectors, relevant associations and government related bodies	CCC/ CPTF-WG/ ASW-SC	On-going

Source: Appendix 1, Roadmap for the Integration of Logistics Services

The EU-ABC would like to work with ASEAN to realise the implementation of these trade facilitation measures on the ground in each ASEAN Member State. The objective of this paper is therefore to support this process by formulating concrete proposals for the short- and medium-term.

## Recommendations for implementation in the short-term (12-18 months)

### Simplification of Certificates of Origin

The experience from the ground by our members show that, most often, SMEs do not utilise the numerous Free Trade Agreements (FTAs) that ASEAN have negotiated, neither ATIGA, nor other ASEAN+1 FTAs. Utilisation of ATIGA has been constant at around 40 per cent of intra-ASEAN trade, with no signs of increasing. Experience by EU-ABC members are that, in particular, SMEs do not utilise ATIGA due to the burdensome and costly procedures in many countries to obtain Certificates of Origin. Instead, smaller companies export on a Most Favoured Nation basis, hence, the companies that need benefits from the FTAs the most, do not get to enjoy them.

In ASEAN it is mandatory to present the original (hardcopy) certificate of origin (COO) “Form D” during import declaration in order to use the preferential ATIGA duty rates and only government authorised bodies are allowed to issue and endorse the Form D. Self-certification shall gradually replace the Form D whereas certified exporters will be able to make declarations about the origin of goods on invoices or other commercial documents (e.g. packing list). In 2010, ASEAN member states agreed to implement a self-certification scheme for the ATIGA<sup>8</sup>. The result of this were two independent Self-Certification Pilot Schemes with different member states, different scopes and different rules that were supposed to be merged to one ASEAN-wide final Self-Certification Scheme once the pilot period was over.

Initially, the ASEAN-wide final Self-Certification Scheme was meant to be in place in 2012, however, it remains incomplete and is now a key measure in the AEC Blueprint 2025<sup>9</sup>. The EU-ABC, therefore, believes that it would be an opportunity for ASEAN to introduce a simplified mechanism of issuing COOs, in particular for SMEs. Such an action would be in line with the AEC Blueprint 2025 which states: “ROO implemented by ASEAN Member States should be simplified, business-friendly and trade-facilitative, to benefit the region’s trade, in particular the participation of MSMEs to encourage them to expand, upgrade, and deepen their linkages within the region. Towards this end, priority sectors for Product Specific Rules (PSRs) can be negotiated, and processes for the determination of origin criteria streamlined”<sup>10</sup>.

#### Recommendations:

- *To stimulate intra-ASEAN trade for SMEs, increase the threshold for waiver of Certificates of Origin below a certain threshold, from USD 200 to USD 2,000.*
- *To increase intra-ASEAN trade and the utilisation of ATIGA, align the two ATIGA self-certification pilots that are currently running in parallel to enable certified traders to issue their own Certificates of Origin valid in all ASEAN Member States.*

### ASEAN Harmonised Tariff Nomenclature (AHTN)

The EU-ABC applauds the introduction of the AHTN in 1995 as the ASEAN standard for tariff classification. We believe that this is an important step towards ASEAN integration. However, there are some ASEAN Member States that apply two different sets of tariff nomenclatures - one for goods with ASEAN origin and one for non-ASEAN origin, despite an agreement in 1995 to implement only the ASEAN Harmonised Tariff Nomenclature (AHTN). This is causing additional costs, lead times for

<sup>8</sup> See: <http://www.asean.org/the-pilot-project-for-the-implementation-of-a-regional-self-certification-system-brunei-darussalammalaysiasingaporeasean-secretariat-29-october-2010/>

<sup>9</sup> AEC Blueprint 2025, Section II.A.1, paragraph 10.iii.e

<sup>10</sup> AEC Blueprint 2025, Section II.A.1, Paragraph 10.ii

customs clearance and substantial complexities for traders as they have to use two different sets of tariff nomenclatures.

### Recommendation

- *We recommend that all ASEAN Member States to only implement the AHTN as the one and prevailing tariff nomenclature across ASEAN.*

## Tracking and transparency of customs declarations

Trade Management visibility is an important element to improve the level of quality customs declarations. Currently, most ASEAN countries do not have the mechanism to download Import and Export declarations from the customs declaration portal. If Importers and Exporters of record are given the option to download their declaration records from the Customs authority's portal, it will facilitate self-assessment and verification which complements the voluntary disclosure process.

### Recommendation

- *For those ASEAN Member States that already possess an automated customs clearance environment, we recommend that import declarations are made retrievable for traders. This would enable visibility and certainty of the customs clearance and the entire import process.*

## ASEAN transport agreements

The EU-ABC welcomes all initiatives on facilitated cross-border procedures and greater coordination between ASEAN countries. Connectivity is a critical aspect of ASEAN's competitiveness, and it will greatly help boost intra-ASEAN trade, facilitate growth of SMEs and connect ASEAN to global production networks and supply chains. Appropriate steps taken to remove restrictions and facilitate cross-border movement of goods will encourage trade and investment, improve productivity and lower business cost.

As stated in the ASEAN Strategic Transport Plan, cross-border shipments are often hindered by the lack of seamlessness for trucks servicing supply chains throughout the ASEAN region and the lack of harmonisation and mutual recognition of documentation, procedures and standards (e.g. duplication of customs documentation, absence of proper transit procedures, varying vehicle standards, drivers' licenses, insurance) for inter-modal and multimodal transport of goods. In particular, proper transit procedures for less-than-truck load (LTL) shipments are lacking in most ASEAN countries, which means that transit goods have to go through formal import and export procedures at each border crossing. Facilitating cross-border land and multimodal transport would help maximise the efficiency of logistics services and lower costs for consumers.

Currently, the ASEAN Customs Transit System (ACTS) is set to be piloted in Singapore, Malaysia and Thailand, with subsequent roll-out in the CLMV countries by the end of 2016. In order to prepare for this important project, which inevitably will lead to concrete integration of the cross-border movement of goods between the land-connected ASEAN countries, there are some critical steps that could be undertaken in 2016. The EU-ABC believes that these proposals would not entail great cost for the individual ASEAN Member States, but bring significant momentum to ASEAN economic integration and benefits to ASEAN businesses.

### Recommendations:

- *Develop a proposal that advances the full ratification by all Member States of the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT) and the ASEAN*

- Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST), including all related Protocols, to pave the way for the implementation of the ACTS;*
- *Develop a proposal that requires ASEAN Member States to provide a timeline for preparation and finalisation of national legislation that operationalises Protocol 7 of AFAFGIT as well as the ACTS;*

## Common *de minimis* threshold in ASEAN

E-Commerce will play an increasingly important role in supporting economic growth in ASEAN, and will help ASEAN's SMEs to expand beyond their home markets. The economic changes wrought by e-Commerce have already had a large impact on the global economy. Consumers across ASEAN have embraced the convenience and savings of being able to order goods online and have them delivered to their home or office. Many SMEs have taken the opportunity to market their goods directly to consumers. Studies have shown that SMEs that trade online can reach up to ten times more export markets compared with conventional ways of exporting.

Since SMEs, in particular those companies involved in e-Commerce, typically ship goods with a low value but on a frequent basis, introducing a *de minimis* value is seen as an important policy to simplify customs procedures and reduce costs. *De minimis* exempts low-value importations from revenue collection. For low-value shipments, the cost of collecting customs duty and other taxes on each low value consignment exceeds the amount of revenue collected. A *de minimis* threshold has the benefit of reducing costs for the Government as well as benefiting business, in particular SMEs and consumers, by reducing import costs and delivery times and thus boosting trade.

*De minimis* thresholds within ASEAN vary between USD 0.15 in the Philippines to SGD 400 in Singapore. ASEAN integration would benefit from a harmonised *de minimis* threshold. We believe that the implementation of a common *de minimis* baseline constitutes a "quick win" to facilitate intra-ASEAN trade and can be seen as an important element in enhancing ASEAN connectivity. The economic benefits from a commercially useful *de minimis* baseline are substantial. A study carried out by the Centre for Customs and Excise of the University of Canberra and ITS Global, Australia, found that *de minimis* thresholds would generate a significant net economic benefit for the analysed economies. The net benefit for the five ASEAN countries included in the study with a *de minimis* threshold of USD 200 was estimated at USD 109.2 million per year<sup>11</sup>. The corresponding net economic benefit with a *de minimis* baseline of USD 100 is USD 55.2 million per year. The introduction of a *de minimis* baseline in ASEAN would be aligned with the ASEAN Agreement on Customs, Article 21.

### Recommendation:

- *To stimulate cross-border e-Commerce for SMEs in ASEAN, introduce a minimum *de minimis* of USD 100 across ASEAN, with gradual implementation for CLMV countries. Such *de minimis* should also include goods transported by road as this will help lower the costs for ASEAN's growing cross-border e-Commerce market.*

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<sup>11</sup> The five ASEAN countries included in the study were: Malaysia, Thailand, the Philippines, Vietnam and Indonesia. See - De Minimis Thresholds in APEC by ITS Global and Centre for Customs and Excise of the University of Canberra, May 2012.

## Recommendations for implementation in the medium-term (24-36 months)

### Automated customs clearance procedures

Automation is essential for an efficient and predictable customs clearance procedure. A report by the OECD<sup>12</sup> points to that the important components to reduce costs for trading for non-OECD countries include automation, transparency, harmonisation and simplification of documents, streamlining of procedures and good governance.

The report found that a 10 per cent reduction in the number of documents needed to import could increase trade by 11.1 per cent for certain agricultural and manufactured products, while a 10 per cent reduction in the number of days and signatures needed to import would result in 6.3 per cent increase in trade for agricultural products and 9.9 per cent for manufactured products. For Asia, the report shows that the most important set of measures are: automation, which can reduce total trade costs by 3 per cent, simplification of procedures (2.5 per cent) and simplification of documentation (2.1 per cent).

ASEAN Member States are to establish National Single Windows (NSWs) and connect them through a regional ASEAN Single Window (ASW). Through an NSW, traders should be able to electronically submit forms for export, import and transit procedures only once, without duplicate manual, paper procedures, and then processed and cleared by multiple government agencies in a single integrated process. Unfortunately, automation is not fully implemented across ASEAN and the NSWs are in various stages of implementation.

The EU-ABC, therefore, suggests a more realistic and gradual approach towards achieving the ASW, in line with Article 37 of the ASEAN Agreement on Customs.

#### Recommendation:

- *As a first step towards the implementation of NSWs, and ultimately ASW, ASEAN Member States should commit to fully automating customs clearance procedures by 2017. This should also imply doing away with all duplicate paper procedures;*
- *By 2017, introduce a 24/7, fully electronic payment system for duties and taxes, which would lower costs for ASEAN's business and cut customs clearance times by one day.*

### Mutual recognition of AEO programmes

Authorised Economic Operator (AEO) programmes are aimed at offering facilitation benefits such as faster processing rates for customs clearance to those traders and logistics companies which apply certain laid down customs compliance, financial viability, automation and supply chain security standards. An AEO programme may include, for example: a reduced data set for cargo release, expedited processing and release of shipments, a minimum number of cargo security inspections, priority processing by customs during periods of elevated threat conditions or following an incident requiring the closing of a port and/or borders, etc.

According to the World Customs Organisation (WCO), mutual recognition of AEO authorisations between Customs authorities is considered to be one of the principal benefits. A longer term goal is a global system of mutual recognition.

<sup>12</sup> Summary of OECD Trade Policy Paper No. 150: "Trade Costs - What have we learned? A Synthesis Report."

The ASEAN 2025 Vision states that: “Deepen regional implementation of trade-facilitative ASEAN initiatives such as Authorised Economic Operators (AEO) programme and Self-Certification programme” (Chapter A.1 Trade in Goods, point 10.iii.e) as well as ASEAN Agreement on Customs Article 35.

#### Recommendation:

- *All ASEAN Member States to formulate an AEO programme, which is aligned with the WCO SAFE Framework and which includes logistics providers and customs brokers;*
- *Drafting of an agreement that pursues intra-ASEAN Mutual Recognition Agreements (MRA) of Authorised Economic Operator (AEO) programmes, including Authorised Transit Trader programme as set out in AFAFGIT Protocol 7.*

### Pre-arrival clearance and post-clearance audits

Key to facilitating trade is for Customs to apply risk management in inspections and control. This would help facilitate imports and exports for reliable and compliant traders which are considered low risk for breach of customs rules or undervaluation, allowing Customs to focus their efforts on high-risk shippers and origins.

Customs clearance and release can be further expedited through early submission of data. With the use of electronic data interchange, traders can submit required documents and data to Customs ahead of the goods arriving with the aircraft or vessel. Customs can then process the data, including risk management and calculation of duties, and advise traders prior to the arrival of the goods. In cases where goods are selected for physical inspection, the importer can also be advised in advance so that the presentation of the goods to be handed over to Customs for inspection can be arranged without delay. The EU-ABC believes that the adoption of pre-arrival clearance would help reduce delays at key gateways and expedite clearance and release times. This is also in line with international guidelines including the WTO Agreement on Trade Facilitation and WCO’s Immediate Release Guidelines.

Customs may instead apply audits to importers and customs brokers with regular intervals, to ensure that all procedures have been followed and that documentation is complete.

#### Recommendation:

- *Introduction of pre-arrival clearance and post-clearance audits across all ASEAN Member States. By 2017, this could be done for reliable traders, logistics companies and customs brokers, as a way of building capacity and mutual trust.*

### Advance rulings

Advance rulings in both classification and valuation matters increases transparency and certainty for traders, especially businesses which trade frequently. Applying the concept of advance rulings also increases efficiency and lowers costs, both for the trading community and Customs authorities.

The lack of clarity of the legal framework on customs valuation and regulations makes compliance difficult for traders. The legal and enforcement system should provide transparency and opportunity for the trading community to comply with prevailing regulations without neither subjectivity nor unclear, case-by-case interpretations of the law.

Customs should also recognise reasonable care by the trading community to encourage compliance with laws and regulations. This addresses intent of a non-compliance of violation: distinguishing them between unintentional non-compliance or administrative errors versus intentional/fraudulent violations.

### Recommendations:

- *Introduction of advance rulings in classification and valuation matters in all ASEAN countries with regional, ASEAN-wide validity and acceptance;*
- *Introduction of a clear dispute resolution mechanism for national and region-wide valuation and classification matters.*

## Private Sector Consultation

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Moving forward, the EU-ABC would welcome greater involvement and transparency in policy making, and that Governments consult the foreign business sector on planned policy initiatives and draft laws and regulations. We believe that wide consultation with various stakeholders will lead to better and more efficient regulations.

The current mechanism is haphazard and ad hoc, and there is a need for an institutionalised call for inputs from all sectors of industry since they are the users of various Agreements and initiatives under the AEC. Obtaining industry inputs from all quarters to new or forthcoming ASEAN schemes or agreements would be a first step. Currently, there is a lack of recourse for industry where Member States have backtracked, in particular in the field of trade facilitation. There is the need for a mechanism through which industry could use at the ASEAN level and which could be adequately addressed.

Effective public-private sector engagements in the policy formulation and implementation would be mutually reinforcing. We would therefore support regular formal dialogues between in the private-sector, relevant business associations and government in policy discussions regarding sectors of crucial importance for ASEAN integration, i.e. connectivity and logistics. This would be in line with the AEC Blueprint 2025, section 10.iii.f: “Strengthen public-private sector cooperation, collaboration, and partnership in improving the process, institutional and infrastructural foundations of efficient and effective trade facilitation within the region”.

### Recommendations:

- *ASEAN to set up dialogue mechanism with the private sector on a sectoral basis (Committee or Sub-Committee level) to more effectively involve the private sector in advancing ASEAN connectivity;*
- *ASEAN to consider selected representatives from the private sector to participate in Committee or Sub-Committee meetings related to connectivity and transportation on an observer basis;*
- *Private sector bodies, including the EU-ABC, to be involved in meetings of the ASEAN Trade Facilitation-Joint Consultative Committee (ATF-JCC).*

## About the EU-ASEAN Business Council

The EU-ASEAN Business Council (EU-ABC) is the primary voice for European business within the ASEAN region.

It is endorsed by the European Commission and recognised by the ASEAN Secretariat. Independent of both bodies, the Council has been established to help promote the interests of European businesses operating within ASEAN and to advocate for changes in policies and regulations which would help promote trade and investment between Europe and the ASEAN region. As such, the Council works on a sectorial and cross-industry basis to help improve the investment and trading conditions for European businesses in the ASEAN region through influencing policy and decision makers throughout the region and in the EU, as well as acting as a platform for the exchange of information and ideas amongst its members and regional players within the ASEAN region.

The EU-ABC conducts its activities through a series of advocacy groups focused on particular industry sectors and cross-industry issues. These groups, usually chaired by a multi-national corporation, draw on the views of the entire membership of the EU-ABC as well as the relevant committees from our European Chamber of Commerce membership, allowing the EU-ABC to reflect the views and concerns of European business in general. Groups cover, amongst other areas, Insurance, Automotive, Agri-Food & FMCG, IPR & Illicit Trade, Market Access & Non-Tariff Barriers to Trade, and Financial Integration.

### Executive Board

The EU-ABC is overseen by an elected Executive Board consisting of corporate leaders representing a range of important industry sectors and representatives of the European Chambers of Commerce in South East Asia. The Executive Board is led by its Chairman is Mr François Guibert.

### Membership

The EU-ABC’s membership consists of large European Multi-national Corporations and the eight European Chambers of Commerce from around South East Asia. As such, the EU-ABC represents a diverse range of European industries cutting across almost every commercial sphere from car manufacturing through to financial services and including Fast Moving Consumer Goods and high-end electronics and communications. Our members all have a vested interest in enhancing trade, commerce and investment between Europe and ASEAN.



To find out more about the benefits of Membership and how to join the EU-ASEAN Business Council please either visit [www.eu-asean.eu](http://www.eu-asean.eu) or write to [info@eu-asean.eu](mailto:info@eu-asean.eu).

