



EU-ASEAN BUSINESS COUNCIL

**Agenda for the promotion of
trade and investment
between ASEAN and Europe**

April 2015



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FOREWORD



*Mr. François Guibert,
Chairman, EU-ASEAN
Business Council*

The EU-ASEAN Business Council (EU-ABC) was established with one overarching goal in mind: to deepen and grow the existing trade and investment relationship between ASEAN and Europe.

As Chairman of the EU-ABC I am delighted that as part of our ongoing dialogue with our partners in ASEAN we have launched an agenda of policy ideas and recommendations. The measures and recommendations contained in this paper are designed to complement and support the ambitious integration project that ASEAN has embarked upon, and have been developed through an ongoing and extensive consultation with European businesses operating in ASEAN.

The European business presence in ASEAN is significant and growing. The European Union is the largest source of foreign direct investment to ASEAN, and is ASEAN's second largest external trading partner, after China. There are well over 11,000 European businesses with a presence in this dynamic and diverse region, many of whom use South East Asia as the base for their entire Asia operations. Furthermore, this investment and commitment is not one way - ASEAN's FDI to the European Union has doubled in recent years to around €90bn.

European businesses - many of them represented by the EU-ABC - are world leaders in their fields and have much to contribute as the ASEAN region seeks to develop and enhance its competitiveness, overall business environment, regulatory regimes and as it moves towards increased economic integration.

Europe continues to go through its own process of regional integration. Whilst the models of integration might be different, the objectives are similar. Both ASEAN and the EU recognise that by deepening regional integration we can create a more competitive economy, encourage further investment and boost the economic and social development of our regions. The EU-ABC is delighted to play a part in this, and welcomes the opportunity to have an ongoing dialogue on trade and investment issues with our partners in ASEAN and the European Union.

A large blue geometric graphic consisting of several overlapping triangles of different shades of blue, creating a dynamic, abstract shape.

**THE EUROPEAN
UNION IS THE SECOND
LARGEST TRADING
PARTNER OF ASEAN
AFTER CHINA.**

DGTrade, Trade in goods with ASEAN,
August 2014

INTRODUCTION



Mr. Chris Humphrey,
Executive Director,
EU-ASEAN Business
Council

The EU-ASEAN Business Council (EU-ABC) is publishing this agenda of policy recommendations and ideas for the consideration of ASEAN and EU stakeholders in the spirit of cooperation and consultation and as a keen supporter of the economic integration process that ASEAN has embarked upon.

European businesses are fully committed to this region, one of the most dynamic and fastest growing in the world. The European business community looks forward to the formal launch of the ASEAN Economic Community (AEC) at the end of 2015. This is an important milestone in ASEAN's development. It is, however, just the beginning of a longer journey to the creation of a fully integrated and harmonised region and much work lies ahead. The EU-ABC looks forward to helping ASEAN achieve its ambitions in this respect.

The ultimate aim of the EU-ABC is to further the trade and investment relationship between our two regions. A major and ambitious milestone would be the establishment of an ASEAN-EU Free Trade Agreement. In the shorter term, we will support the work of ASEAN and European institutions

on the finalisation of the bilateral FTAs between the EU and ASEAN Member States that are currently under negotiation. We encourage parties on both sides to recommence negotiations where talks have stalled in recent years and to begin the negotiation process with other ASEAN Member States. The EU-ABC also hopes to play a full and active role in any pre-negotiation discussions on an EU-ASEAN FTA and suggests that the European Commission and ASEAN put in place a work programme as a precursor to formal negotiations to examine trade and investment issues between these two complementary trading blocs with a view to ironing out any difficulties: the EU-ABC stands ready to assist in that process.

In addition to supporting work towards the completion of FTAs between the EU and ASEAN Member States, the EU-ABC has a number of policy recommendations to help support the goals of the AEC. These recommendations are set out in detail in this paper and can be summarised as:

- The phasing out and eventual elimination of tariffs within ASEAN;
- The phasing out and eventual elimination of non-tariff barriers (NTBs) to trade within ASEAN;
- Enhanced protection of Intellectual Property Rights and a clamp down on illicit trade;
- The rapid implementation of the ASEAN Single Window and effective ratification and implementation of the WTO "Bali Package" trade facilitation measures;
- The easing of existing customs procedures to make cross-border trade easier;
- The harmonization, alignment or mutual recognition of standards and regulations in various business and industry sectors to ease intra-regional trade and ensure commonality of approach;
- Removal of constraints to long term investments;
- Liberalisation of ownership and control rules in sectors where restrictions on foreign ownership exist;
- Provision of targeted support for SMEs, particularly in the area of financing;
- Implementation of measures to ease the movement of skilled professionals around ASEAN;
- Introduction of greater and improved transparency in the public procurement processes throughout the region; and,
- The formalisation of an ongoing dialogue process involving governments, regulators and business from both Europe and ASEAN as a precursor to formal ASEAN-EU FTA negotiations.

The EU-ABC thanks ASEAN for the opportunity to engage in an ongoing dialogue with our ASEAN partners and looks forward to working with ASEAN as it strives towards the launch of the AEC later this year and develops the post-2015 agenda.

EXECUTIVE SUMMARY

ASEAN and Europe have an already strong trade and investment relationship but more can be done by both sides to further enhance this partnership, improve the commercial environment, and promote greater trade and investment between our two regions. As ASEAN continues to develop and deepen its integration, and in particular as it approaches the formal launch of the AEC in December 2015, now is an opportune time for the European business community to publish its ideas and recommendations to complement the actions that ASEAN and its Member States are already taking as part of the regional integration process.

This paper has been published to coincide with the first of two Heads of Government summits that Malaysia will host as ASEAN chair. It will be presented to economic and trade ministers from across ASEAN, the ASEAN Secretariat, the European Commission and other key stakeholders in ASEAN and Europe. It serves as a starting point for future discussions and will be used in part to inform discussions at the ASEAN-EU Business Summit in August which is to be held on the side-lines of the ASEAN Economic Ministers Meeting. This Summit will bring together representatives of all stakeholders in the EU-ASEAN business dialogue process - European Chambers of Commerce from across ASEAN, representatives from the European Commission, ASEAN and European business leaders, representatives from the ASEAN Secretariat and ASEAN Economic Ministers.

The purpose of this paper is to bring together the initiatives and recommendations developed through a consultation process with European businesses and European Chambers of Commerce in South East Asia. These initiatives and recommendations will act as the basis for an ongoing dialogue on the development of policies, and the revision of rules, regulations and procedures so as to improve the overall business environment, and encourage further investment by European businesses in ASEAN.

In this document we have set out a number of key recommendations which will be supplemented by sector-specific and cross-sector position papers during the course of 2015. A paper on the insurance industry has already been published on 21st March 2015¹.

The recommendations set out below are designed deliberately to cut across different industry sectors or to impact trade and investment more generally. They strive towards the facilitation and acceleration of economic development and betterment in the short to medium term. In the long term, they aim to further ASEAN's progress towards the AEC's ultimate goals, and to create the optimal conditions for a potential ASEAN-EU Free Trade Agreement.

AIM OF EU-ABC RECOMMENDATIONS

Our overarching recommendations cover four broad areas:

- Measures to increase intra and extra-ASEAN trade, including trade with the European Union;
- Measures to improve the investment regime, giving extra confidence to those making investment decisions. The European Union is already ASEAN's largest source of FDI and our recommendations are designed to enhance existing investment protection regimes, therefore encouraging further investment into the ASEAN region;
- Measures to improve the overall competitiveness of ASEAN's business environment;
- Measures to improve dialogue and consultation between Europe and ASEAN.

¹ The Insurance Industry in ASEAN: Engine for Growth and Social Cohesiveness, published on 21 March 2015. See, <http://eu-asean.eu/advocacy/position-papers/>

Table of recommendations

| | | |
|-------------------|---|--|
| Trade | Tariffs | The phasing out and eventual elimination of tariffs to trade for the movement of goods and services within ASEAN and between ASEAN and the EU will lead to enhanced trade and greater investment. |
| | Non-Tariff Barriers | The phasing out and eventual elimination of non-tariff barriers to trade for the movement of goods and services within ASEAN and between ASEAN and the EU, which will spur regional trade, attract investment and ultimately improve consumer choice and innovation. |
| | Intellectual Property Rights and Illicit Trade | Enhanced protection of Intellectual Property Rights and a clamp down on illicit trade will give companies greater confidence to invest and trade in ASEAN, and will provide enhanced protection to consumers whilst also improving government revenues. |
| | ASEAN Single Window & WTO Trade Facilitation Agreement | Rapid implementation of the ASEAN Single Window (ASW) and effective ratification and implementation of WTO “Bali Package” relating to trade facilitation will ease cross-border intra-ASEAN trade. |
| | Harmonisation of customs and immigration procedures | A single, harmonised customs regime, with even-handed and regularised enforcement, would reduce the cost of doing business in ASEAN, make cross-border trade simpler and cheaper, and would make cross-border enforcement mechanisms more effective. |
| Investment | Harmonisation of Standards and Regulations | The harmonisation, alignment or mutual recognition of standards and regulations in various business and industry sectors will ease intra-regional trade and ensure a commonality of approach. Standards and regulations should be in line with accepted International best practice. |
| | Removal of long term investment constraints | Putting in place mechanisms and appropriate tools and systems to promote long term investments in ASEAN will both help to deepen the investment profile of European businesses and assist ASEAN in its long term funding requirements for socio-economic and infrastructure development. |
| | Foreign Ownership | Liberalising foreign ownership rules in sectors where restrictions exist would allow for fair and open competition, increased access to international best practices, and increased Foreign Direct Investment. |

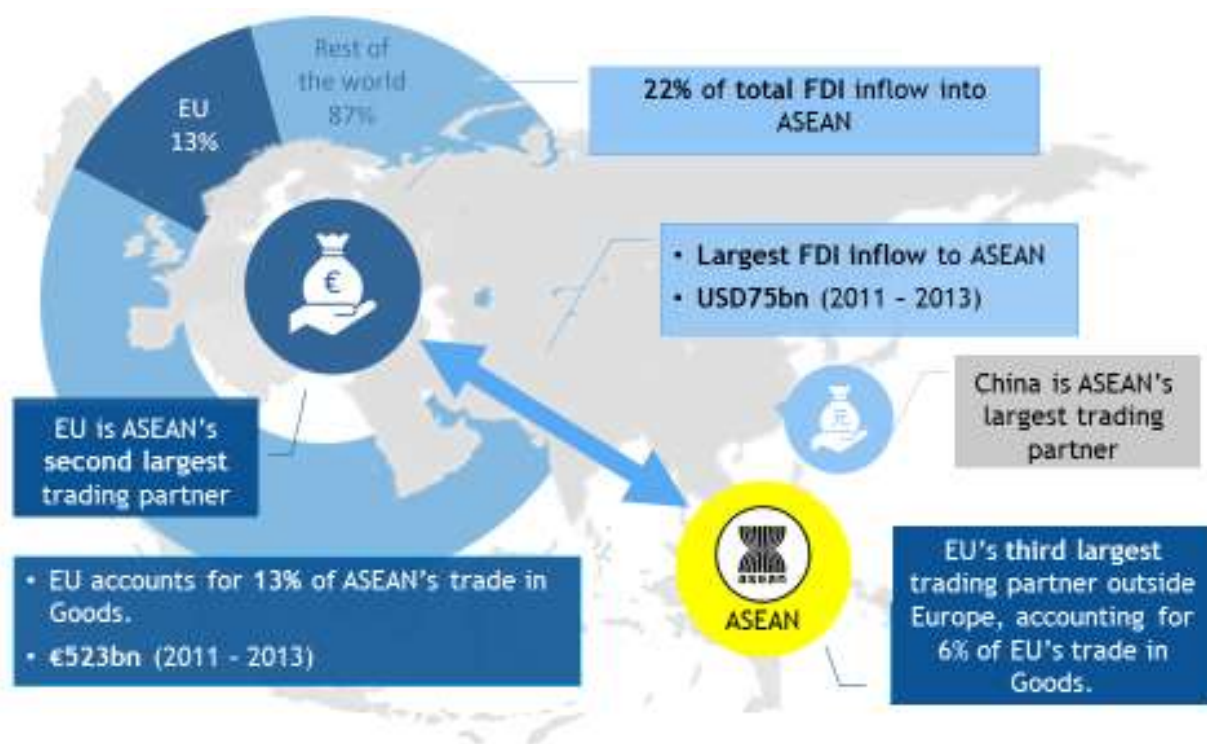
| | | |
|---------------------------|------------------------------------|--|
| Competitiveness | Support for SMEs | Provision of targeted support for SMEs in the region, particularly in SME financing would help promote sustainable economic development and inclusive growth. |
| | Movement of Labour | The implementation of measures to ease the movement of skilled and key staff around the region, including the adoption of an ASEAN Business Travel Card to allow for visa free travel, will aid businesses in the development and deployment of human capital. |
| | Public Procurement | Increased and improved transparency in public procurement processes will mean better and more competitive bids, resulting in greater value for money for governments. |
| Continued Dialogue | ASEAN-EU Mechanisms of Cooperation | Formalised consultative and dialogue process between ASEAN, the EU and business community on the development of trade, investment and commercial policy in both ASEAN and the EU. |

TRADE AND INVESTMENT RELATIONSHIP

Trade and investment between Europe and ASEAN is significant and growing, in both directions. Well over 11,000 European businesses have a presence in ASEAN, many using the region as their base for all of their Asia operations. According to ASEAN, the EU is ASEAN's largest investor accounting for around 28% of external foreign direct investment (FDI) inflows into ASEAN from 2011 to 2013² with some US\$27 billion alone in 2013³. ASEAN's FDI to the EU has doubled in recent years now standing just below €90 billion, demonstrating the importance and interdependence of this bilateral relationship⁴.

The European Union represents the largest single market in the global economy, and the world's largest trader. The EU-28 exported €11.3 trillion worth of goods to the rest of the world in 2013, and imported €11.5 trillion⁵. Taken as a whole, the EU is the largest economy in the world, larger than the United States, with a GDP of US\$18 trillion.

Figure 1: EU-ASEAN Trade and Investment Relationship



The EU's largest trading partner in the world by far is Asia. In 2013, EU imports from Asia totalled €679.2 billion and exports €573.1 billion. European exports to Asia have nearly doubled since 2004 from just €291 billion.⁶

² ASEAN Secretariat, "Foreign Direct Investment Statistics," 8 December 2014 & ASEAN Investment Report 2013-2014

³ ASEAN Investment Report 2013-2014, p.6

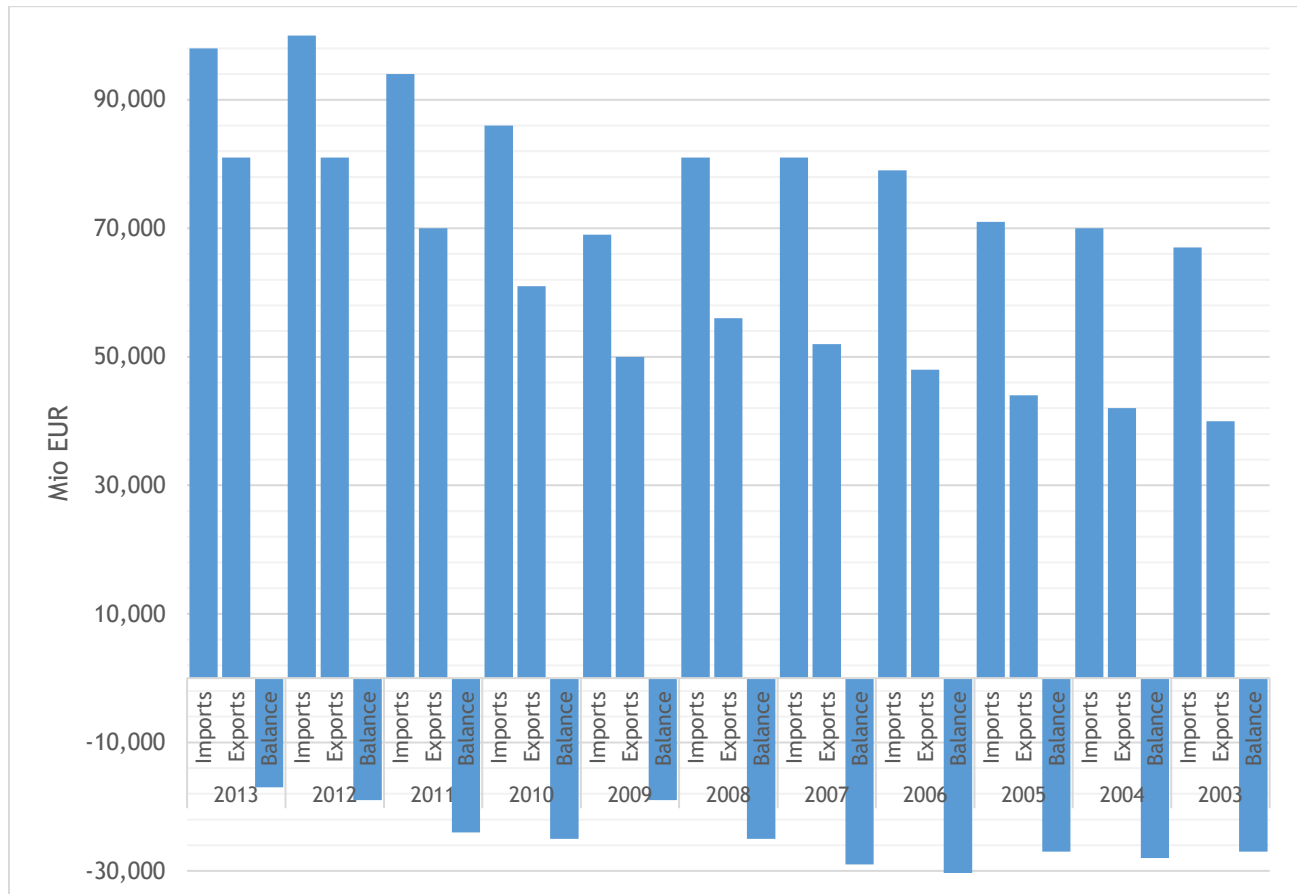
⁴ EU-Singapore Trade & Investment, 2014, European Commission, p.27

⁵ European Commission Directorate General for Trade, "European Union trade in the World," January 2015.

⁶ European Commission Directorate General for Trade, "European Union trade in the World," January 2015.

In the context of Europe's overall trade and investment profile, the importance of the relationship between Europe and ASEAN should not be underestimated. There is a long history between the two regions, driven originally by trade and commerce. That relationship remains as strong and important as ever.

Figure 2: European Union, Trade with ASEAN (2003-2013)⁷



Today, ASEAN is the European Union's third largest trading partner outside of Europe, with trade in goods alone amounting to €191.4 billion⁸ in 2013. The EU is ASEAN's second largest trading partner after China, accounting for around 13% of ASEAN trade. This relationship is growing fast. In the decade between 2003 and 2013, total trade volume between ASEAN and the EU nearly doubled, from €105.8 billion to €179 billion. And the balance of trade is very much in ASEAN's favour⁹.

The trade relationship between the EU and ASEAN is extremely important to both parties. As such, it is the view of the EU-ABC that Ministers, senior officials, multinational corporations and small businesses in both regions should pay more attention to the development and enhancement of trade relations. There has been important progress in recent years to deepen the EU-ASEAN trade relationship. The EU-ABC welcomes the conclusion of the EU-Singapore FTA, the EU's first with an ASEAN member state, and hopes for a speedy ratification process. The EU-ABC is also encouraged by the progress in the EU's bilateral FTA negotiations with Vietnam which we hope can be concluded

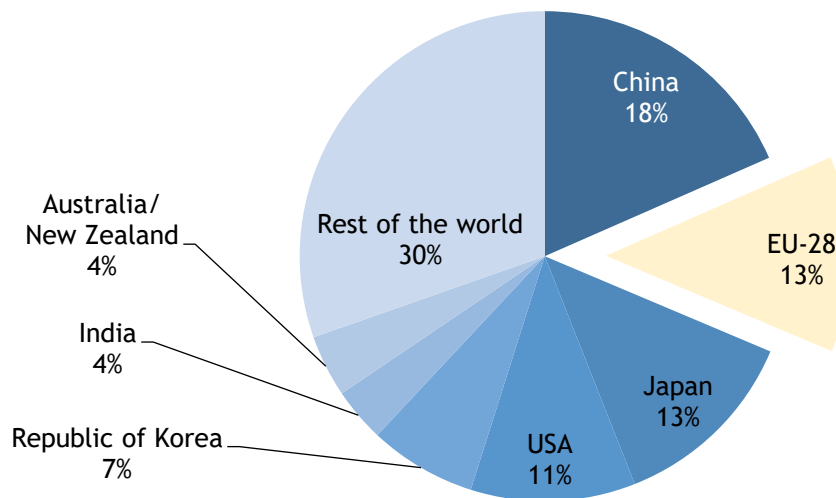
⁷ European Union trade in Goods with ASEAN, August 2014, DGTrade.

⁸ European Union trade in Goods with ASEAN, August 2014, DGTrade.

⁹ ASEAN Merchandise Trade Statistics Database, December 2014, ASEAN

during the course of 2015. We further encourage the recommencement of FTA negotiations with Malaysia and Thailand which have been “parked” in recent years as well as commencement of negotiations with other ASEAN Member States. The launch of negotiations on an investment protection treaty between the EU and Myanmar is also welcomed as is the scoping exercise for an economic partnership with the Philippines currently taking place. Forward momentum needs to be maintained during this critical period in ASEAN’s integration, and the European Commission is encouraged by the EU-ABC to take a more proactive and involved position with regard to ASEAN, especially given ASEAN growing political, economic and demographic importance globally.

Figure 3: ASEAN trade with external trading partners (% Total Trade)¹⁰



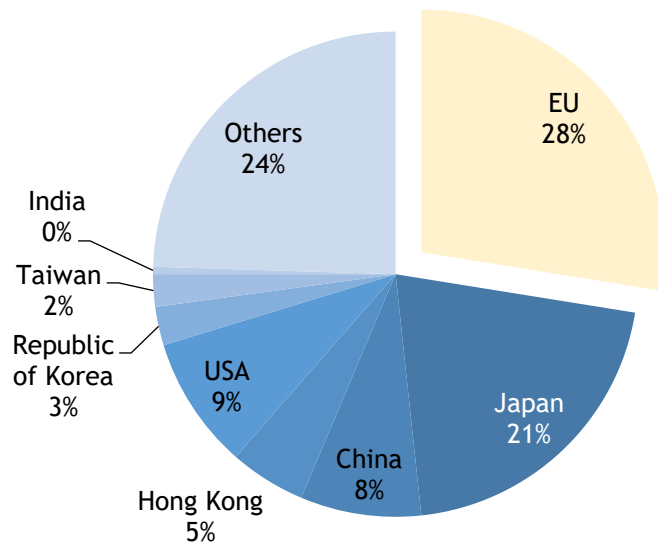
**EU’S TRADE IN
GOODS WITH
ASEAN IN 2013
WAS €32.6
BILLION MORE
THAN US-ASEAN
TRADE IN GOODS**

DG Trade, Trade in Goods with ASEAN, August 2014

There is tremendous potential for ASEAN and the EU to harness their booming trade relationship in service of their larger strategic goals. ASEAN and the EU both emphasise the instrumental role trade plays in achieving their ASEAN Vision 2020 and Europe 2020 goals, particularly in uplifting their populations from poverty, in delivering more and higher quality jobs, and in facilitating cooperation in key innovation sectors such as energy and transportation. This potential will only grow as the ASEAN Economic Community comes into fruition, and as ASEAN reinforces its status as the preeminent economic forum for the Asia Pacific through initiatives such as the Regional Comprehensive Economic Partnership and the ASEAN+3 mechanisms.

¹⁰ Top ten ASEAN trade partner countries/regions, December 2014, ASEAN

**Figure 4: Source of external FDI inflows to ASEAN 2011-2013
(% of total)¹¹**



**THE EU IS THE LARGEST
SINGLE SOURCE OF FDI
INFLOWS TO ASEAN
WITH US\$73BN OF FDI
FUNDS BETWEEN 2011
AND 2013**

ASEAN Foreign Direct Investments
Statistics Database, 1 June 2014

¹¹ ASEAN Foreign Direct Investment Statistics Database, December 2014, ASEAN

THE IMPORTANCE OF ASEAN

The ASEAN region is a centre of global economic activity and key driver of world growth. If the region were to be viewed a single economic entity, in much the same way that Europe now portrays itself, ASEAN would be the world's seventh largest economy, and by some projections rapidly heading to being the fifth largest¹². These facts should be enough to make other trading blocs and the global business community sit up and take notice. There are, however, a range of other positive trends that make ASEAN even more attractive for businesses - its dynamic workforce and growing supply chain connectivity are just a couple.

ASEAN's growth rates have been remarkable and look set to remain so. Across the 10 Member States the average growth rate has been above 5% in recent years. It is predicted to be 5.6% on average for the next five years (see the table below) making ASEAN a continuing bright star in the global economy. As China's own remarkable growth story begins to slow and its focus for growth changes, and India continues to struggle with the need for reform, ASEAN suddenly rises in importance as a place for businesses to look for growth and profits.

Figure 5: Real GDP Growth in ASEAN¹³

Annual Percentage Change

| Country | 2013 | 2019 | 2003-07 | 2011-13 | 2015-19 |
|----------------------|------------|------------|------------|------------|------------|
| Brunei Darussalam | -1.8 | 1.9 | 1.7 | 0.9 | 1.6 |
| Cambodia | 7.5 | 7.3 | 10.6 | 7.3 | 0.1 |
| Indonesia | 5.8 | 6.3 | 5.5 | 6.2 | 6.0 |
| Lao PDR | 8.0 | 7.7 | 7.1 | 8.1 | 7.6 |
| Malaysia | 4.7 | 5.6 | 6.0 | 5.2 | 5.6 |
| Myanmar | 7.5 | 7.8 | - | 6.9 | 7.8 |
| Philippines | 7.2 | 6.3 | 5.7 | 5.9 | 6.2 |
| Singapore | 3.9 | 3.6 | 7.9 | 4.1 | 3.5 |
| Thailand | 2.9 | 4.6 | 5.6 | 3.2 | 4.1 |
| Vietnam | 5.4 | 5.8 | 7.2 | 5.6 | 5.7 |
| ASEAN Average | 5.2 | 5.8 | 5.9 | 5.4 | 5.6 |

The ASEAN story though is not all about the GDP numbers. With around 630 million people, predicted to rise to about 700 million by 2030, a relatively young, economically active and tech-savvy population, a growing middle class, significant urbanisation potential, relatively low inflation, a rapidly increasing Human Development Index and an ambitious integration project which is making good headway, all of the indicators for this largely politically stable region appear to be positive. These are all factors why European businesses are increasingly attracted to the region, and why the European Commission should be paying more attention to ASEAN.

¹² Redrawing the ASEAN Map, Table 2 "What if ASEAN were on country...", Economist Intelligence Unit 2014 - GDP 2013 was US\$2,398bn ranking ASEAN at 7th in the World; projected GDP in 2018 is US\$3,875bn ranking ASEAN at 5th.

¹³ OECD: Economic Outlook for South East Asia, China and India 2015: Strengthening Institutional Capacity. Table 1, p.23

Figure 6: Intra & Extra ASEAN Trade 2013¹⁴

value in US\$ million; share in percent are in percent

| Country | Intra-ASEAN trade | | Extra-ASEAN trade | | Total trade (US\$m) |
|-------------------|-------------------|--------------------------|--------------------|--------------------------|---------------------|
| | Value (US\$m) | Share to total trade (%) | Value (US\$m) | Share to total trade (%) | |
| Brunei Darussalam | 4,488.0 | 29.8 | 10,569.2 | 70.2 | 15,057.2 |
| Cambodia | 4,119.1 | 22.5 | 14,205.0 | 77.5 | 18,324.2 |
| Indonesia | 94,661.8 | 25.6 | 274,518.7 | 74.4 | 369,180.5 |
| Lao PDR | 3,729.3 | 63.4 | 2,155.6 | 36.6 | 5,884.9 |
| Malaysia | 119,032.2 | 27.4 | 315,196.5 | 72.6 | 434,228.7 |
| Myanmar | 9,869.0 | 42.1 | 13,576.5 | 57.9 | 23,445.4 |
| Philippines | 22,786.2 | 19.1 | 96,322.7 | 80.9 | 119,108.9 |
| Singapore | 206,672.3 | 26.4 | 576,593.2 | 73.6 | 783,265.5 |
| Thailand | 103,668.6 | 21.7 | 374,578.7 | 78.3 | 478,247.3 |
| Viet Nam | 39,531.9 | 14.9 | 225,242.1 | 85.1 | 264,774.0 |
| ASEAN | 608,558.3 | 24.2 | 1,902,958.2 | 75.8 | 2,511,516.5 |

In the previous section of this paper we have explained the significant size and extent of the trading relationship between Europe and ASEAN. ASEAN itself, as a region, is a trading hub with the rest of the world. Nearly 76% of total ASEAN trade is with the rest of the world, with only 24% of trade being amongst the ASEAN Member States (compared to around 60% for intra-EU trade and 40% for intra-NAFTA trade). One of the reasons for the AEC process is to help boost intra-ASEAN trade. The fact that intra-ASEAN trade is relatively low, and that ASEAN trades so much with the rest of the world, demonstrates two things of note for European businesses. First, there is huge scope for developing an intra-ASEAN business as, given the expanding economies in the region and the rapid economic and social development growth trends, the domestic markets in the region will grow rapidly. Secondly, ASEAN is demonstrably a place from where companies can set up manufacturing and production bases and then easily trade with the rest of the world - ASEAN's geographical position and its relatively low cost of production naturally lend itself to this position.

Figure 7: ASEAN - Selected Key Macroeconomic Indicators (Dec 2014)¹⁵

| Country | Growth rate of GDP | Inflation rate | Unemployment rate ^{2/} | Total population | Annual population growth |
|-------------------|--------------------|----------------|---------------------------------|------------------|--------------------------|
| | percent | percent | percent | thousand | percent |
| | 2013 | 2013 | 2013 | 2013 | 2013 |
| Brunei Darussalam | -1.8 | 0.2 | 1.7 | 406.2 | 1.6 |
| Cambodia | 7.0 | 4.6 | 0.3 | 14,962.6 | 1.5 |
| Indonesia | 5.8 | 8.4 | 6.2 | 248,818.1 | 1.4 |
| Lao PDR | 8.2 | 6.9 | 1.9 | 6,644.0 | 2.0 |
| Malaysia | 4.7 | 3.2 | 3.1 | 29,948.0 | 1.5 |
| Myanmar | 7.5 | - | 4.0 | 61,568.0 | 1.0 |
| Philippines | 7.2 | 4.1 | 6.4 | 99,384.5 | 1.8 |
| Singapore | 3.9 | 1.5 | 2.9 | 5,399.2 | 1.6 |
| Thailand | 2.9 | 1.7 | 0.7 | 68,251.0 | 0.5 |
| Viet Nam | 5.4 | 6.0 | 3.6 | 89,708.9 | 1.1 |
| ASEAN | 5.2 | n.a. | n.a. | 625,090.5 | 1.3 |

¹⁴ ASEAN Statistics Database¹⁵ ASEAN Statistics Database

In their excellent report, *Southeast Asia at the crossroads: three paths to prosperity*, published in November 2014, the McKinsey Global Institute argued that global flows, a rapidly advancing urbanisation process and technological advances were already transforming the ASEAN region and could collectively boost growth prospects and economic development - with the contribution to growth by 2030 being in the range of US\$1,020 billion to US\$2,130 billion¹⁶. Even at the lower end of their estimates the opportunities in ASEAN would still be remarkable and, at time of slowing or even negative economic growth elsewhere in the world, South East Asia suddenly becomes the place to be for businesses looking for growth opportunities. European institutions, and European businesses should ignore ASEAN at their peril.

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http://www.mckinsey.com/insights/energy_resources_materials/three_paths_to_sustained_economic_growth_in_southeast_asia

KEY CROSS-INDUSTRY RECOMMENDATIONS

The EU-ABC sets out below a number of recommendations that cut across industry sectors. They can be broken down into four distinct areas:

- recommendations to facilitate trade;
- recommendations to facilitate investment;
- recommendations that improve the general competitiveness of ASEAN as a region; and,
- recommendations that promote a continued dialogue between ASEAN and the EU.

They are aligned with the economic development objectives of the ASEAN Economic Community and should be seen as beneficial to the promotion of trade and investment in both directions. They would also form necessary foundations of an ASEAN-EU Free Trade Agreement which if implemented, would be the world's first region to region multilateral free trade agreement. This is undoubtedly an ambitious objective, but one which is within the grasp of Governments on both sides.

PROMOTION OF TRADE

Recommendation 1: The phasing out of all tariffs

The phasing out and eventual elimination of tariffs to trade for the movement of goods and services within ASEAN and between ASEAN and the EU will lead to enhanced trade.

Figure 8: Number of Tariff Lines at 0-5% in the ATIGA Tariff Schedule of 2015

| Country | Number of Tariff Lines | | | Total | Percentage | | |
|--------------------|------------------------|------------|------------|---------------|--------------|-------------|-------------|
| | 0-5% | >5% | Other | | 0-5% | >5% | Other |
| Brunei | 9,844 | - | 72 | 9,916 | 99.27 | - | 0.73 |
| Indonesia | 9,899 | 17 | 96 | 10,012 | 98.87 | 0.17 | 0.96 |
| Malaysia | 12,242 | 13 | 82 | 12,337 | 99.23 | 0.11 | 0.66 |
| Philippines | 9,759 | 35 | 27 | 9,821 | 99.37 | 0.36 | 0.27 |
| Singapore | 9,558 | - | - | 9,558 | 100 | - | - |
| Thailand | 9,558 | - | - | 9,558 | 100 | - | - |
| ASEAN-6 | 60,860 | 65 | 277 | 61,202 | 99.44 | 0.11 | 0.45 |
| Cambodia | 9,406 | 152 | - | 9,558 | 98.41 | 1.59 | - |
| Lao PDR | 9,471 | - | 87 | 9,558 | 99.09 | - | 0.91 |
| Myanmar | 9,507 | - | 51 | 9,558 | 99.47 | - | 0.53 |
| Vietnam | 9,265 | 95 | 198 | 9,558 | 96.93 | 0.99 | 2.07 |
| CLMV | 37,649 | 247 | 336 | 36,232 | 98.48 | 0.65 | 0.88 |
| Total ASEAN | 98,509 | 312 | 613 | 99,434 | 99.07 | 0.31 | 0.62 |

Source: MITI & ASEAN Secretariat, as of January 2015.

Note: for ASEAN-6 there is no difference since 2013

The creation of a single market and production base is the major objective of the AEC Blueprint¹⁷. Boosting intra-ASEAN trade and connecting local suppliers to the international supply chain is a major policy objective of ASEAN and the ASEAN Member States. The removal of tariffs is a major step towards realising this goal and the EU-ABC calls for removal of outstanding tariffs within ASEAN. Implementation has not been uniform across ASEAN and despite the welcome progress made (almost 98% products traded in the region are now tariff-free and 99%

are in the 0% to 5% range) there are many sectors where there still exists prohibitively high import tariffs which constrain trade and encourage the development of an unofficial economy: this is particularly true amongst the CLMV¹⁸ group in ASEAN. The table¹⁹ here provides the latest situation in ASEAN on tariff elimination: disappointingly it is not materially different to the situation in August 2014 when the EU-ABC last reported on this issue²⁰ and there are still a number of tariffs that need to be addressed.

¹⁷ Declaration on the ASEAN Economic Community Blueprint, 20 November 2007, Paragraph 1.

¹⁸ Cambodia, Lao PDR, Myanmar and Vietnam.

¹⁹ http://www.miti.gov.my/storage/documents/8cc/com.tms.cms.document.Document_34e355ca-c0a8156f-66d53ea4-55ccf350/1/ExtractPage1-latest.pdf

²⁰ EU-ABC: Promoting Trade & Investment Between ASEAN and Europe, August 2014, p. 6


Recommendation 2: Removal of non-tariff barriers to trade

The phasing out and eventual elimination of non-tariff barriers to trade for the movement of goods and services within ASEAN and between ASEAN and the EU will spur regional trade, reduce protectionism and ultimately improve consumer choice.

Non-tariff barriers (NTBs), which include items such as import quotas, inconsistent licensing arrangements and regulatory measures, and restrictions on the import and distribution of goods, distort trade and increase costs to the end consumer. Non-tariff measures (NTMs) are defined as all policy-related trade costs incurred throughout the entire lifecycle of a product from production to final consumption, excluding the tariff itself. NTMs can be broadly categorised into para-tariff measures, quantity control measures, technical measures and monopolistic measures.

The EU-ABC welcomes ASEAN's commitment to eliminating NTBs across the region. This is imperative if the benefits of tariff reduction are to be fully realised and not obviated through the imposition of additional NTBs, and if the cornerstone of the AEC, the free movement of goods, is to be achieved. The EU-ABC supports ASEAN Member States' work at the national and regional levels to eliminate NTBs but notes that there is considerable process to be made in this area and in some cases NTBs appear to be increasing rather than decreasing. Removal of NTBs should be a priority for the region and the EU-ABC has exchanged ideas with ASEAN on some short and medium-term goals that would help the process of removal accelerate and achieve real benefits for all companies trading and operating in ASEAN. A number of actions could help expedite the elimination of NTBs:

- Publishing a clear roadmap of staged reductions and phase-out with action plans at both the regional and ASEAN member state level;
- Removal of unclear or opaque wording in rules and regulations pertaining to the import and export of goods;
- Establishment of a dialog platform to speed up Government to Government communications for the exchange of information pertaining to trade in goods;
- The creation of a truly independent and neutral third party NTB observatory to assess and identify current, new and emerging non-tariff barriers to trade²¹.



**“FREE FLOW OF
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WELL”**

ASEAN Economic Community
Blueprint, November 2007

²¹ The EU-ABC recognises that a pilot project for this is actively being pursued by several ASEAN Member States with the assistance of the EU's ARISE project (ASEAN Regional Integration Supported by the European Union).

Figure 9: Most Prevalent NTBs by Tariff Lines in ASEAN²²

| Non-tariff Barrier | Number of Tariff Line Affected |
|------------------------------------|--------------------------------|
| Customs surcharges | 2,683 |
| Additional Charges | 126 |
| Single Channel for Imports | 65 |
| State-trading Administration | 10 |
| Technical Measures | 568 |
| Product Characteristic Requirement | 407 |
| Marketing Requirements | 3 |
| Technical Regulations | 3 |

Below the EU-ABC has set out some areas where we believe NTBs could be effectively tackled in the short to medium term. Some of these points are also dealt with in later recommendations below. The former group, we hope, represent some “low hanging fruit” which could be easily and readily achieved in 2015 so as to demonstrate intent and create momentum across the region. The latter section contains those market access issues that we believe will take longer to resolve, but for which some real progress in developing positions and policy frameworks could be made in 2015 which should, ideally, then lead to firm timelines for the reduction and removal of those barriers. Issues relating the easing of Customs procedures across the ASEAN region are dealt with under Recommendation 4 below - these items, are deemed significant enough by the EU-ABC to be worthy of their own and separate recommendation.

The proposals cut across different industries, some are specific to one particular area and others cover multiple areas.

Short Term Objectives (for 2015)

Cross-Industry:

Rules of Origin: The EU-ABC wishes to see the rapid harmonisation and implementation of the Rules of Origin and Local Content regulations within ASEAN with:

- Alignment of the definition of Rules of Origin and the 40% local content requirements across the region; and,
- Alignment of the certification processes for Rules of Origin and Local Content across the region.

Product Standards and Testing: The EU-ABC calls for all local standards to complement internationally recognised standards, and where standards compliance testing is required, it is important that the testing infrastructure can cope with demand so as not to unnecessarily hinder trade.

Agri-Food:

Harmonisation of labeling requirements and product definition with international standards (e.g. CODEX Alimentarius for food labeling): Current regulations in these areas vary a lot across ASEAN markets, creating barriers to international trade and undermining the level playing field. The EU-ABC calls for labeling requirements - including Halal labelling - to be harmonised across ASEAN.

²² Source: ASEAN, <http://www.asean.org/communities/asean-economic-community/item/non-tariff-barriers>

Establishment of food traceability system: This is a key tool to ensure consumer safety (e.g. food recall). It will also facilitate governments' supervision over the markets and effectively protect industry players' legitimate rights. The EU and European business has extensive experience readily available for reference.

Acceleration of food product registration process: Product registration procedures in ASEAN markets are often excessively long caused by limited capacity in the national food registration offices and lack of mutual recognition agreements with the source countries of food products. Testing of food products upon import tends to be overly strict in some countries, also causing delays.

Automotive:

Mutual recognition and eventual alignment of automotive products with international UNECE standards: EU-ABC recommends that ASEAN should aim to achieve a single regulatory regime by the end of 2015. To this end, the ASEAN member countries should work towards the:

- (a) Either the Adoption of the 19 priority UNECE technical standards that have been identified by the Automotive Working Group (APWG) under the ASEAN Consultative Committee on Standards & Quality or at least to the mutual recognition of these standards.
- (b) Implementation of identical testing methods and procedures for these standards across the region.

Consolidation of the homologation processes: EU-ABC recommends to create a single regulatory regime for approval and homologation processes across ASEAN. To this end, the ASEAN members would, ideally:

- (a) Mutually recognise test reports from other ASEAN member countries.
- (b) Recognise approvals based on agreements of the World Forum for Harmonisation of Vehicle Registrations (WP29).
- (c) Accept test reports performed by qualified third parties.

Local standards, not being aligned with international standards, will hinder export opportunities for local suppliers, since their products do not comply with those international standards.

Local standards, not being aligned with international standards, will also limit inward investment since the international and domestic supply chain opportunities are fragmented, and the cost of complying with two different standards is burdensome.

Cross Border Road Transport:

ASEAN Framework Agreement For Goods in Transit: The EU-ABC urges that this Agreement enter into force fully during the course of 2015.

Common Transit System: To aid in the acceleration of the implementation of a common transit system, the EU-ABC respectfully requests the Customs Procedures and Trade Facilitation Sub-Working Group on ASEAN Customs Transit System to engage with the private sector and allow the private sector to share industry views on transit procedures in their meetings. We believe that this would enhance the understanding of policy makers of the situation faced by companies on the ground and support implementation of a common customs transit system in ASEAN, which would in itself aid the movement of goods around the region.

Medium Term Objectives (for a clear road map to be established in 2015)

Cross-Industry:

Foreign Ownership Rules: Restrictions on majority controlled or wholly foreign owned businesses exist in a number of sectors to varying degrees across ASEAN (e.g. Financial and insurance services, transportation and logistics). Such restrictions distort competition, adversely affect consumer choice, and can inhibit the competitiveness of domestic companies in the medium to long term by protecting their markets in the short term. The EU-ABC would like to work with ASEAN Member States to establish a road map for removing such restrictions wherever possible and in the meantime look to work during the remainder of 2015 to ensure that the target dates for liberalisation of the rules governing foreign ownership set out in the AEC Blueprint are at least adhered to.

Agri-Food:

Import Tariffs and Excise Tax Systems: The EU-ABC wishes to see a reduction in import tariffs and removal of discriminatory excise tax systems where they exist especially on products like beverage alcohol. Such a move would minimise incidence of non-tax paid activity, grow government revenue and help protect consumers from illicit trade.

Labelling and Distribution Restrictions: The EU-ABC recognises the importance of Halal labelling but calls for a standardised approach to Halal labelling across ASEAN. Further, excessively sized packaging requirement regulations for health warnings commonly targeted on consumable products (e.g. alcohol, foods and tobacco) will undermine intellectual property rights and can result in unintended consequences, such as an increase in the prevalence of counterfeit products. The EU-ABC calls for an ASEAN-wide approach to this issue and for industry to be fully consulted.

Distribution Restrictions: Restricted products such as alcohol are sometimes subject to arbitrary distribution restrictions. The EU-ABC calls for the application of proper and sufficient consultation with industry before further such changes to distribution are implemented.

Automotive:

Fuel Quality & Emissions Standards: The introduction of higher fuel qualities and emission standards across the region is a pre-requisite for the introduction and production of more environmental-friendly low emission technologies and propulsion systems in ASEAN. EU-ABC recommends the development of a concrete implementation roadmap that leads to more stringent fuel qualities and emission standards across ASEAN. Different fuel qualities across ASEAN hinder transport since one truck cannot refuel in all countries. In addition, low fuel qualities hinders export opportunities as outdated fuel technologies will not be accepted in key automotive markets. Low fuel quality also discourages inward investment in the local transport sector as only the local market can be served. With these in mind, the EU-ABC calls for the introduction of higher fuel standards consistently across ASEAN.

CO₂ Based Taxation Schemes: Environmental issues are becoming a major factor in society and the automotive industry. Therefore, EU-ABC recommends the introduction of vehicle taxation schemes that are based on the CO₂ emission output per vehicle across the ASEAN countries, with technology-neutral regulations independent of the power-train technology and will therefore support the adoption of the cleanest available vehicles independent of their drive type.

Cross Border Transport:

Common Transit System: In order to facilitate and ease cross border intra-ASEAN trade, the EU-ABC seeks the acceleration of on-going efforts to have one common transit system, including customs, transportation and transit licensing. These transit procedures should include simplified

and harmonised customs documentation, electronic data submissions and expedited border procedures for transiting vehicles. Additionally, the harmonisation of vehicle and driver standards to avoid changing of vehicles and drivers at each border crossing point would also reduce transportation costs and simplify the supply chain.

Recommendation 3: Implementation of the ASEAN Single Window & WTO Trade Facilitation Agreement.

Rapid implementation of the ASEAN Single Window and effective ratification and implementation of WTO “Bali Package” relating to trade facilitation will increase cross-border intro-ASEAN trade and ultimately contribute positively to economic growth and regional integration.

In the short term, making the ASEAN a “single market and production base” requires the implementation of the ASEAN Single Window (requiring the interconnection of Member States’ National Single Window systems for Customs clearances) and a consistent application throughout ASEAN of the existing Free Trade Agreements (ATIGA, as well as the ASEAN+1 FTAs). Interpretation guidelines should be issued to avoid diverging implementation by different member countries and different customs offices within ASEAN Member States.

In particular, Rules of Origin (ROO) need to be applied consistently across Member States as well as in Free Trade Zones (FTZ) within Member States. FTZ ROO should be aligned with ATIGA’s, i.e. the same standards and processes need to be applied whether an FTZ-manufactured good is exported to a member party or sold domestically, out of fairness for the member parties and in the own interest of the concerned country (to avoid imported products to be preferred over locally-manufactured parts). This alignment with ATIGA should include the possibility for companies to resort to the Direct Method to prove their Regional Value Content (RVC) content and to non-RVC criteria when allowed (ex. CTC, product list rules).

Finally, the FOB pricing description requirement for the Certificate of Origin should be abolished without exceptions (like it is in the case on the Form A to Europe), as an impediment to trade involving intermediary parties (it was removed early 2014 from a number of ASEAN-related FTAs but only in limited cases). This required harmonisation of rules will also pave the way for the expected realisation of the Regional Comprehensive Economic Partnership (RCEP).

The effective ratification and implementation of the WTO December 2013 “Bali Package” focused on Trade Facilitation measures is also strongly encouraged, including:

- Publication of Laws, Regulations and Procedures (Article 1); including via the internet and in particular with regard to import, export and transit procedures;
- Opportunity to comment and receive prior information on new/amended laws and regulations pertaining to the movement, release and clearance of goods (Article 2);
- Provision for Advanced Rulings (Article 3); with a notification in writing, setting out the relevant facts and basis for the rejection will have to be issued when the case may be;
- Appeal or review procedures (Article 4); incl. the right of administrative and judicial appeal on Customs related matters (e.g. Customs Rulings and decisions);
- Fees and charges imposed on or in connection with importation and exportation (Article 6); required to be limited to only the approximate costs of the services rendered by Customs, with info on the rationale, responsible authority and payment mode;
- Tighter measures on customs penalties (Article 6); including measures to avoid conflicts of interest and refrain from the creation of incentive program for the collection/assessment of penalties;

- Adoption of measures relating to the release and clearance of goods (Article 7); which may facilitate customs clearance processes, incl. pre-arrival processing, risk management-based system to expedite the release of low risk consignments, electronic payment facilities, release of goods prior to determination of customs duties, taxes, fees and charges, provide additional trade facilitation measures for authorized operators (“AEO”).

The EU-ABC encourages ASEAN Member States to include these measures as their Category A commitments (i.e. implemented immediately upon the agreement’s entry into force) upon the ratification of the Trade Facilitation Agreement. The EU-ABC would also be open to discussing how best to deliver capacity building to assist with the implementation of commitments taken under the trade facilitation agreement.

Recommendation 4: Easing of existing Customs procedures across ASEAN to ease intra-ASEAN trade

In addition to the ASEAN Single Window and the ratification of the Bali Package, there are measures that could be taken relatively quickly by ASEAN Member States to assist cross-border trade.

Industry generally views the easing and liberalisation of customs procedures as a priority area under the AEC. The EU-ABC, therefore, hopes that ASEAN Member States will move quickly in this key area in order to facilitate increased trade between the Member States of ASEAN. EU-ABC additionally hopes that the private sector will be consulted in this area, particularly on ASEAN Customs Transit System (ACTS) through the ASEAN Working Group on Customs Procedures and Trade Facilitation. Of equal importance to the easing of customs procedures though is ensuring the even-handed and consistent application of customs rules, regulations and procedures within ASEAN Member States and across the region as a whole.

Efforts to further harmonise and simplify customs and border formalities between ASEAN countries will improve the speed of business and reducing transaction costs in the supply chain, thus delivering benefits to both consumers and businesses. This enhances the attractiveness for trading with, and investing in, ASEAN and would be in line with ASEAN’s priority objectives in improving connectivity and integration to support enhanced and inclusive economic growth. Moves in this key area would undoubtedly help SMEs across ASEAN who are currently deterred from trading across borders because of the complexity of procedures involved.

A recent report from Frontier Economics²³ identified 10 areas where Customs controls could be simplified and found that implementing any one of them could boost trade by over 4% for the country improving its customs capabilities. This is not an insignificant amount and surely the benefits of such moves would outweigh any perceived or actual losses of customs revenues or oversight.

Below the EU-ABC presents several proposals on short and long-term priorities for streamlining customs regulations across the region which would showcase some concrete achievements towards the AEC whilst also boosting trade within the region. Items might include:

²³ Express Delivery and Trade Facilitation: Impacts on the Global Economy - A report prepared for the Global Express Association - January 2015.

- Acceleration of the implementation of the ASEAN Customs Transit²⁴ System;
- Full ratification and implementation of the ASEAN Framework Agreement For Goods in Transit (AFAFGIT)²⁵;
- Implementation of a Common De Minimis Baseline across ASEAN - perhaps phased in over a set period of time with a target of USD200²⁶;
- Adoption of electronic data interchange for customs declaration and clearance;
- Abolition all dual language requirements in customs declarations;
- Adoption of an ASEAN risk management systems rather than relying on excessive physical inspections;
- Increased reliance on pre-arrival clearances and post customs audits;
- Simplification of data elements, paperwork requirements, and the abolition of duplicative procedures;
- Reduction of discretionary powers of frontline customs at border entry points;
- Allowing for recourse by traders to challenge disputes with frontline customs;

The EU-ABC further urges the implementation of the WCO Immediate Release Guidelines and the Revised Kyoto Convention and encourages the application of standardised trade data and documents for trade facilitation through the adoption of international standards. The EU-ABC also calls for the standardisation of customs procedures and requirements across ASEAN and full transparency when amendments are made to the dutiable value of goods to help improve industry understanding and dialogue.

PROMOTION OF INVESTMENT

Recommendation 5: Protection of Intellectual Property Rights and a clamp down on illicit trade

Enhanced protection of Intellectual Property Rights and a clamp down on illicit trade will give companies greater confidence to invest and trade in ASEAN, and will provide enhanced protection to consumers whilst also improving government revenues.

Many businesses invest significant resources into product development - from pharmaceutical companies and hi-tech manufacturers to software development enterprises. In order to incentivise innovation and research it is important that businesses that have made significant investment in these areas are able to recover the costs of this investment. IP protection plays a major role in this.

IP protection not only encourages investment in innovation and research, but also protects consumers. For instance, in the pharmaceutical industry, the World Health Organisation has highlighted

²⁴ **ASEAN Customs Transit System:** ASEAN has committed to introduce the ASEAN Customs Transit System to facilitate the free movement of goods, initially for the land linked Member States. Through the “ASEAN Regional Integration Support by EU” (ARISE) funding has been provided to develop the software system which will be piloted in Singapore, Malaysia and Thailand - The piloting will commence in April 2016.

²⁵ **ASEAN Framework Agreement For Goods in Transit:** This is an agreement designed to facilitate the free movement of goods around ASEAN guided by the ASEAN Free Trade Area and to facilitate and harmonise, amongst other things, customs procedures. Not all Protocols of AFAFGIT have been ratified by all Member States of ASEAN.

²⁶ The EU-ABC urges ASEAN to implement a common de minimis baseline of USD 100, moving towards USD 200. This baseline could be introduced gradually with longer timelines for the least developed countries. We would in this regard like to point out the substantial benefits of an ASEAN de minimis, estimated in a study at USD 55.2 million per year for Indonesia, Malaysia, the Philippines, Thailand and Vietnam with a de minimis threshold of USD 100, and USD 109.2 million with a USD 200 threshold.

counterfeit and substandard medicine as a priority given the alarming amount of unsafe medicine that is made available through illicit border trade and over the internet. For example, counterfeit medicines have been found to be a contributor to the increasing prevalence of drug-resistant strains of malaria and tuberculosis. Counterfeit alcohol and tobacco is also an issue across parts of ASEAN, representing both a significant health risk to consumers as well as loss of revenue to Governments and manufacturers alike.

To protect intellectual property and counter illicit trade the EU-ABC has developed a six point plan for strengthening IP protection:

- Development of a consistent and harmonised patent regime across ASEAN, including an official cooperation program among key ASEAN law enforcement agencies to share intelligence and to work with brand owners;
- Speeding up the patent application and approval regime so that the useful term is maximised;
- Increasing the capacity of enforcement agencies to clamp down on counterfeit goods and the enforcement of patents and the granting of customs agencies clear jurisdiction over goods in transit in FTZs;
- Stronger enforcement measures and a regional approach to deal with counterfeit goods in transshipment;
- Increasing public awareness on counterfeiting and smuggling to highlight the negative impacts on health and safety, and the potential legal consequences;
- Implementing technology standards on product authentication and tracking and tracing that rely on open standards such as GS1 global standards, and are easy to use and affordable by all parties (e.g. using smart phone technology) to help in securing the supply chain.

Recommendation 6: Regional harmonisation of standards and regulations

The harmonisation or alignment of standards and regulations in various business and industry sectors will ease intra-regional trade and ensure a commonality of approach. Standards and regulations should be in line with accepted International best practice.

Regional harmonisation is important if ASEAN is to fully realise the benefits of its huge economic potential. By acting with a common voice, ASEAN will gain more influence in the world and will be able to play a much bigger role in the global financial and economic system. Regional harmonisation cuts across many industries. At an overarching level the EU-ABC calls for the harmonisation of regulatory regimes across ASEAN, the mutual recognition of rules, licenses, skills and qualifications, and the harmonisation of cross-border platforms and procedures such as payment systems.

The benefits of harmonisation and standardisation are:

- More efficient industries;
- Reduced cost of compliance;
- More effective cross-border regulation;
- A truly single market and production base;
- Greater economic and political influence for ASEAN on the world stage.

Some examples of where the current lack of harmonisation hinders trade are given below:

As noted above, In the **Automotive industry**, depending on domestic requirements, different approval and homologation processes have been observed in ASEAN. Local agencies often require manufacturers to comply with local mandatory certification standards on top of the international standards that already need to be adhered to. This redundancy has a substantial impact on the cost

and time spent due to the unnecessary duplication of processes, as one test report/audit accepted by one agency is not accepted by other agencies. More importantly, this will have a direct impact on the development of the concept of a single manufacturing base in ASEAN to allow free flow of automotive products within the region. Hence, this will further hinder the investment opportunities in ASEAN, which will in turn prevent the region from becoming a global automotive player as it would only be able to serve domestic markets. This consolidation of approval and homologation processes will also facilitate the formation of a single regime for future regional agreements with other key trade partners such as the European Union.

For the **financial services sector**, whilst the move towards the ASEAN Economic Community is welcomed and encouraged, the European financial services industry would like to see greater movement towards a more meaningfully integrated financial region. As with European financial integration, and other examples around the world, financial integration should focus on the citizens of ASEAN and ensure that while they are safe, everything is clear and transparent. By doing this ASEAN will have greater influence on the global policy making stage and will bring significant economies of scale advantages to the region. As an example, the single user experience created by the Single Euro Payment Area enhances what a consumer faces and allows a consumer to have the comfort of knowing how payments and other transactions are carried out across the region. The transparency created by standardisation of payment platforms, payment instruments and the procedures allows for a safer environment for citizens and visitors. Regulatory harmonisation reduces the cost of compliance for financial services firms operating regionally and would encourage longer term investments. A more efficient industry has more resources to invest and support the real economy.

For ASEAN to develop the financial markets in a significant and substantive manner with meaningful impact in the short, medium and long term there should be attention put to a few areas. These focal areas fall into both the domestic and the regional spaces. In the domestic space, the build-up of financial market infrastructure, the institution of standards and a common platform are necessary. At the regional level, the establishment of a plan toward building a common technical substructure for the financial markets is essential. In those nations where there is no infrastructure to date to facilitate financial services, international standards and best practices should be studied to ensure that any implementation yields a system that will not have to be replaced at a later date to comply with ASEAN financial integration or with international standards and best practices.

In both the domestic and the regional spaces the achievement of financial literacy is paramount; literacy ultimately leads to financial inclusion. There must be a unified and concerted push by governments to ensure that people are aware of what the financial services industry is capable of providing, what citizens' rights are, how to use financial services and a basic understanding of financial instruments.

Agri-Food is regarded as a key industry for both the ASEAN region and Europe. Global dynamism and regional integration bring about market opportunities; however, certain challenges remain as to applicable measures and regulations affecting the European food and beverage industry in ASEAN. When considering any changes or new rules and regulations, the EU-ABC believes that a formal consultative process should be developed and followed by all government entities. The consultative process should include sufficient advance notice of public hearings, public dissemination of public hearing outcomes and feedback and comments from the relevant authorities on important issues concerning the industry. The European Agri-Food industry encourages co-ordination between governmental bodies to ensure that laws and regulations are consistently implemented.

Recommendation 7: Liberalisation of Foreign Ownership Rules

Liberalising foreign ownership rules in sectors where restrictions exist would allow for fair and open competition, increased access to international best practice, and increased Foreign Direct Investment.

Restrictions on foreign ownership discourage the creation of a competitive business environment, obstruct access to growth capital, hinder the flow of trade and investment, discourage the transfer of technology, and limit the growth of entire industries. Restrictions currently apply, for example, in the transportation/logistics industry, financial services and in pharmaceuticals and can undermine economic competitiveness and lead to increased costs both for industry and for consumers. Whilst the EU is presently the largest foreign direct investor into ASEAN, there is little doubt that European businesses would invest more in the region if some of the restrictions on ownership and control in certain sectors were phased out or removed altogether.

The Financial Services sector provided a prime example of where restrictions on ownership and control exist. A number of ASEAN countries do not allow foreign investors to own 100% of their companies in the financial services sector. Allowing for ownership provides confidence for investors; drives faster and deeper investment; and, leads to enhanced market growth. This has significant benefits for the local economy. For example, the life insurance and pension sector supports a country's social and economic growth in the following ways:

- Bringing protection, financial security and proper pensions to the people;
- Establishing long-term domestic capital markets, thus reducing the reliance on foreign debt and creating market liquidity;
- Mobilising domestic savings into productive capital; and,
- Encouraging investment in the wider economic development of the country, such as in infrastructure projects

The EU-ABC would like to work with ASEAN Member States to establish a road map for removing such restrictions wherever possible, bearing in mind the natural desire in some circumstances to allow time for local businesses to adapt to new trading environments, and in the meantime look to work during the course of 2015 to ensure that the target dates for liberalisation of the rules governing foreign ownership set out in the AEC Blueprint are at least adhered to.

In particular, the EU-ABC calls for:

- The continued liberalisation of foreign ownership rules and limits across ASEAN, with a view towards the eventual lifting of all foreign ownership restrictions;
- Clarification of current foreign investment limits across all sectors, especially those not covered by negative lists;
- Commitment to the principle that legislation, particularly regarding foreign ownership, is not retroactive. This would give businesses confidence that their investments are safe and durable in the long term.

Recommendation 8: Easing of Long Term Investment Constraints

ASEAN Members States should build on the agreement reached by Singapore, Malaysia and Thailand to facilitate more cross-border fund raising, cross-border product distribution, cross-border investment and to facilitate market access by intermediaries.

The long term investment requirements for ASEAN are well known and documented. The infrastructure requirements over the next fifteen years are themselves staggering in proportion, and yet mechanisms and policy instruments to allow the adequate and cost effective funding of those requirements are virtually non-existent throughout much of the region. The global infrastructure investments needs till the year 2030 are estimated to be in the range of US\$50-70 trillion, with Asia becoming more important (from 29% to 33% of the global share) (Source: Swiss Re). Some commentators have put the requirements in ASEAN alone (covering items such as housing, schools, hospitals, transportation links and power generation) to be in the region of US\$7 trillion²⁷. To fund these requirements ASEAN will need to harness private sector investment funds.

It is a fact that Insurance companies are amongst the largest global investors owning about US\$24.1 trillion of investments, expected to grow to US\$35.1 trillion by 2020 (Source: PWC 2014). In contrast to other major institutional investors, the majority of insurance companies liabilities are not callable, but are long term in nature. Traditionally the largest part of insurers' investment portfolios is allocated to fixed income assets, with the objective to immunise interest rate risk generated from the underlying liabilities. But with long term interest rates at abnormally low levels, long term investors are forced to reconsider their target asset allocations.

There is significant potential for insurers, and similarly minded institutions, to make long term commitments, but current regulatory and policy restrictions in the ASEAN region are notable:

- pro-cyclical bias of regulation;
- punitive capital treatment of long duration investments;
- shortage of long-term bonds, both private and public;
- lack of credit rating facility for infrastructure project funding and constraints on using internal risk ratings;

The Importance of long term liability driven investors should not be compromised, especially given the needs within ASEAN. Such investors support economic growth, can have stabilising effects on financial markets and provide market liquidity. In this respect, there are some key critical developments to consider to foster long term investments, notably:

- mitigate policy uncertainty and avoid pro-cyclicality of regulation, strengthening investors' rights and avoiding perverse effects such as forcing long-term investors to sell at market low points;
- incentivise long term investments, by appropriately reflecting economic risks under solvency regimes. Examples include:
 - take account of the risk management capability of investors when allocating a capital charge;
 - take account of credit seniority, asset collateralisation and credit guarantees (e.g. CGIF, ADB) in assessing the risk associated with investments;
 - promote information sharing and disclosure to improve credit evaluations; and,
 - take proper account of the diverse nature of an institutions investments when allocating capital charges;
- harmonisation of legislation and documentation for infrastructure investments;

²⁷ Southeast Asia at the crossroads: three paths to prosperity, McKinsey Global Institute, November 2014

- regulations should take account of the low default ratio and relatively high recoverability rate of investments in the infrastructure sector;
- empower international financial institutions and development banks to develop best practice for infrastructure funding;
- work with long-term investors on the development of a long-term bond market, and a greater role for bond issuance, as opposed to bank lending, in business finance.

To facilitate the sustainable establishment of an infrastructure market in ASEAN, the EU-ABC is happy to explore current barriers to investment and potential developments in more details at a later stage. In the meantime, we believe that ASEAN Members States should build on the agreement reached by Singapore, Malaysia and Thailand to facilitate more cross-border fund raising, cross-border product distribution, cross-border investment and to facilitate market access by intermediaries. Opening up the local markets to access cross-border investment opportunities will help facilitate the growth of capital market and asset and wealth management. Freedom to invest across borders will attract more investors which, in turn, helps to diversify large project risk.

PROMOTION OF A COMPETITIVE BUSINESS ENVIRONMENT

Recommendation 9: Support for SMEs

Provision of targeted support for SMEs in the region, particularly in SME financing would help promote sustainable economic development.

SMEs are the backbone of ASEAN's economy and measures to internationalise SMEs and fully integrate them into the regional and global supply chain will increase overall economic development, provide sustainable employment opportunities, and introduce welcome further competition into the business landscape. ASEAN's SME Masterplan is an ambitious initiative that will help SMEs from across the region grow substantially. In a globalised world, where intra-ASEAN trade is seen as essential to unlocking the full potential of the region, it is important that a regional approach is taken to facilitate the growth of SMEs in ASEAN. From a financial services perspective there are a number of cross-border and national policies that could be put in place to dramatically facilitate SME growth. Some of these include:

- Work to improve corporate governance at the SME level and to enhance information transparency to make it easier for SMEs to access finance;
- Establishing effective personal and corporate credit bureaus to allow the financial sector to make informed lending decisions;
- Improving access to finance and financial literacy for micro-entrepreneurs, social enterprises and SMEs;
- Ongoing engagement with governments on the development of policy, including establishing and improving access, quality and quantity of information on credit bureaus, working with regulators on the design and implementation of payments and clearing systems and the development of electronic documentation to facilitate trade.

Recommendation 10: Facilitating the development and movement of skilled labour

The implementation of measures to ease the movement of skilled and key staff around the region, including the adoption of an ASEAN Business Travel Card to allow for visa free travel, will aid businesses in the development and deployment of human capital.

The movement of human capital across borders is vital to ensure that the manpower needs of business - large, medium and small, MNCs, local companies or regionally established entities - can be efficiently met. There are still substantial restrictions in place and ASEAN should look to further build on progress already made in this area. Whilst it is understandable that countries will wish to maximise the employment opportunities of their own citizens, manage pressures on public services and ensure any immigration is sustainable, a relaxation of cross-border labour restrictions for targeted and skilled human capital needs would boost economic growth in the long term, providing even greater employment prospects for citizens in the future. Human capital mobility also has the effect of enhancing learning and productivity for key employees and managers. In some industries, such as financial services, the supply of jobs is outstripping the supply of local workers in many markets, and in some cities the problem is further accentuated by remarkably low levels of unemployment. This inevitably means foreign workers are required to overcome the skills shortage and it is hoped that immigration rules will not hamper the growth of such industries.

Businesses working across borders see international exposure as vital to the development of key employees, managers and high potential future leaders. Being able to move talent around to gain exposure, not just in the ASEAN region but throughout the world, is seen as critical part of key employee development as it gives them exposure to different parts of the business, cultures, practices and procedures, thereby increasing their value to the business as a whole. Mobility, rotation and internship programmes improve both the employability of human capital and their promotion prospects. Furthermore, these programs allow employees to bring valuable experience and knowledge back to their peers in their home country and to raise levels of capability, innovation and best practice.

To facilitate the development of and free-flow of labour in ASEAN the EU-ABC calls for:

- Mutual recognition of professional skills and qualifications across ASEAN in a broader set of areas than are currently envisaged;
- More flexible rules and regulations concerning employment and residential visas to allow for the rotation of key staff across ASEAN (a key issue for capacity building and talent development);
- If restrictions on foreign labour are to be in place, the EU-ABC calls for the implementation of a flexible approach that takes into account the specific skills demand needs of each sector;
- Opening access to cross-border internships through student work visas. This would have a positive impact on human capital development for the next generation of workers;
- The development of a common ASEAN visa would improve international competitiveness of the region, coupled with the introduction of an ASEAN Business Travel Card scheme that would allow citizens, residents and those on long term employment visas/passes in the region to move around ASEAN without the need for visas, thus facilitating business interaction and trade;
- Engagement with the global business community on the development of workplace skills and qualifications in ASEAN, to ensure that the supply of labour is fully equipped to work in the latest industries. The European business community would welcome a partnership with

governments across ASEAN to identify skills gaps and to help develop and enhance school and university curriculums to ensure the supply of local skills sufficiently meets demand.

Recommendation 11: Public procurement competition

Increased and improved transparency in public procurement processes, will mean better and more competitive bids, resulting in greater value for money for governments.

Government procurement plays an important role in the development of critical national infrastructure, the provision of best in class government services and as a wider economic stimulus, especially in times of economic downturn. The best run government procurement processes provide for fully open and competitive tenders for all government funded projects and requirements, no matter how big or how small: doing so should ensure that the procuring department or agency is presented with a range of bids from differing consortia and companies which, in turn, should mean increased competition in terms of both the quality of the product or service being tendered for and in terms of the price to the purchaser. It also means that governments can review international best practice and make procurement decisions on the basis of the most comprehensive bid information available.

In order to facilitate a competitive and robust public procurement regime the EU-ABC calls for:

- The introduction of public registration systems for government contractors, covering not only the company registration but also their financial capability and the level, type or size of tenders that they are entitled to bid for;
- Published and easily understood rules for the release of requests for information, expressions of interest, and tenders;
- Published and easily understood rules for the assessment of any tenders, including criteria for shortlisting;
- Standardised contract terms wherever possible;
- All tenders and information requests to be published in a single location, preferably via an on-line portal;
- Tender responses to follow the “two-envelope” system where by the technical aspects of the tender is assessed first to ensure compliance *before* the commercial/pricing element is considered.

CONTINUED PROMOTION OF STRONG TRADE AND INVESTMENT RELATIONS BETWEEN THE EU AND ASEAN

Recommendation 12: Formalised consultative and dialogue process between ASEAN, the EU and business community

Formalising the consultative process between ASEAN, EU and the business community will act as a catalyst to the continual strengthening of commercial relations between the two regions

Dialogue between government and business stakeholders is important to keep the reform and development process on track. It can act as a catalyst for sustained development and the promotion of international best practice. The EU-ABC calls on European institutions to enhance their

engagement with ASEAN counterparts. This is particularly important when Europe develops its own regulatory regime. The impact on and of ASEAN should always be taken into account, to minimise unwanted externalities such as regulatory arbitrage. To this end the EU-ABC calls for:

- The creation of formal dialogue channels between ASEAN and the EU on the full range of business issues, including regulation, investment and trade;
- Industry to be fully consulted on the development of policy affecting business in both ASEAN and the EU, and for business to be given the opportunity to lend its expertise to capacity building and technical assistance programmes;
- Regular, high level engagement between ASEAN and EU leaders to drive the cooperation process forward;
- This high level engagement to be supported through formal mechanisms of cooperation and dialogue at the official level; and,
- The development of a formal work programme involving ASEAN, European institutions and the EU-ABC to review trade and investment issues with a view to removing potential problem areas as a precursor to eventual ASEAN-EU FTA negotiations.

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.



François Guibert

Chairman, EU-ABC
Executive Vice President, STMicroelectronics
President, Greater China & South Asia Region



Donald Kanak

Vice-Chairman, EU-ABC
Chairman,
Prudential Corporation Asia



Theo Bakker

Vice-Chairman, EU-ABC
Vice Chairman,
European Business Chamber
of Commerce
Indonesia



Martin Hayes

Treasurer, EU-ABC
President,
Robert Bosch SEA

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 or write to info@eu-asean.eu.

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ANNEX 2: LIST OF ABBREVIATIONS

| | |
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| ACTS | ASEAN Customs Transit System |
| AEC | ASEAN Economic Community |
| AFAFGIT | ASEAN Framework Agreement for Goods in Transit |
| ASW | ASEAN Single Window |
| ATIGA | ASEAN Trade in Goods in Agreement |
| CLMV | Cambodia, Lao PDR, Myanmar, Vietnam |
| COO | Certificate of Origin |
| EU | European Union |
| FTA | Free Trade Agreement |
| FTZ | Free Trade Zone |
| GDP | Gross Domestic Product |
| NAFTA | North America Free Trade Area |
| NTB | Non Tariff Barrier |
| NTM | Non Tariff Measure |
| RCEP | Regional Comprehensive Economic Partnership |
| ROO | Rules of Origin |
| RVC | Regional Value Content |
| SMEs | Small and Medium Enterprises |
| UNECE | United Nations Economic Commission for Europe |
| WCO | World Customs Organisation |
| WTO | World Trade Organisation |

