



FTA Agreements



ASEAN-China Free Trade Area (ACFTA)

A Framework Agreement on Comprehensive Economic Cooperation between ASEAN and China was signed by all the ASEAN Member States and the People's Republic of China on 4 November 2002 in Phnom Penh. This Agreement provided the legal basis for ASEAN and China to negotiate enabling agreements that have led to the creation of the ASEAN-China Free Trade Area (ACFTA) on 1 January 2010. China is currently the third largest trading partner of ASEAN after Japan and EU, with a trade value of US\$192 billion in 2008. This makes up for 11% of ASEAN's total trade with external parties. The ACFTA is a market of 1.91 billion consumers that have a combined GDP of about US\$5.83 trillion (2008). In terms of consumer market size, the ACFTA is the biggest FTA in the world.

ASEAN-China Trade in Goods Agreement

The Agreement on Trade in Goods, signed on 29 November 2004 in Vientiane, Lao PDR, is one of the enabling Agreements under the 2002 Framework Agreement. It laid down the modality for tariff reduction and elimination for tariff lines categorised in either the Normal Track or the Sensitive Track:

Normal Track: Tariffs on almost all tariff lines in this category have been eliminated by ASEAN-6 (Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore and Thailand) and China as of 1 January 2010. The remaining few products in this category (i.e. not exceeding 150 tariff lines) will have tariffs eliminated not later than 1 January 2012, as part of the flexibility provided in the modality. For Cambodia, Laos, Myanmar and Viet Nam, tariff elimination will have to be completed by 1 January 2015, with flexibility to eliminate tariffs on products not exceeding 250 tariff lines by 1 January 2018.

Sensitive Track: Products in this Track were further categorised into the Sensitive (SL) and Highly Sensitive Lists and would be subject to tariff reduction within the timeframes specified in the Agreement. Tariffs of products in the SL will have to be reduced first to 20% followed by a subsequent reduction to the 0-5% tariff band. For

those in the HSL, tariffs will have to be reduced to not more than 50%. The ACFTA does not allow exclusion of products. The Rules of Origin for the ASEAN-China Free Trade Area follows a general rule of 40% regional value content, with a limited number of products subject to some product specific rules.

ASEAN-China Trade in Services Agreement

The Agreement on Trade in Services between ASEAN Member States and China, signed in Cebu, the Philippines on 14 January 2007, is the second enabling Agreement under the 2002 Framework Agreement. It aims to liberalise and substantially eliminate discriminatory measures with respect to trade in services among the Parties in various services sectors. By applying the GATS Plus principle, the level of liberalisation commitments under this Agreement would be considerably higher than the commitments made by participating countries under the General Agreement on Trade in Services (GATS) in the WTO. ASEAN and China embarked on a second round of negotiations in 2008 with the aim of substantially improving the first package of specific commitments. This is targeted to be concluded within the first half of 2010.

ASEAN-China Investment Agreement

To promote and facilitate investment flows, ASEAN and China also signed an Investment Agreement on 15 August 2009 in Bangkok, Thailand. The Agreement aims to create a favourable environment for the investors and their investments from ASEAN and China, and therefore stipulates key protection elements that will provide fair and equitable treatment to investors, non-discriminatory treatment on nationalisation or expropriation and compensation for losses. It has provisions that allow transfers and repatriation of profits to be made freely and in freely usable currency as well as a provision on investor-state dispute settlement that provides investors recourse to arbitration.

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ASEAN-Japan Comprehensive Economic Partnership (AJCEP)

The ASEAN-Japan Comprehensive Economic Partnership (AJCEP) Agreement signed in April 2008 and entered into force in December 2008 is comprehensive in scope, covering such fields as trade in goods, trade in services, investment, and economic cooperation. The AJCEP will help continue the momentum for further invigoration of trade and investment in the region.

ASEAN and Japan have a combined gross domestic product of US\$6.4 trillion in 2008. The total bilateral trade between ASEAN and Japan has reached US\$211.7 billion, making Japan as ASEAN's top trading partner in 2008.

The implementation of the AJCEP will allow more goods and services to reach ASEAN and Japanese consumers at lower prices through reduced or zero tariffs, which contributes to their improved standard of living

Tariff Reduction and Elimination

Under the trade in goods, Japan has to eliminate 92% of its tariff rates based on tariff lines and trade value for goods in the Normal Track within ten (10) years of entry into force (EIF) of the Agreement. Meanwhile, the ASEAN 6 (Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand) have to eliminate 90% of its tariff rates based on the tariff lines and trade value for goods in the Normal Track within ten (10) years of EIF of the Agreement. For Viet Nam, it has to eliminate 90% of its tariff rates based on tariff lines and certain percentage on trade value for goods in the Normal Track within ten (10) years of EIF. For Cambodia, Laos and Myanmar, certain flexibility was provided. Each has to eliminate 90% of its tariff rates based on either tariff line or trade value for goods in the Normal Track within 13 years of EIF.

For goods under the Highly Sensitive List, Sensitive List and Exclusion List, the modality varies and the tariff cuts were negotiated bilaterally between ASEAN Member States and Japan, taking into account the sensitivities of the parties.

Rules of Origin

Trade facilitating rules of origin (ROO) have been established under the AJCEP that would help encourage regional cumulation of inputs not only benefitting ASEAN industries but also Japanese companies operating in ASEAN such as Mitsubishi, Toyota and other electronic companies who are operating and have huge investments in ASEAN countries. The AJCEP's ROO has a "general rule" of RVC (Regional Value Content) 40% or CTH (Change in Tariff Heading), thereby providing flexibility for exporters/manufacturers in choosing the rule to apply and increasing their chances of complying with the ROO to avail of the preferential tariff treatment.

Services and Investment

As part of the built-in agenda of the AJCEP Agreement, negotiations for services and investment are to commence one year from the entry into force of the Agreement. Following the mandate from the Ministers to bring trade in services and investment into the AJCEP, the Sub-Committee on Services and the Sub-Committee on Investment were established to undertake the negotiations.

Dispute Settlement Mechanism

A Dispute Settlement Chapter has been provided under the AJCEP to address disputes that may arise from the interpretation of the implementation of the TIG Agreement.

Overall Benefits

As more investors come to ASEAN through the AJCEP, it is expected that this will help narrow the economic divide among the estimated 711 million peoples of ASEAN and Japan. From 2002 to 2008, the total FDI from Japan in ASEAN reached US\$45 billion and this is expected to grow as the implementation of the AJCEP continues.

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ASEAN-Korea Free Trade Area (AKFTA)

The Republic of Korea (Korea) is the second dialogue partner with whom ASEAN has forged a free trade agreement. In 2005, ASEAN and Korea signed the Framework Agreement on Comprehensive Economic Cooperation (Framework Agreement), and subsequently, signed four (4) more agreements that form the legal instruments for establishing the ASEAN-Korea Free Trade Area (AKFTA).

The ASEAN-Korea Agreement on Trade in Goods (AK-TIG), signed on 24 August 2006, sets out the preferential arrangement trade in goods between the ten (10) ASEAN Member States and Korea, which principally, involves tariff reduction and elimination for all tariff lines over a transition period. Under this Agreement, ASEAN exports would enjoy greater market access to Korea starting from 2006 and have free market access (subject to meeting the ASEAN-Korea rules of origin) in 2010 as Korea eliminates tariffs for all tariff lines under the Normal Track. On a reciprocal note, the ASEAN 5 (Brunei Darussalam, Indonesia, Malaysia, the Philippines and Singapore) imports from Korea will be enjoying zero tariff rates as well for all tariff lines in the Normal Track subject to limited flexibility. By 2012, tariffs imposed by ASEAN for all Korean products under the Normal Track would be eliminated. For the newer members of ASEAN, namely, Viet Nam, Cambodia, Lao PDR and Myanmar, a longer transition period for tariff reduction and elimination had been agreed in recognition of their development status. Under this scheme at least 50% of tariff lines under the Normal Track will enjoy a 0-5% tariff rate not later than 1 January 2013 for Viet Nam, and not later than 1 January 2015 for Cambodia, Lao PDR and Myanmar (CLM). Tariff lines enjoying the reduced tariffs rates of 0-5% will reach 90% coverage by 2016 for Viet Nam and 2018 for CLM. By 2017 and 2020 products under the Viet Nam and CLM's Normal Track, respectively would have full market access that is zero tariff. Thailand, which acceded to the AK-TIG in 2007, has a different schedule. Tariffs for products in the Normal Track would be reduced over a transition period and will be eliminated by either 2016 or 2017.

The ASEAN-Korea Agreement on Trade in Services (AK-TIS), signed on 21 November 2007, provides the platform for further opening up or greater market access for ASEAN and Korean service providers. Building on their existing commitments in the WTO under General Agreement on Trade in Services (GATS), ASEAN and Korea both improved their levels and depth of commitments through the addition of new sectors/subsectors in the list of commitments and easing up of restrictions on entry and treatment on a wide range of service sectors including business, construction, education, communication services, environmental, tourism services, and transport services.

The ASEAN-Korea Agreement on Investment (AK-AI), signed on 2 June 2009, aims to provide for a transparent, facilitative and a more secure environment for ASEAN and Korean investors and their investments. Major components of the AK-AI are the protection elements which include provisions on fair and equitable treatment and full protection and security of covered investments; transfers of funds relating to covered investments; and compensation in the event of nationalisation or expropriation of covered investments. However, work on the AK-AI continues as ASEAN and Korea pursue the completion of built-in-agenda items which include the development of market access commitments or schedules of reservations. ASEAN and Korea will commence and conclude discussions on these agenda item within five years from entry into force of the Agreement.

The ASEAN-Korea Agreement on Dispute Settlement Mechanism (AK-DSM), signed on 13 December 2005, provides the mechanism for any disputes that may arise between Parties from the interpretation, implementation or application of all the above cited Agreements including the Framework Agreement.

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ASEAN-India Free Trade Area

The entry into force of the ASEAN-India Trade in Goods Agreement (TIG) on 1 January 2010 is one of the key elements that will help facilitate the creation of an open market in a region comprising of about 1.7 billion people and with a combined gross domestic product of approximately US\$2.71 trillion as of 2008. The AIFTA TIG could serve as the vehicle to help sustain the growth for the peoples of ASEAN and India, as well as the East Asian region.

Trade in Goods

The TIG provides for a progressive tariff reduction and/or elimination of originating goods (subject to compliance with the rules of origin) traded for the ten ASEAN Member States and India. Under the Normal Track, tariffs imposed by Brunei Darussalam, Indonesia, Malaysia, Singapore and Thailand and India on originating goods from these parties will be eliminated by 2016. Tariffs imposed between the Philippines and India under the Normal Track will only be eliminated by 2019. Meanwhile, a longer time frame is given for Cambodia, Lao PDR, Myanmar and Viet Nam (CLMV) to eliminate their tariffs of goods under the Normal Track.

Under the Sensitive Track, goods with applied MFN rates of above 5% should be reduced to 5% by 2016 for Brunei Darussalam, Indonesia, Malaysia, Singapore and Thailand and India; 2019 for the Philippines and India; and 2021 for CLMV. For goods with applied MFN rates of 5% and below, tariff reduction would have to be undertaken in accordance with the modality, except for a limited number of goods whose tariffs could be maintained ("standstill").

The TIG also provides for different tariff rates for special products, i.e. crude and refined palm oil, coffee, black

tea and pepper, covered under this Agreement. There are also goods placed under the highly sensitive lists which are subject to a different reduction schedule. An exclusion list is also provided although these are subject to an annual review with a view towards improving market access.

Rules of Origin

To facilitate the movement of goods among the parties, the rules of origin and its Operational Certification Procedures (OCP) are provided under the TIG. A "general rule" of RVC (Regional Value Content) 35% + CTSH (Change in Tariff Sub-Heading) is applied as the criterion for goods to be considered as originating and eligible for preferential tariff treatment. In addition, ASEAN and India have agreed to start discussions to come up with product specific rules (PSRs) which could serve as an alternative rule to the general rule. This alternative rule would provide more flexibility for the manufacturers/exporters to comply with the rules of origin and to avail of the preferential tariff treatment.

Dispute Settlement Mechanism

An Agreement on Dispute Settlement was also implemented together with the TIG Agreement to address disputes that may arise from the interpretation of the implementation of the TIG Agreement.

Services and Investment

ASEAN and India agreed to commence the negotiations on services and investment in 2008 and separate working groups for services and investment were established to undertake these tasks. The services and investment negotiations are targeted for completion by 2010.

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ASEAN-Australia-New Zealand Free Trade Area (AANZFTA)

The Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) that aims to integrate twelve (12) markets into a market of more than 600 million people with a combined GDP of US\$2.65 trillion (based on 2008 figures) was signed in Thailand on 27 February 2009. The Agreement entered into force on 1 January 2010.

AANZFTA Agreement: The “Firsts”

The AANZFTA Agreement is the “first”:

- (i) plurilateral agreement for both ASEAN and Australia (New Zealand has a plurilateral agreement with Brunei, Singapore and Chile, i.e. the P4 or the Trans-Pacific Strategic Economic Partnership);
- (ii) comprehensive single undertaking agreement negotiated and signed by ASEAN with a Dialogue Partner - it covers trade in goods and services, electronic commerce, movement of natural persons (MNP), investment, economic cooperation, dispute settlement mechanism and specific provisions on customs procedures, sanitary and phytosanitary (SPS) measures, standards and technical regulations, intellectual property rights and competition;
- (iii) region-to-region engagement for ASEAN; and
- (iv) Agreement that Australia and New Zealand have jointly negotiated.

The “Core” Obligations

ASEAN Member States, Australia and New Zealand are bound by the AANZFTA Agreement to, among others:

- (i) progressively liberalise tariffs from the entry into force of the Agreement and eliminate tariffs on at least 90 per cent of all their tariff lines within specific timeframes;

- (ii) progressively liberalise barriers to trade in services and allow for greater market access for the other Parties’ services suppliers;

- (iii) facilitate the movement of natural persons for those engaged in trade and investment activities in the region;

- (iv) accord protection to covered investments, in terms of treatment of investment, compensation for losses, transfers relating to profit and capital, and transfer of rights or claims to investment; and

- (v) facilitate the movement of goods by implementing specific provisions on rules of origin; customs procedures; SPS measures; and standards, technical regulations and conformity assessment procedures.

Schedules of specific commitments in relation to trade in goods (tariffs), trade in services (including financial services and telecommunication services) and movement of natural persons are annexed to the AANZFTA Agreement.

Benefits

The AANZFTA Agreement opens up opportunities for stakeholders in ASEAN, Australia and New Zealand. These include: greater market access for exporters/manufacturers in the region; promotion of economies of scale in production; opportunities for networking and complementation; and enhanced collaboration among economic operators in the region. With the AANZFTA creating a business environment that promotes certainty, predictability and transparency, economic operators are assured that commercial activities are not unnecessarily interrupted or disrupted.

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