



MODALITY FOR THE ELIMINATION/IMPROVEMENT OF INVESTMENT RESTRICTIONS AND IMPEDIMENTS IN ASEAN MEMBER STATES

BACKGROUND

1. According to the ASEAN Economic Community (AEC) Blueprint, ASEAN Member States (AMS) are obliged to start the progressive reduction/elimination of investment restrictions and impediments to be able to achieve free and open investment by the end of 2015. Further to this, for purposes of Articles 9 (Reservations) and 21 (Transparency) of the ASEAN Comprehensive Investment Agreement (ACIA), Member States, through the Coordinating Committee on Investment (CCI), are required to report annually to the ASEAN Investment Area (AIA) Council through the ASEAN Secretariat on any reduction/elimination of the measures in the Reservations Lists undertaken by Member States.

SELF-SELECTION MODALITY

A. INTRODUCTION

2. This modality aims to provide an AMS with a structured phased approach based on the AEC Blueprint schedules to progressively reduce/eliminate investment restrictions and impediments taken by AMS. These restrictions/impediments are reflected in the respective investment reservation lists under the Schedule to ACIA.

B. DEFINITIONS

3. For the purposes of this modality:

- *Elimination* means the discontinuation/abolition of the measure/or deletion of a sector/sub-sector.
- *Improvement* means progressive liberalisation of a measure or scoping down where the measure is gradually narrowed/reduced by making it more specific in terms of the description/scope and number of limitations in the measure.

C. PROCEDURES

4. The modality comprises of three components:

- Component 1: Reservations Not Subject to the Elimination/Improvement
- Component 2: Reservations Subject to Elimination/Improvement (in accordance with the 3 phases)
- Component 3: CCI Peer Review Mechanism

Component 1: Reservations Not Subject to the Elimination/Improvement

5. Each Member State shall follow the non-exhaustive approach in which there will be no specific list for this Component.

6. Under this approach, Component 1 could cover, but not limited to, land use/ownership, measures prescribed under international conventions where investment is restricted, general exceptions, security exceptions and Constitutional constraints.

7. Each Member State shall self-select the reservations for placement in this Component with justifications provided to CCI for its information.

Component 2: Reservations subject to Elimination/Improvement

8. Each Member State shall self-select the reservations to be eliminated and/or improved according to the three phases of the AEC Blueprint Strategic Schedule and as agreed in this Modality.

9. Priority should be given to phase-out the ACIA Reservations that were previously contained in the Temporary Exclusion Lists under the ASEAN Investment Area (AIA) Agreement.

10. Elimination and/or improvement of the remaining reservations shall be progressively implemented according to the AEC Strategic Schedule and country-specific characteristics.

Component 3: CCI Peer Review Mechanism

11. *Objective:* The CCI Peer Review Mechanism is aimed at monitoring adherence by Member States to the modality for the elimination/improvement of investment impediments and restrictions.

12. *Activities:*

- a. Peer Reviewing: The peer review process will be part of the agenda for every CCI meeting, which will involve the following:
 - i. Submission of internal written reports by all AMS on the progress made, if any, on the respective country implementation of this modality, with a brief presentation of overall economic situation/investment climate, especially policy context of the elimination and improvements to enable a better understanding of the rationale behind the progress made.
 - ii. Discussion on any new reservations in relation to (a) new and emerging sectors, sub-sectors, industries, products or activities; or (b) existing sectors, sub-sectors, industries, products, or activities; which were unregulated at the time of submission of the original reservation lists.
 - iii. Discussion and clarification with the view to further eliminate/improve investment impediments and restrictions.
- b. Any amendments to the ACIA Reservation Lists as a result of the CCI Peer Review process will be subject to the Article 10 (Modification of Commitments) of the ACIA.

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