



APRIS II

ASEAN-EU Programme for Regional Integration Support - Phase II

APRIS II: THE ASEAN PROGRAMME FOR REGIONAL INTEGRATION SUPPORT PHASE II

Building a Single Market and Production Base

The ASEAN countries offer an attractive, fast-growing market of 575 million inhabitants. To obtain maximum benefit from this, ASEAN needs to offer a business environment that supports international investment and trade. The establishment of a single market and production base would substantially contribute to the competitiveness and attractiveness of the region – and is why the ASEAN Member States (AMS) embarked in 2003 on the creation of an ASEAN Economic Community (AEC).

The ASEAN Programme for Regional Integration Support, Phase II (APRIS II) has been the main project of EU help to support the realisation of the AEC. During its 4 years of implementation, APRIS II has facilitated contacts between professionals in the AMS, setting the path for more intense networking amongst institutions, but more importantly people, which eventually will facilitate the process of establishing formal networks leading to the implementation of the Economic Community.

APRIS II has been able to deliver qualitative information on EU regulations, processes, techniques and know-how in general, which participants in workshops have highly praised and will continue to welcome in the future, as the EU remains a model of integration, even though the ASEAN process will develop in different ways.

The APRIS II programme has also provided a large number of technical documents which have been used and will continue to be used in the development of ASEAN regulatory frameworks going forward.

What has been achieved?

APRIS II has widely supported ASEAN efforts in developing its single market and production base for goods trade. With technical support, ASEAN has succeeded in:

Standards and Conformance:

- Implementing the main elements of the ASEAN Cosmetic Directive, which will create an ASEAN single market for this very important market
- Pursuing its efforts in harmonising other priority integration sectors (electrical and electronic equipment, agro-based products, and automotive products being among the most important)

Customs:

- Developing an ASEAN customs Data Model and common customs Declaration Document
- Completing the detailed design, pilot testing and gap analysis in Member States for an Air Cargo Clearance Model

- Completing the detailed design of the future ASEAN Customs Transit System
- Signing a MoU and initiating a pilot scheme for the self certification of Rules of Origin
- Finalising an HRD Blueprint and regional training plan, together with a Blueprint for Customs Integrity

Legal Aspects:

APRIS II has strengthened the capacity of various ASEAN Secretariat services, in particular the Legal Services and Agreements Division, and has helped to develop ASEAN's Enhanced Dispute Settlement Mechanism, whilst contributing to the drafting of legal texts such as the ASEAN Trade in Goods Agreement (ATIGA).

Dialogue:

Finally, APRIS II has been instrumental in the development of an EU-ASEAN network in trade (TREATI) and non-trade (READI) areas, that facilitates policy dialogue between the two regions.



FOREWORD

by

**H.E. Dr. Surin Pitsuwan, Secretary General of the ASEAN Secretariat
and H.E. Julian Wilson, Ambassador, EU Representative to ASEAN**

"If we are together nothing is impossible. If we are divided all will fail." Winston Churchill

For over three decades, ASEAN and the European Union (EU) have successfully joined hands in building closer bilateral ties. Formalised through the signing in 1980 of the ASEAN - European Community (EC) Cooperation Agreement, ASEAN-EU relations have been based on the shared values of peace, stability and solidarity, and the shared beliefs that regional integration will bring about prosperity, peace and well-being for our respective citizens.

Economic integration, to both ASEAN and EU, is a key element of the regional integration process.

ASEAN's Blueprint for an ASEAN Economic Community (AEC) by 2015 charts the path to the creation of a single market and production base. Much has been achieved on this front. Beginning 1 January 2010, ASEAN-6 – Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore and Thailand – achieved zero tariffs covering 99.65% of total traded goods and for Cambodia, Lao PDR, Myanmar and Viet Nam, 98.86% of the total traded goods under the Common Effective Preferential Tariffs for ASEAN Free Trade Area (CEPT-AFTA) are at 0-5% tariff rates, making this the most tangible high-impact outcome for ASEAN. However, a single market and production base entails more than just the removal of import tariffs. All barriers to trade need to be removed so that virtually every products and services can be traded freely among the member countries.

Behind this great economic vision lies enormous technical and political preparation. For instance, the production of electrical goods needs to adhere to common safety standards so that the goods can be sold in all participating countries; food safety rules in one country need to be mutually recognised as acceptable in another country so that foodstuffs can be exported within the participating countries.

Certainly, creating an AEC is an ambitious project that will bring great economic benefits and prosperity to the ASEAN region, member countries and peoples. Read the article by Ms. Mary Anne Therese Manuson of the Philippines in this folder for a glimpse into the crystal ball on what the AEC will mean for the everyday life of an average citizen - more choices, more freedom and all at more competitive prices.

While ASEAN is pursuing its own unique path towards a single market and production base, the EU has gone through a similar process. ASEAN can learn from EU's experiences – what works and, perhaps more importantly, what does not work. To support this exchange and ASEAN's efforts in establishing the AEC, ASEAN and the EU have cooperated for the last seven years on a flagship programme known as the "ASEAN-EU Programme for Regional Integration Support (APRIS), Phase I and II". APRIS has contributed to laying a strong foundation for the building blocks of the AEC. The flyers in this folder will give you a snapshot of what APRIS has achieved from its inception in September 2003 until December 2010.

Building on the momentum of APRIS, ASEAN and EU will soon be embarking on a new programme entitled "ASEAN Economic Integration Support Programme (AEISP)" in 2011. Besides delivering tailor-made technical expertise and networking to support ASEAN in its efforts to establish the AEC especially in the fields of customs and standards, the new programme also draws inspiration from the Master Plan on ASEAN Connectivity.

As we close this chapter and move on to the next of many chapters in ASEAN-EU cooperation, we would like to thank all our valued partners who have participated in APRIS and contributed to its success. We look forward to continued cooperation with government agencies, the private sector and other relevant stakeholders on the new programme.

Dr. Surin Pitsuwan
Secretary-General of ASEAN

Julian Wilson
Ambassador, EU Representative to ASEAN





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WHY AN ASEAN COMMUNITY?

“More Choice, a Sweeter Life – Benefits to Consumers under the ASEAN Economic Community”

Listen to an ASEAN citizen, Ms. Mary Anne Therese Manuson from the Philippines:

In my house in Manila, the pantry is always stocked with Indomie noodles from Indonesia and jasmine rice from Thailand. My shoe collection includes several pairs from Malaysian shoe brand Vincci, while my brother uses a Creative MP3 player made in Singapore. My family and I bought all these products in the Philippines.

On visits to Singapore, Thailand and Malaysia last year, I spotted a number of Philippine-made products on supermarket shelves – from 7D dried mangoes to Likas Papaya Whitening soap and Jack and Jill Potato chips.

Consumers in the ASEAN countries have never had it so good. In the last six years, we have been able to choose from an ever-growing variety of goods and services made in the region, while paying less for better quality. This is mainly due to a decision made six years ago by leaders of the 10 ASEAN nations, to establish an economic community by 2015.

In the years since, efforts have been made to create a single market and production base in the region, with states progressively reducing trade barriers. The aim is for each country to capitalize on its strengths, produce what it's good at, freely export these products and import what it needs without having to deal

with the hassle of different trade rules, customs procedures and high taxes. Once this happens there will be no unnecessary costs to be passed on to the consumer.

On January 1 2010, ASEAN has become a full free-trade area, with duties on most products abolished and dramatically reduced on other products. Some tariffs remain on staples to encourage consumers to stay local – for instance, Malaysia has removed taxes in imports of fish and wood items but still keep low import duties on items like tropical fruit and rice, which it produces.

With lowered or no barriers, the movement of people, ideas and money has been gaining momentum. Businesses have found it easier to expand and operate in the region, while leaders are hopeful that the ASEAN Economic Community will attract new investment from abroad, as ASEAN has a central position in Asia. The region's 584 million population will stand to gain if that happens, as new and more jobs will be created.

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As the region grows, hopefully so will wages and standards of living across the board. ASEAN is already sponsoring activities to help reduce economic disparities between member states and working on initiatives under the ASEAN Socio-Cultural Community, such as region-wide social protection systems.

The tangible benefits of integration can already be seen across a few industries. Air travel is one example. With ASEAN countries lifting restrictions on their airspace and agreeing to maintain open skies, more Southeast Asian destinations are serviced by more flights. Businesses are finding it much easier to transport products (a new cargo clearance model for the region that ensures air cargo is ready for take off and cleared through customs in double quick time is being piloted in Malaysia and the Philippines). With the availability of budget airfares, ASEAN citizens can travel more even if money is tight. And mostly they don't even need visas, after ASEAN leaders signed an agreement on that three years ago.

As a result, a host of low-cost airlines like Tiger Airways, Air Asia and Cebu Pacific have mushroomed, each offering special deals. Cheap air travel has directly boosted tourism and allows ASEAN citizens to get to know their neighbours' history and culture.

In 2005, ASEAN countries welcomed some 23.2 million visitors from within the region. This figure increased to 28.6 million last year (2008). In terms of healthcare, convenient air travel has significantly increased regional health tourism, allowing Indonesians and Filipinos – like my aunt's friend who recently underwent a liver transplant in Singapore – to seek out top-class ASEAN hospitals for more complex procedures. Another Indonesian friend's father recently had a heart bypass operation in Penang. For elective procedures, Southeast Asian women in search

of more affordable cosmetic surgery often head to Bangkok.

With the current trend of inter-regional collaboration between ASEAN nations and healthcare providers, competitively priced medical products and services are increasingly accessible to consumers. One example is Filipino pharmaceutical firm Unilab which markets its affordable analgesics and cough and cold mixtures all over Southeast Asia through joint ventures with other companies in the region. As we speak, the ASEAN countries are developing a mutual recognition arrangement for medical personnel and common standards for medical devices. This means quality healthcare will no longer be limited to well-to-do Southeast Asians with the means to seek expensive treatment overseas.

As ASEAN countries get closer to becoming an economic community, life for the man on-the-street will be infinitely sweeter. More product choices, fast affordable travel and better quality healthcare are already part of my life. If ASEAN can deliver on its vision then surely all consumers here will be king.

The above was the winning article of the ASEAN Economic Community (AEC) Feature Articles Competition, which was organised by the ASEAN Secretariat and the ASEAN-EU Programme for Regional Integration Support (APRIS) to raise awareness of the benefits of economic integration and the creation of the AEC by 2015. The competition was open to all ASEAN nationals under the age of 30.



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TOWARDS A SINGLE ASEAN COSMETICS MARKET: **APRIS II AND THE ACD**

Market integration, the kind that business people and investors look for, is not just about cutting tariffs on trade. ASEAN needs to make sure non-tariff barriers are addressed too. Some of the most important are technical regulations, standards and conformity assessment practices (which add costs and reduce competitiveness where different countries have different product manufacturing, registration and labelling rules, or require duplicate testing for product certification). A key challenge facing ASEAN in the run up to 2015 is the creation of a level playing field for the regulations used to ensure consumer protection, and the health and safety of goods produced and sold in the region, through the alignment of national standards to relevant international standards, and the implementation of mutual recognition arrangements between Member States. Work in these areas has progressed furthest in the cosmetics sector.

The world cosmetics market is expected to top US\$ 300 billion in 2011 according to Euromonitor figures, with the Asia Pacific region, dominated by Japan, China, India, South Korea and Taiwan, accounting for over a quarter of this (on a par with that of Europe). The ASEAN cosmetics market is developing particularly fast, and was close to US\$ 8 billion this year, compared to under US\$ 4 billion 5 years ago. The main markets are Thailand, the Philippines, Indonesia, Malaysia and Singapore. Keen to promote future regional growth in the trade and production of cosmetics products (not just make-up, but soaps, shampoos, deodorants, and other forms of dental, hair, and skin care products) the ASEAN Member States agreed to create a common regulatory scheme in 1998, with the active support of regulators and industry. The ASEAN cosmetics sector has been at the vanguard of ASEAN's endeavours to create a single market ever since.

The Agreement on the ASEAN Harmonized Cosmetic Regulatory Scheme was signed at the 35th ASEAN Economic Ministers Meeting in 2003. The aim of the Regulatory Scheme was to enable goods produced or marketed in one country to enter other participating countries by removing the barriers linked to standards, technical regulations and conformity assessment. In particular, the Scheme promoted a move from traditional "pre-market approvals" to a new approach based on "post-market surveillance" (PMS) better suited towards trade facilitation within the region.



► *Cosmetic products on sale in Jakarta*



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The Agreement covers both the ASEAN Mutual Recognition Arrangements of Product Registration Approvals for Cosmetics (Schedule A) and the ASEAN Cosmetic Directive (the ACD – Schedule B), with all Member States committing to implementing the ACD by 2008.

More specifically, the ACD aims to limit restrictions on the trade of cosmetic products by streamlining technical controls (based on common lists of banned ingredients, and the way in which products are registered, manufacturing undertaken and information on products presented), promoting mutual recognition in terms of product notification and labelling, and establishing co-ordinated market surveillance systems to ensure the safety, quality and claimed benefits of products that are sold.

The cosmetics sector is the only sector in ASEAN to have introduced a common regulatory framework in the form of a Directive (closely modelled on that of the EU) requiring formal “transposition” into the law of participating States. The APRIS II Programme played a significant role in promoting the implementation of the ACD through a range of capacity building initiatives. These included a study visit to Europe for ASEAN regulators to see the EU Directive and PMS systems at work, with questionnaires developed early in the Programme to gauge the readiness of the AMS to implement the ACD.

Based on these, the EU supported the transposition process with technical assistance, together with training for regulators and industry on how to develop Product Information Files, product safety and efficacy, as well as post market surveillance. In terms of national and regional testing facilities, APRIS II workshops were held to promote the development of an ASEAN Cosmetic Testing

Laboratory Network (ACTLN), with laboratories assessed to determine their readiness to participate, and fix the Network’s roles and responsibilities (essential for the purposes of mutual recognition). For the industry, APRIS II provided training on the implementation of Good Manufacturing Practice, producing a set of Guidelines on GMP, and helped small and medium-sized enterprises (via their national regulatory authorities) to understand the essential requirements of the Directive.

“...a survey [...] showed that ASEAN is well on the way to installing a harmonised regulatory system for the cosmetics sector by 2015.”

At the end of the Programme a survey was conducted to determine the current status on ACD implementation, the outcomes of which showed that ASEAN is well on the way to installing a harmonised regulatory system for the cosmetics sector by 2015. The industry confirms this. In the words of a General Manager of a large cosmetics company, “Two years back, we registered some of our products in Thailand. Since we were already present in some other ASEAN countries, our Regulatory Affairs Department had already prepared an “ASEAN dossier” with detailed formulas, package designs, authorisation letters, etc. and our product files were ready. We just had to upload the data in the Thai IT system to register. It took us two days (compared to several months before) for the notification and could import our products. Very effective”.



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TOWARDS A REGIONAL FOOD SAFETY FRAMEWORK

In 2003, ASEAN selected a number of Priority Integration Sectors (PIS) with a view to fast-tracking economic integration on a pilot basis; that is, as a “learning process” and as a model for other sectors to follow throughout the region. The PIS for trade in goods included agro-based products i.e. food products derived from agriculture and the downstream processing of these products; basic commodities consumed by all ASEAN citizens, every day of the year.

The PIS Roadmap for agro-based products has two key aspects: food safety and trade facilitation. Food safety is vital for the protection of public health; the need for regulation clearly shown by the well known recent cases of milk

products contaminated with melamine (a toxic substance sometimes illegally added to food products in order to increase their apparent protein content) that affected the Asian region.

Securing the safety and quality of agro-based products, which have of course to be absolutely ensured also when borders become more open, requires a “farm to table” approach that addresses all aspects of the food chain, i.e. farming, processing, handling and distribution. For this to be achieved at the ASEAN level – and facilitate trade including exports to third countries and regions such as Europe that have high safety standards and rigorous levels of control – requires a common regulatory framework (“food standards”) operating within an integrated regional food safety infrastructure. It also demands a co-ordinated approach to risk assessment as an integral part of the control (testing) process.

Overall, the objective is to improve safety standards, and to protect and promote consumer health, by controlling the entire food and feed chain. This should be done through the progressive development of common regulatory practices under an ASEAN food and feed safety policy, capable of protecting consumers through market surveillance, the sharing of information, and the rapid reaction to health emergencies should they occur in the region.



► *Malaysian Delegates attend an APRIS II Workshop on Good Manufacturing Practice (GMP)*



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“Overall, the objective is to improve safety standards, and to protect and promote consumer health, by controlling the entire food and feed chain.”

Initial work carried out by ASEAN has focussed on the development of ASEAN Common Requirements (covering Food Control, Food Hygiene and Food Labelling) but not yet common food “standards” as the core of a common regional food legislation (although most ASEAN Member States are guided by the internationally recognised Codex Alimentarius in some shape or form). Work has also been undertaken to create a network of ASEAN Reference Laboratories for food testing, with six so-called ARLs (covering genetically modified organisms, heavy metals and trace elements, veterinary drugs, pesticide residues, mycotoxins and microbiology) tasked with fixing the testing methods these laboratories use, based on international best practice, and disseminating these methods to official control laboratories in the ASEAN Member States as the starting point for further cross-border recognition of food labelling and certification.

Guidelines and training tools have also been adopted for the application of Good Hygiene Practice, Good Manufacturing Practice and Hazard Analysis Critical Control Point methods by manufacturing industry, and ASEAN food

and drug administrations have started to develop an ASEAN Rapid Alert System for Food and Feed with five ASEAN Member States as full members (Lao PDR, Malaysia, Philippines, Thailand and Viet Nam) and the others as observers at the initial stage.

The APRIS II Programme has provided support through a mixture of targeted technical assistance and training to regulators and industry in many of these areas, with additional assistance from DG SANCO, the Directorate General for Health and Consumers of the European Commission. If followed, the various guidelines should help foster greater harmonisation going forward, and there is already a good general understanding of the challenges involved.

What ASEAN needs now to work on is the development of a comprehensive road map for the adoption of a common food safety policy, regulatory framework, and set of quality control systems based on harmonised standards. There is also work to be done at the institutional level in terms of activating the proposed ASEAN Coordinating Committee on Food Safety, and creating an ASEAN Sanitary and Phytosanitary (SPS) Committee as required by the ASEAN Trade in Goods Agreement (ATIGA).

“The APRIS II Programme has provided support through a mixture of targeted technical assistance and training.”



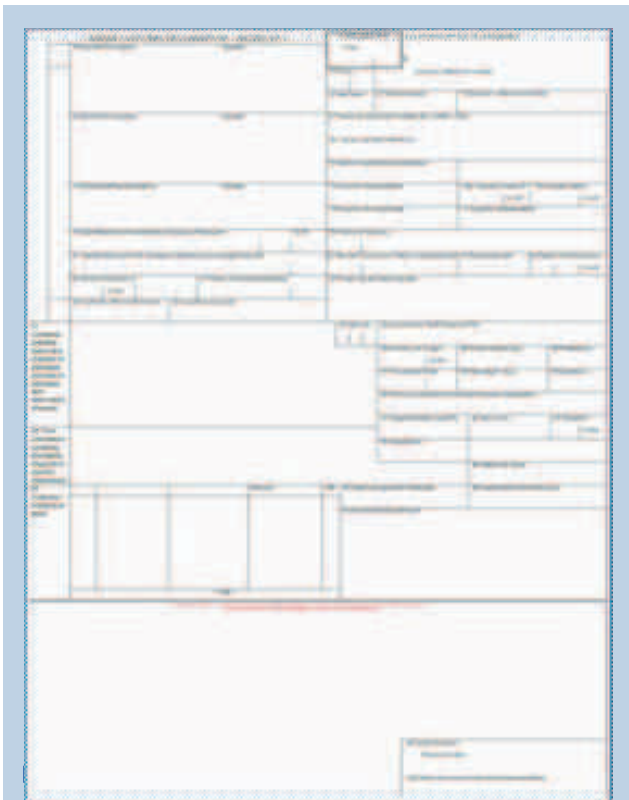
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HARMONISING CUSTOMS CLEARANCE PROCEDURES: THE ASEAN CUSTOMS DECLARATION DOCUMENT

With a view to establishing an ASEAN Economic Community by 2015, the ASEAN Member States are looking to facilitate regional goods trade by harmonising their national customs procedures, and improving on current clearance processes to make them simpler, more predictable, consistent and transparent. This involves a host of key measures, from the harmonisation of national tariff nomenclatures, valuation rules, and clearance processes, to the broader application of advance rulings,

“...the ASEAN Member States are looking to facilitate regional goods trade by harmonising their national customs procedures, and improving on current clearance processes to make them simpler, more predictable, consistent and transparent.”



► The ACDD was finalised in 2010

pre-payment, self assessment, duty drawback, post clearance audit, risk management and simplified procedures (via so-called “authorised economic operator” schemes). The introduction of customs transit and self certification of rules of origin (see separate articles) are further examples of work being undertaken.

The overall objective is to reduce average clearance times per container to less than 30 minutes, and to lessen the burden on goods crossing national borders.

One means of achieving this is the more widespread use of information and communication technologies (ICT) as part of a drive towards ASEAN e-Customs and the introduction of an ASEAN Single Window (ASW).



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“The ASEAN Customs Declaration document or ACDD is a key part of this process and is being harmonised throughout the ASEAN region.”

Under the umbrella of the ASW, each ASEAN Member State is developing its own National Single Window (NSW), with harmonised customs documents and information fields used to facilitate the (mainly) electronic handling of traders' customs applications in the form of a single submission, the simultaneous processing of data by the various authorities connected to the system (customs, standards bodies, sectoral Ministries etc.), and a single decision-making process by the NSW for the purpose of customs release and the subsequent clearance of cargo.

The ASEAN Customs Declaration document or ACDD is a key part of this process and is being harmonised throughout the ASEAN region in line with the format annexed to the Protocol to Establish and Implement the ASEAN Single Window. The APRIS II Programme has been instrumental in getting the ACDD to this stage. Firstly by helping the ASEAN Member States to harmonise the relevant data elements as part of the so-called ASEAN Customs Data Model, and secondly by undertaking gap analysis at the national level and making recommendations to the ASEAN Member States on how to migrate their existing systems to the new format and Model. This exercise should be completed by most ASEAN Member States in 2011.

As a further result, the APRIS II Team developed a draft “Guide to Use of the ASEAN Customs Declaration Document” to promote common understanding of how to use the ACDD by all those involved in the Customs clearance process, including importers, exporters, declarants and Customs brokers who prepare and present import declarations to customs, and Customs staff who check, accept, authorise or otherwise handle them thereafter.

A sub-set of the ACDD will also be used for the purposes of Customs Transit as part of the ICT-based ASEAN Customs Transit System (ACTS) that is expected to run on the Single Window network, starting along a pilot North-South corridor between Singapore, Malaysia and Thailand by 2012, before being extended to all ASEAN Member States before 2015 (see separate article).

“A sub-set of the ACDD will also be used for the purposes of Customs Transit as part of the ICT-based ASEAN Customs Transit System (ACTS).”



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A MODERN REGIONAL TRANSIT TRANSPORT SYSTEM: ASEAN CUSTOMS TRANSIT SYSTEM (ACTS) TO ENSURE AEC TRADE FACILITATION

The importance of a regional transit transport system in the context of a single market can be seen in the benefits the EU's Common Transit System has brought to transport, customs clearance, business and the trading community as part of the European Customs Union over the last twenty years – with savings and trade gains for European business estimated in the tens of billions of euro.

Within ASEAN the red tape, costs and delays incurred through the repeated export, import and transshipment of goods at national borders undermine economic competitiveness and act as a brake on inward investment, just as they once did in the EU.

To take an example, a goods container travelling on a route from Vientiane in Lao PDR through Thailand to Port Klang in Malaysia for

export to Europe, would need to go through two separate customs import-export procedures, and change the truck and trailer on which it travels up to three times, because transport operators aren't able to work throughout the ASEAN region. A 2007 report on ASEAN Logistics Development identified transloading costs of between US\$100 to 300 per container for this route, whilst transit fees cost around US\$150 to 200 more. Exporters to ASEAN face similar costs, having to break down overseas shipments into separate loads for each individual Member State.

Contrast this to a regional transit transport system under which ASEAN importers would no longer have to use the ports of Danang or Hanoi for goods destined for Viet Nam, or Bangkok port for goods going to Thailand, but could use any port for both countries and all other states in between. Or think of the costs saved due to the lower administration costs (and reduced loss of perishable goods), where goods could transit through several countries under a single customs document, insurance policy, and commercial guarantee, without the need for repeat customs inspection for transit goods under seal.

Clearly, as in the EU, a regional transit transport system would make ASEAN business more efficient, pricing more competitive and expand consumer choice: all key objectives of the Economic Community that ASEAN hopes to create by 2015.



▶ ASEAN trucks awaiting customs clearance at the Malaysian-Thai border



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“...the APRIS II Team was asked to design a fully computerised ASEAN Customs Transit System (ACTS).”

At the start of the APRIS II Programme ASEAN already had a Framework Agreement for the Facilitation of Goods in Transit (AFAFGT1998) signed by Member State Ministers in 1998, but most of the Protocols required to activate the Agreement (covering the specific transit routes, number and type of trucks allowed to operate, customs procedures, insurance arrangements and the like) had yet to be agreed, and none of them were active. Nor were the proposed institutional mechanisms yet working.

Following a series of country missions and meetings with the ASEAN Member State's customs administrations, Transport Ministries, transport operators and trade associations, the APRIS II Team developed a business case report outlining the estimated advantages and cost savings to both the public and private sectors of establishing a regional transit transport regime. The findings were presented to the relevant ASEAN bodies and clearance given for work on the relevant Protocols of the Framework Agreement to start.

Working closely with ASEAN's Customs Procedures and Trade Facilitation Working Group (CPTFWG), the APRIS II Team was asked to design a fully computerised ASEAN Customs Transit System (ACTS), with electronic

messages used for communications between traders and customs for a) the submission of transit declarations and b) the discharge of completed transit movements, plus the exchange of transit movement data between customs authorities based on risk assessment (as happens under the EU's own New Computerised Transit System) thereby helping to guard against fraud. A detailed set of High-Level User Requirements and Functional Specifications for the ACTS were produced, and an agreement reached to pilot the ACTS along a pilot North-South corridor between Singapore, Malaysia and Thailand, using the same network as the ASEAN Single Window, before extending the ACTS to all ASEAN Member States by 2015.

The legal basis for the ACTS will be provided by Protocol 7 (and its detailed technical Appendix) drafted by APRIS in collaboration with the CPTFWG, which is ready for signature by the ASEAN Finance Ministers in early 2011. Meanwhile, on the transport side, the first two meetings of the Transit Transport Coordinating Board (TTCB) agreed an overall Work Plan, developed by APRIS II, for the implementation of the other key Protocols (1, 2, 3, 4, and 5) to the 1998 Agreement under the supervision of the ASEAN Land Transport Working Group, the Senior Transport Officials Meeting, the ASEAN Insurance Regulators Council and the National Transit Transport Coordinating Committees. The aim is to meet the needs of industry, summed up by Ms. Nazaina Nasir, Manager for Customs and Regulatory Affairs at TNT, an international logistics company based at Kuala Lumpur International Airport in Malaysia, as “establishing an efficient and reliable electronic system to support the fast movement of transit” with all key Protocols operating fully throughout the region in time for the launch of the AEC.



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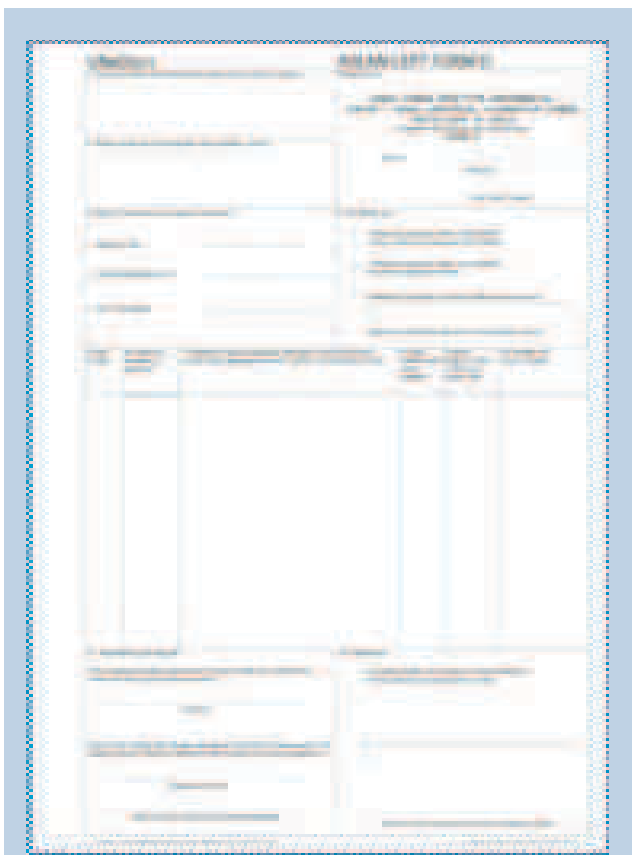
APRIS II HELPS ASEAN MEMBER STATES REAP AFTA BENEFITS THROUGH ROO SELF CERTIFICATION SCHEME

In 2009 intra-ASEAN trade (that is trade between ASEAN Member States) stood at US\$376.2 billion, (around 25% of total ASEAN foreign trade). The ASEAN Free Trade Area (or AFTA) aims to promote trade between ASEAN Members by reducing or eliminating tariff duties for goods that are produced within the region, giving them a competitive advantage over goods from outside. Note - The share of

trade between ASEAN Member States as a proportion of their total trade is often considered as a measure of how well a regional bloc is integrated. If trade between ASEAN Member States becomes easier one would expect their internal trade to become 30% of total trade or more one day.

By 1 January 2010, most ASEAN Member States had reduced their tariffs duties on intra-ASEAN trade to zero, with the four newer Members (Cambodia, Lao PDR, Myanmar and Viet Nam) expected to do so by 2015. The reduction or elimination of tariff duties will only benefit local producers, however, if they can prove that the goods they export are "originating" i.e. of local origin – in most cases meaning a 40% ASEAN value content – under the ASEAN rules of origin (ROO). Where unable to prove this, normal rates of duty will continue to apply.

At the current time, firms are required to prove origin prior to shipping, and obtain a certificate of origin, a so-called "CEPT Form D", from their local Ministry of Trade, Industry, or Customs authority. This can be costly and time consuming and, coupled with a lack of information and understanding, means that many goods, especially from smaller producers, which should qualify for the zero AFTA rates are still paying unnecessary duties. According to a recent study done by APRIS in the automotive sector, the potential tariff savings on intra-regional trade in that sector alone could be up to US\$1.75 billion annually.



► A sample CEPT Form D



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Recognising this fact, in 2008 the AFTA Council asked APRIS II to assist ASEAN Member State officials analyse the business case for a Self-Certification Scheme based on international best practice that would allow qualified exporters to use commercial invoices to "self-certify" the origin of their goods, subject to further audits, as required, later on (much as companies in many countries self-certify the safety of the goods they sell, or fill out their own tax returns).

Following ASEAN approval of an APRIS II background study and recommendations in 2009, the APRIS Team helped to develop a new set of Operational Certification Procedures for a pilot version of the Scheme. In August 2010, Ministers attending the AEC Council Meeting signed a Memorandum of Understanding to provide for the implementation of this pilot Scheme. The pilot Scheme became operational on 1 November 2010, with Brunei Darussalam, Malaysia and Singapore as immediate participants, Indonesia and Thailand as candidate countries and the other ASEAN Member States expected to join a permanent version of the Scheme from 2012. This was also one of the first times ASEAN has used its "ASEAN minus X rule", which allows countries that are ready and able to go ahead with a measure to do so, even if the others are not yet.

Commenting on the launch of the new Scheme, Mr. Fong Yong Kian, the Director-General of Singapore Customs (which issues around 6,000 Form Ds each month) said, "Singapore Customs has the mission of making trade easy, fair and secure. The Self-Certification Scheme is another step towards greater trade facilitation within the ASEAN region. With self-certification, businesses can save costs and get their goods

"With self-certification, businesses can save costs and get their goods to overseas customers in a faster and timelier manner."

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A press release from Singapore Customs, quoted traders who described the Scheme as "a new breakthrough for customs documentation as it saves us not just the cost, most importantly the efficiency". Potential savings for Singapore traders are estimated to be in excess of 1 million SGD per year in administration costs alone. Over time, the savings for business in all ASEAN Member States should be far greater of course, as the Scheme will encourage greater use of AFTA tariffs for preferential trade and reduce the upfront administrative burden and costs of applying for conventional Form Ds. In sum, the benefits that a certified exporter can enjoy are:

- a) Greater convenience as there is no need to obtain Form D from issuing authorities;
- b) More cost savings enjoyed by exporters in relation to administrative charges for Form D applications;
- c) Improved timeliness as weekend shipments are no longer held back by the issuing authorities as no Form D is now required (self-certification works 24/7); and
- d) Smoother clearance of goods at the port of importation as issues relating to verification of Form D such as the signatory in the form is done away with under the self-certification.



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MANAGING TRADE RULES VIA THE ENHANCED ASEAN DISPUTE SETTLEMENT MECHANISM

Ask any manufacturer, businessman or trader in Europe about the economic relevance of the European Union, and while they may not have heard of the Single European Act, the Cecchini Report or the Low Voltage Directive, they will undoubtedly be familiar with (and appreciate) many aspects of the EU Single Market. The reason for this is simple: since the early 1950s the EU has pursued a meaningful project of rules-based economic integration, starting with an Economic Community, followed by a Customs Union, and more recently a European Internal Market, backed by hard laws. Many of the regulations that businesses are required to meet on a daily basis (for the purposes of trade facilitation, fair competition or consumer protection) are "European" in origin and harmonised (or mutually recognised) to create the competitive environment and economies of scale that allow domestic businesses to thrive.

"In embarking on its own Economic Community (AEC) project in 2003, ASEAN also recognised the need for a "rules-based" integration process."

Meanwhile, much of the case law of the European Union (that is, interpretations of the European Treaties and Community Regulations and Directives) derives from deliberations of the European Court of Justice.

In embarking on its own Economic Community (AEC) project in 2003, ASEAN also recognised the need for a "rules-based" integration process and asked the EU, via the APRIS Programme, to help operationalise the Enhanced Dispute Settlement Mechanism (EDSM) enshrined in the Second Declaration of ASEAN Concord, signed by the Leaders at their Ninth Summit Meeting. ASEAN's strong commitment to integration was further confirmed by the adoption of the ASEAN Charter, which entered into force at the end of 2008.

The EDSM rests on ASEAN's own growing body of agreed measures. Key among these, in the area of trade in goods, is the ASEAN Trade in Goods Agreement (ATIGA), plus sub-Agreements such as the Framework Agreement on Goods in Transport, the ASEAN Agreement to establish and implement the ASEAN Single Window, and the ASEAN Cosmetics Directive amongst others. In the area of services undertakings fall under the ASEAN Framework Agreement on Services (AFAS) and in investment the ASEAN Comprehensive Investment Agreement (ACIA).



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Essential supporting elements are provided by the ASEAN Protocol on Notification (that requires ASEAN Member States to deposit copies of their national laws and regulations with the ASEAN Secretariat, and show how regional commitments are transposed into national law), and various clauses on transparency - as provided for under Article 13 of the ATIGA, which calls for a publicly available (and legally binding) ASEAN Trade Repository (ATR) containing the trade and customs laws and procedures of all Member States, based on the notification procedures under Article 11.

Use of the EDSM will reinforce ASEAN's legitimacy as a vehicle for bringing predictable, transparent, "pro-trade" regulation to businesses in the region. Developed since 2003 as a vehicle for managing economic and trade disputes and helping to enforce AEC commitments, the EDSM includes a range of tools, from informal advisory mechanisms (via the ASEAN Consultation to Solve Trade and Investment Issues website <http://www.aseansec.org/99.htm>: ASEAN Consultation to Solve Trade and Investment Issues, that was developed under the first APRIS Programme, the expertise of the ASEAN Secretariat including its Legal Services and Agreements Division, and discussions at Senior Economic Officials' and other ASEAN meetings), consultative mechanisms (such as conciliation, mediation or the good offices of the ASEAN Secretary-General), and adjudicatory mechanisms (through formal panel and appellate proceedings) similar to those of the World Trade Organization.

As a Community working in partnership, the aim, naturally, is to avoid formal disputes and solve those disagreements that arise through consultation and mediation wherever possible. However, trade rules must be clear, transparent and properly enforced if the AEC is to take root in the region. The EDSM Protocol and its procedures offer such framework.

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Work under the APRIS Programme focussed on two main areas of support to the EDSM: a) training, and networking, and b) consultancy in the form of process development and the establishment of operational guidelines. In the first area, APRIS legal experts worked with the staff of the ASEAN Secretariat and officials from Member State Trade Ministries to explain in full the various stages of the EDSM, and organised a series of "mock" disputes to give officials an opportunity to see how formal EDSM cases would be handled in practice. Study tours were also organised to the WTO Secretariat and European Commission legal services in Geneva and Brussels. In the second area, APRIS' main achievement was to produce a practical set of "Guidelines Aimed at Supporting the ASEAN Secretariat in the Management of the EDSM System". APRIS experts also reviewed ASEAN's current notification arrangements, including the text of the 1998 Protocol on Notification and implementing provisions of other AEC-related Agreements, plus a mapping of ATIGA disciplines on non-tariff measures, and the content of a fledgling ATR, whilst providing other day-to-day legal advice on specific issues (such as the legal scrubbing of a draft Memorandum of Understanding on Self Certification of ROO and Protocol 7 of the 1998 Transit Agreement). The need for this type of assistance is expected to further increase, as the development of a rules-based Community continues.



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PROMOTING MUTUAL UNDERSTANDING THROUGH ENHANCED DIALOGUE: **APRIS SUPPORT FOR TREATI AND READI**

Component Five of the ASEAN-EU Programme for Regional Integration Support was designed to promote regulatory dialogue between the two regions under the Trans Regional EU-ASEAN Trade Initiative (TREATI) and Regional EU-ASEAN Dialogue Instrument (READI).

Dialogues (mainly in the form of workshops or seminars) were organised across a whole range of areas, from automotive product standards, air transport regulation and telecommunications, to competition policy, climate change and cybercrime. Several hundred officials from the European Commission, national Member State regulators and the private sector in the EU and ASEAN took part, with further dialogues are planned under a dedicated new Programme due to be launched in 2011.

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“...one of the highlights under TREATI was the organisation of a workshop in the area of automotive product standards.”

To give some examples of the work undertaken, one of the highlights under TREATI was the organisation of a workshop in the area of automotive product standards, held between representatives of the DG MARKT of the European Commission, the ASEAN Automotive Products Working Group (APWG) and representatives from the private sector and Member State Ministries of Transport and Industry. A key outcome of the dialogue was the uptake of recommendations by the relevant ASEAN authorities for the development of a region-wide vehicle type approval system and set of technical regulations harmonised with some of those established by the United Nations Economic Commission for Europe under its 1958 and 1998 Agreements.



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In the area of economic regulation for air transport, another TREATI seminar organised with DG TREN in Brussels provided an opportunity for ASEAN regulators responsible for ASEAN's "open skies" policy under the ASEAN Framework Agreement on Services to gain insights into how the EU's own single aviation market works. A range of issues linked to market integration and the liberalisation of air transport services were addressed, together with ideas for further EU-ASEAN technical co-operation. The event also fostered the negotiation of bilateral air services agreements between Europe and individual ASEAN Member States.

Under READI, a clear highlight was the general agreement among ASEAN countries, pursuant to workshops organised by APRIS II with support from the Council of Europe in Malaysia and the Philippines, to develop national cybercrime legislation in view of the future signature (by some Member States) of the 2001 Budapest Convention - an international treaty that seeks to address computer and internet crimes (such as child pornography, computer-related fraud and forgery, hacking, and terrorism) by harmonising national laws, improving investigative capacity and increasing co-operation among nations. The Philippines has already passed its domestic cybercrime law, and is expected to accede to the Convention in 2011. Other countries look set to follow.

Last but not least, in order to support to the work of ASEAN institutions created under the auspices of the 2008 ASEAN Charter, the APRIS Programme funded a series of meetings in Brussels for members of the ASEAN Committee of Permanent Representatives. The ASEAN CPR, as it is generally known, is loosely modelled on its European equivalent COREPER, and is expected to help strengthen and accelerate ASEAN's own Community building process by supporting the work of the ASEAN Community Councils and ASEAN Sectoral Ministerial Bodies (in the preparation of meetings and the pursuit of regional consensus). While in Brussels, CPR delegates met with representatives of COREPER, the General Secretariat of the Council of the EU, and the European Commission (including the General Secretariat, DG RELEX, EuropeAid and the services responsible for the single market, regional policy and the EU budget).

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