

GUIDING PRINCIPLES FOR NEGOTIATING THE UPGRADE OF THE ASEAN TRADE IN GOODS AGREEMENT (UPGRADED ATIGA)

Negotiations to upgrade the ATIGA will be guided by the following principles:

1. The upgraded ATIGA will be comprehensive in scope and may cover not only the traditional trade-in-goods elements but also emerging issues to ensure that the upgraded ATIGA will be a modern, forward-looking Agreement and more responsive to regional and global developments.
2. The upgraded ATIGA should be able to meaningfully contribute to deeper and wider economic integration among the ASEAN Member States (AMS), provide an environment conducive to the growth and development of supply chains as well as emphasise the need for AMS to enhance AMS' capacity to become more resilient in the face of future challenges.
3. The upgraded ATIGA will include provisions to facilitate trade including the elimination and prevention of the use of non-tariff barriers, address implementation issues, promote transparency to enhance intra-ASEAN, and facilitate AMS' participation in global and regional supply chains.
4. The upgraded ATIGA should be, where relevant, built on AMS commitments in the World Trade Organisation (WTO) and World Customs Organisation (WCO), consistent and in compliance with Article XXIV of the General Agreement on Tariffs and Trade (GATT), and, subject to agreement by all AMS, the ASEAN-Plus Free Trade Agreements (FTA)¹ while giving due consideration to the different levels of development and their readiness to make new commitments, including in areas not previously covered in ATIGA or the other ASEAN FTAs.
5. The upgraded ATIGA may be open to the inclusion of emerging elements not previously covered in existing ASEAN trade-in-goods agreements, subject to agreement by all AMS and different levels of development of all AMSs.
6. The ATIGA upgrading negotiations will cover all trade-in-goods related areas to achieve a balanced, overall satisfactory, and comprehensive outcome.
7. The upgraded ATIGA will be subject to periodic reviews.
8. The outcomes from the ATIGA General Review Consolidated Report and its three associated studies should act as a reference and will not prejudice the result of the negotiation.
9. The possible outline of the upgraded ATIGA is attached to this document in **ANNEX 1**. This outline of the upgraded ATIGA aims to set out the possible elements that could be included in the upgraded ATIGA negotiations. These are not meant to prescribe, pre-negotiate, nor prejudice the outcome of the upgraded ATIGA negotiations. This outline does not create rights and obligations under international law and is also without prejudice to the further discussion on elements that may or may not be included in the upgraded ATIGA, upon mutual agreement during negotiations.

¹ ASEAN Plus FTAs means all current ASEAN-Plus FTAs and the RCEP.

ANNEX 1

POSSIBLE OUTLINE OF THE UPGRADED ATIGA

(without prejudice)

Preamble

Chapter 1: General definitions and initial provisions

- Reaffirmation of commitment towards the creation of a single market and production base under the ASEAN Economic Community
- General definitions of terms used in more than one chapter of the Agreement
- Transparency
- General obligation to notify
- Reaffirmation of the ASEAN Good Regulatory Practices Core Principles

Chapter 2: National Treatment and Market Access

Section A: Definition and Scope

Section B: National Treatment and Market Access

- National Treatment
- Most Favoured Nation (MFN) Treatment²
- Reduction or elimination of import duties³
- Long-standing issues⁴
- Protocol to Amend the Protocol to Provide Special Consideration for Rice and Sugar⁵
- Value-add provisions to enhance the ATIGA as mutually agreed by all AMS with a view to further facilitating trade in goods in the region and addressing barriers to trade, noting that almost tariffs in ASEAN have been eliminated and the improved ATIGA needs to focus on trade-facilitative measures
- Modification of tariff commitments
- Transposition of tariff reduction schedules⁶ which may include the development of the TRS transposition guidelines under the ATIGA

Annex: Schedule of Tariff Commitments

Section C: Quantitative Restrictions and Non-Tariff Measures

- Commitment not to apply quantitative restrictions on the import/export of goods, except in accordance with its WTO rights and obligations or other provisions in the ATIGA
- Addressing, eliminating, and preventing the use of non-tariff barriers
- Disciplines i) import licensing; ii) Agricultural Export Subsidies; iii) export restrictions, particularly on food and agricultural products, among others
- Transparency and notification procedures
- Provisions addressing issues related to Non-Tariff Measures

² Any amendment to the current Article 5 (MFN Treatment) of ATIGA is subject to further negotiations.

³ Subject to further negotiations.

⁴ Subject to further negotiations.

⁵ Any decision to be taken on the element of the Protocol to Amend the Protocol to Provide Special Consideration for Rice and Sugar will be subject to further negotiations and be mutually agreed by all AMS.

⁶ The placement of this item would be further discussed during the negotiation process.

- Provisions facilitating seamless flow of essential goods in times of public emergencies⁷
- Other areas/provisions, such as sector-specific annexes, as may be mutually agreed

Section D: Committee on Trade in Goods

Committee on Trade in Goods

Chapter 3: Rules of Origin

Section A: Rules of Origin

- Simple, business-friendly, trade-facilitative, taking into account regional supply chains and production processes
- Originating goods
- Regional value content, change in tariff classification, process rules or a combination thereof (Product Specific Rules)
- Cumulation

Section B: Operational Certification Procedures

- Operational Certification Procedures: i) proofs of origin (Certificate of Origin Form D, ATIGA e-Form D, Declaration of Origin); ii) origin verification; iii) threshold for waiver of proof of origin; iv) record-keeping requirements, among others.

Section C: Committee on Rules of Origin

Annex: Product Specific Rules

Chapter 4: Customs Procedures and Trade Facilitation

- Modernisation (automation), harmonisation/standardisation (to the extent possible), simplification of customs/border procedures
- WTO Trade Facilitation Agreement (TFA) Plus (with flexibility to AMS requiring technical assistance and capacity-building)
- Advance rulings on customs valuation, tariff classification, and rules of origin
- Provisions on: i) release of goods; ii) review and appeal; iii) penalties; iv) risk management
- Authorised Economic Operators
- Paperless trading relating to Customs procedures
- Express consignment
- ASEAN Single Window (ASW) and ASEAN Customs Transit System (ACTS)

Chapter 5: Trade Remedies

- Re-affirmation of rights and obligations under GATT 1994/WTO-related Agreements
- Safeguard measures, anti-dumping (AD) duties, countervailing duties (CVD)
- Notification and publication of domestic procedures for the application of safeguard regulations
- Best practices in AD and CVD investigations

⁷ Treatment of essential goods in times of public emergencies is subject to further negotiations.

Chapter 6: Sanitary and Phytosanitary (SPS) Measures

- Reaffirmation of rights and obligations under the WTO Agreement on the Application of SPS Measures (SPS Agreement) and building on the WTO SPS Agreement (where possible)
- Consider aligning ATIGA SPS Chapter with the RCEP SPS Chapter and other ASEAN policies or frameworks in relation to the SPS
- Adaptation to regional conditions, i.e., building on the WTO SPS Agreement and taking into account international standards, guidelines and recommendations, and information-sharing on decision-making procedures in determining regional conditions.
- Equivalence, i.e. recognition of the exporting party's SPS measures as meeting the same level of protection as that of the importing party's level of protection, and application of such recognition without undue delay, and information-sharing on domestic procedures in determining equivalence
- Notification and publication of domestic procedures for the application of SPS regulations
- Technical consultations
- Cooperation in areas of mutual interest
- Committee on Sanitary and Phyto-sanitary (SPS) Measures

Chapter 7: Standards, Technical Regulations and Conformity Assessment Procedures

- Reaffirmation of rights and obligations under the WTO Technical Barrier to Trade (TBT) Agreement and building on the WTO TBT Agreement Plus (where possible)
- Use of international standards and mutual recognition of conformity assessment procedures
- Application of the Good Regulatory Practice (GRP) Core Principles in the preparation and application of technical regulations
- Notification and publication of domestic procedures for the application of TBT regulations.
- ASEAN Consultative Committee for Standards and Quality (ACCSQ)

Chapter 8: Other Provisions

- **Trade and Environment**
 - Reaffirmation of commitments to meet obligations committed in multilateral environmental agreements to which an AMS is a Party
 - Ensuring that environmental protection is not compromised as a result of trade liberalization
 - Preservation of the right to regulate depending on existing policies, laws and regulations of each AMS
 - Promotion of circular economy
- **Micro, Small and Medium Enterprises (MSME)**
 - Specific provisions to enable MSMEs to avail of the opportunities under ATIGA
 - Facilitate MSMEs access to markets, and access to information and digitalisation.

Chapter 9: General and Security Exceptions

- Application of Articles XX and XXI of GATT 1994

Chapter 10: Institutional Provisions

- Clarify the role of the ASEAN Free Trade Agreement (AFTA) Council, Senior Economic Officials Meeting (SEOM), ASEAN Trade Facilitation Joint Consultative Committee (ATF-JCC), the Coordinating Committee on the implementation of the ATIGA (CCA), and the Sub-Committee on the ATIGA Rules of Origin (SCAROO), and its relation to other sectoral bodies under the ASEAN Economic Ministers (AEM) purview.

Chapter 11: Dispute Settlement

- Effective and efficient mechanism to expeditiously resolve implementation issues.
- Application of the ASEAN Enhanced Dispute Settlement Mechanism Agreement

Chapter 12: Final Provisions

- Relation to Other Agreements
- Amended or Successor International Agreements
- Annexes, Appendices, Attachments, Footnotes, and Future Instruments
- Amendments
- Review
- Entry into force
- Reservations
- Depositary
- Withdrawal
- Accession
