



Ensuring Food Security, Safety, and Resilience in the ASEAN Region:

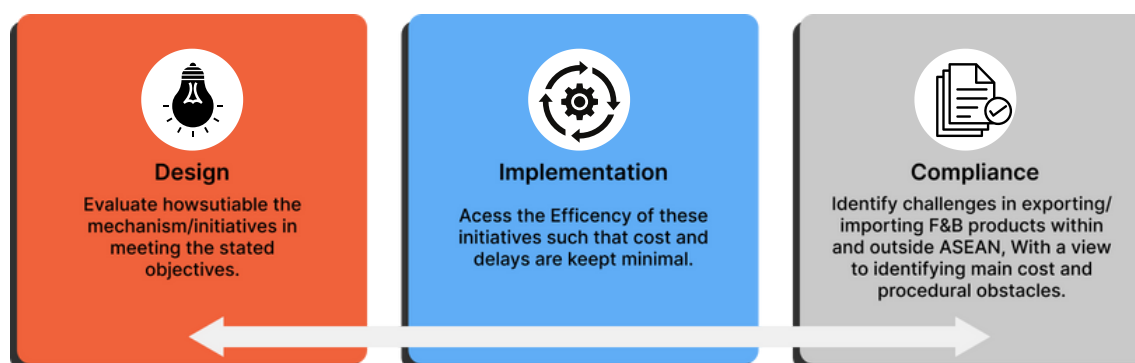
**Reducing Unnecessary Trade Compliance Costs
through Trade Facilitation**

CASE STUDIES OF TRADE COMPLIANCE BOTTLENECKS IN THE F&B SECTOR

I. Introduction

- The ASEAN Food and Beverage Alliance (AFBA) has been supporting governments in ASEAN with its goal of ensuring food security, food safety and better nutrition in the region, as mandated under the ASEAN Economic Community (AEC) Blueprint 2025. However, downside risks such as the negative impacts of COVID-19 pandemic, climate change and the transition to Net Zero, changing supply chains and geopolitical frictions have added considerable amounts of uncertainty to global trade making trade compliance more unpredictable, complicated and costly for businesses. These **supply chain disruptions have exposed the vulnerabilities of the food supply chain, especially in terms of delivering safe, affordable and healthy food products, threatening food security in the region.**
- AFBA recognizes the efforts of ASEAN governments to help companies in the region become more resilient to sudden supply chain disruptions by enhancing economic integration and trade facilitation. In particular, ASEAN has been upgrading existing free trade agreements (FTAs) to make them more comprehensive, advance and responsive to new business and trade developments. To support ASEAN on this endeavour, **AFBA has put together this paper to provide feedback and offer practical insights on how to increase regional food supply chain resilience and further facilitate cross-border intra- and extra-regional trade of F&B products, which is expected to mitigate inflation, economic uncertainties and bolster food security in ASEAN.**

Figure 1. Key Pillars for Trade Regulatory Environment Review



- Drawing upon trade compliance experiences of F&B companies, this paper intends to:
 1. **Identify key issues and challenges when exporting/importing F&B products in the region.** Regulatory and procedural barriers throughout the food value chain can undermine market access and trade opportunities offered under FTAs. This paper aims to provide specific case studies/examples at a granular level as to how some basic trade compliance bottlenecks can result in unnecessary administrative compliance costs and delayed transactions/shipments, significantly limiting exports/imports of F&B products and often leading to food loss and waste.
 2. **Assess existing trade facilitation initiatives offered under ASEAN FTAs in addressing these trade compliance bottlenecks.** Governments have been addressing cross-border trade issues within and outside ASEAN. The outcomes of this analysis are to provide feedback on the efficacy of these efforts to help ASEAN governments with well-designed initiatives (i.e. the appropriate level of regulation while minimizing unnecessary costs of the F&B private sector) and strengthen implementation for governments to minimize administrative burdens and for businesses to practically reduce unnecessary trade compliance costs in a more effective manner.

II. Key Issues and Challenges on Cross-Border Trade of F&B Products in the Region



This section discusses the common trade compliance bottlenecks, with case studies/examples, facing F&B companies in exporting and importing their products within and outside the ASEAN region.

4. International trade offers significant growth opportunities for businesses, but it also comes with a multitude of regulatory and administrative compliance challenges. All businesses, no matter their size, are required to comply with various trade regulations and customs procedures (e.g., import licenses, quality requirements, product registration, inspections) before their products are allowed to leave the country of origin and enter the destination market. Moreover, each country has its own tariff classifications, trade regulations, customs procedures and documentary requirements, which vary depending on the nature of goods.

5. The complexity of trade compliance, particularly regulatory and procedural requirements, entails substantial costs per shipment and can create risks such as costly delays and legal liabilities. Costs can be direct (e.g. compliance costs, charges and fees) or indirect (e.g. delay at the border, additional storage charges, missed business opportunities, exception handling), influencing market access and raising trade costs. Moreover, Non-tariff measures (NTMs) have direct impact on sustainability and are strongly related to a number of Sustainable Development Goals (SDGs), particularly food security (SDG 2), nutrition and health (SDG 3), protection of endangered species and the environment (SDGs 14 and 15), sustainable production and consumption (SDG 12) and energy (SDG 7), and combatting climate change (SDG 13). With climate change topics such as climate neutrality, environmental sustainability and green economy becoming the major drivers of international trade policies around the world, tightening environmental regulations of countries are expected to further increase trade compliance costs for businesses.

FIGURE 2: BASIC TRADE COMPLIANCE PROCESS TO EXPORTING/IMPORTING GOODS

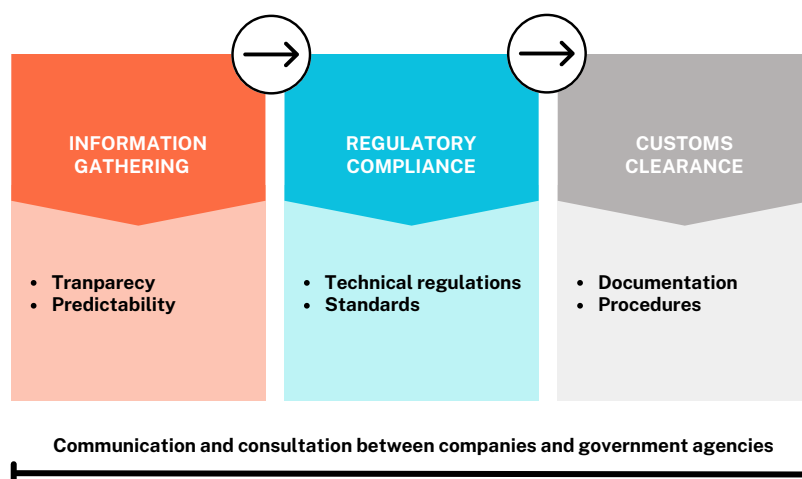


Note: A company engaged in exports and imports of products must understand the key elements of trade compliance, i.e. tariff classification, customs duties and taxes, rules of origin (ROO) requirements and regulations, that are applicable to their specific scenarios. It is very important to understand that regulations and other requirements can differ from country to country, and from one type of goods to another. Businesses must have a solid understanding of the trade compliance requirements and procedures of each of the countries involved for their specific products in order to implement effective strategies for managing them.

6. **Small businesses in developing countries are most heavily affected by complex trade regulations and cumbersome procedures, and are vulnerable to sudden changes/disruptions.** This hinders their ability to develop new export markets, as they do not have the time and resources to navigate the trade regulatory environment. In ASEAN, this requires utmost consideration by governments as micro, small and medium enterprises (MSMEs) account for between 97.2%-99.9% of businesses in the region. MSMEs contribute 85% to employment, 44.8% to the GDP and 18% to national exports, and thus, are considered integral to the economic development and growth of ASEAN members.



FIGURE 3: NAVIGATING THE TRADE REGULATORY ENVIRONMENT



Note: Trade compliance is the process by which companies engaged in exporting and importing goods comply with all laws and regulations (including food safety and security) of the countries that the goods are shipped from, through and to. Activities are conceptualized as commencing with gaining an understanding of the regulatory and procedural requirements, followed by an effort to obtain the documentary requirements and ending with passing customs clearance.

Enterprises must first establish a solid understanding about the trade rules, regulations and procedures of each of the countries involved before they can meet the relevant regulatory and procedural requirements for their products in order to enable the smooth and speedy processing of goods upon entry into a customs administration.

1. The F&B industry in ASEAN is highly regulated, with sanitary and phytosanitary (SPS) and technical barriers to trade (TBT) measures making up the majority of NTMs, to ensure consumer health and safety. F&B companies need to conform to a number of regulations, documentation and rigorous procedures that considerably require time and resources and can cause costly delays, substantially increasing trade costs for both exporters and importers as well as affecting the quality of perishable agricultural and food products. FIA and AFBA recognize the importance of regulations, particularly in the F&B sector, as an important tool for governments to achieve legitimate policy objectives that aim to ensure food safety and quality, protection of animal and plant health as well as environmental protection. However, poor design and implementation of regulations could incur significant unnecessary costs and delays for businesses, which limit exports and even result in greater food loss and waste.

Below are key long-standing trade compliance bottlenecks gathered from F&B companies in the region. They do not provide any judgement on the legitimacy of the regulations adopted and imposed by governments, but rather offer direct and simple viewpoints on the unnecessary costs and delays incurred by companies in delivering F&B products in the region.

a) Lack of Regulatory Transparency and Predictability in the Clearance of Goods. This is the most basic issue but oftentimes the main problem in international trade. The lack of clarity over applicable regulations and administrative procedures creates additional costs and act as a disincentive for expanding business and exports especially by MSMEs.

Trade-regulatory transparency and predictability is critical for businesses in conducting cross-border trade. Companies need to obtain all necessary trade-related information (e.g. tariff classification, tariffs, ROO, export and import controls, customs procedures) by which goods are exported from one country and imported to another country. This allows them to prepare the necessary requirements and strategize in reducing direct and indirect trade transaction costs and mitigating risks from possible supply chain disruptions.

In practice, however, a company needs to visit different government websites, which often are not fully functioning, not user-friendly (i.e. hard to navigate and understand), and contain information that are not clear and up-to-date. Companies have to approach agencies individually – by email, phone or in person – to obtain information on applied rules. In many instances, there is no open communication line between relevant regulators and businesses for enquiries and clarification. Moreover, in most countries, regulations and published information are only available in national languages, which disables companies to gain an understanding of national regulations and administrative procedures that they need to comply with.

Companies need to piece together all information on documentary requirements, regulations and applied procedures from different sources. Gathering all this information constitutes a hidden cost to trade, in addition to the cost of compliance with these requirements. Large businesses would hire consulting firms or consultants to do this for them and treat it as an additional operational cost. However, MSMEs lack the time and capability to do research and do not have funds to hire a consulting firm or consultant: thus, discouraging them from expanding and trading overseas.

Case Study 1. A Singapore-based company wants to export maize (corn), particularly popcorn fit for human consumption, to other ASEAN countries (Indonesia, Malaysia, Philippines, Thailand and Vietnam) as well as to China and India. He/she, therefore, needs to gather the following information:

(i) Specific tariff nomenclature of maize (corn) in the aforesaid market destinations. Each country applies its own national tariff classification system. In ASEAN it is the use of ASEAN Harmonized Tariff Nomenclature (AHTN); thus, the tariff nomenclature in Singapore (1005.90.91) should be the same as the other ASEAN countries. For China and India, the exporter would need to find out the applicable tariff lines in each country (i.e. 1005900001/1005900090 in China and 1005.90.30 in India).

Establishing the correct tariff nomenclature of the product to be traded is very important as this will be the basis in determining the applicable custom duty and tax, origin criterion and regulations in exporting/importing the good. Incorrect tariff classification can result in over- or under-payment of customs duty and taxes, shipment delays, increased inspections, fines and administrative penalties, or may even not be permitted to enter the importing country.

(ii) Customs duties and taxes. Upon determining the correct tariff classification, the exporter needs to check the customs duty and tax to be paid in individual market destinations for its product. The exporter should also find out whether there is available FTA that it can leverage for ‘tariff savings’. For instance, the exporter can avail the duty-free import tariff when exporting maize (corn) to Indonesia, Malaysia, Thailand and Vietnam, and 5% import duty, to the Philippines under the ASEAN Trade in Goods Agreement (ATIGA). The exporter can also take advantage of available FTAs of Singapore with China and India – either the regional FTAs (ASEAN-China FTA and ASEAN-India FTA) or the bilateral FTAs (China-Singapore Free Trade Agreement and India-Singapore Comprehensive Economic Cooperation Agreement), whichever provides more preferential tariff treatment. The preferential import duties imposed on individual tariff lines by individual FTA members are contained in the tariff reduction schedules contained in the specific Agreement.

(iii) Rules of Origin (ROO). To avail the FTAs mentioned in item (ii), the exporter needs to comply with the ROO for popcorn under each FTA. Note that each tariff line has its own corresponding origin criterion and certificate of origin requirements under each FTA. For instance, the product must be wholly obtained under the ATIGA and the ASEAN-China FTA, while the product must prove that it has at least 35% regional value content (RVC) and that the raw material has undergone a change in tariff classification under the ASEAN-India FTA. The exporter can find this information available in the specific Agreement that it wants to avail.

(iv) Regulatory requirements. The exporter must also know and understand the regulations, documentary requirements and procedures in securing the necessary import permits, licenses or certificates for the importation of popcorn from Singapore to five (5) ASEAN countries, China and India. Regulations, requirements and procedures differ from country to country, and from one type of goods to another.

In many instances, there are several regulatory agencies responsible in the exportation and importation of a specific product in a particular country, which means that the relevant information are scattered across various sources. The exporter needs to find out all the relevant regulatory agencies responsible for the importation of popcorn in each country to know where to obtain the necessary information (i.e. specific government websites and/or offices).

(v) Customs Clearance. All products entering or leaving a country are subject to customs clearance, which is the process of declaring goods to be exported or imported to Customs authorities. The exporter must obtain information on the documentation and procedures to ensure smooth customs clearance of the popcorn shipment from Singapore to the five (5) ASEAN countries, China and India.

On top of these import requirements in the destination markets, the exporter also needs to know and understand the export controls for popcorn in Singapore and the competent authorities to obtain the necessary certification standards to ensure food safety compliance.

Gathering all of this information requires tremendous time and resources. Furthermore, they are also usually written in the national language, requiring to hire a translator to translate these regulations into the English languages which is an added cost to businesses. **It requires about 5 to 10 days to gather and piece together all trade-related information for each country, which would cost around USD 5,000 to USD 10,000 per product per country.** Large organizations have a dedicated team to collect this information as well as to track and assess any changes to trade compliance regulations for each product. **However, small companies lack the necessary resources and capability to do so. As the repercussions of violating regulations can be serious and costly, this discourages small firms to export products and expand their business to other countries.**

b) Regulatory Barriers to Trade. On average, NTMs are three (3) times costlier than tariffs. The agricultural sector and the F&B industry in ASEAN mainly deal with a multitude of technical regulations and standards (SPS and TBT measures), which are very important in ensuring the quality and safety of food products distributed and sold in the region. Phytosanitary and health certificates are often difficult to obtain due to delays in complying with pre-requisite requirements such as obtaining certificate of analysis from product testing facilities. In addition, significant variations in the national technical regulations and requirements applied by each country are hurdling the industry's trade and affecting its competitiveness due to the incurred substantial additional costs associated with time delays and uncertainty. There are also many instances when companies have to assume additional costs in the form of re-testing fees, as certificates of analysis issued by testing laboratories in their countries are not recognized by importing authorities. The multiplicity of incompatible regulatory systems adds cost.

Following are the specific areas of concern to the industry:

- **Nutrition Labelling.** Significant differences on the following require redeveloping and/or repacking of products:
 - (i) Mandatory and voluntary labelling requirements;
 - (ii) Minimum and maximum limits for vitamins and minerals;
 - (iii) Tolerance levels;
 - (iv) Nutrition Reference Values (NRVs) used for packaging claims; and
 - (v) Nutrition information panel (NIP) formats.

• **Pre-market Product Registration.** Some countries require pre-market registration (i.e. assessment and approval of food composition and package labelling of finished products) before a product can be marketed which causes delay in bringing the product to the market. MSMEs are mainly affected by this registration requirement, as they have limited resources to invest in multiple registration processes or to finance extended delays in bringing products to the market.

• **Import/Export Certification.** Currently, ASEAN companies that export or import food products across multiple markets are required to complete divergent inspection and certification requirements on quarantine and safety for each market. This leads to additional cost and time to the industry.

• **Authorisation of Food Ingredients, Additives and Flavours.** No standard approval process and compositional standard requirements that enables an ingredient (including food additives and flavours, enzymes, processing “aid” and new ingredients) authorised in one country to be marketed/placed in another country. There is also no mechanism to adopt the authoritative work of Codex and the Joint FAO/WHO Expert Committee on Food Additives (JECFA). This results in excessive delays (months or even years) and additional costs to the industry, leading to reluctance to invest in R&D and inability to compete globally.

• **Contaminant Limits and Analytical Methods.** No uniform maximum levels for contaminants (e.g. limits for heavy metals, analytical methods, procurement and flow of supply chain) among participating countries.

Case Study 2. A company that wants to import maize (corn) flour into ASEAN countries (i.e. Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam) as well as China and India must comply with significantly diverging regulatory requirements as shown below:

INDONESIA:

- Import Permit for Grains and Grain Products
- Certificate of Fumigation
- Phytosanitary Certificate

MALAYSIA:

- Import Approval (PI)
- Phytosanitary Certificate
- Phytosanitary Inspection

PHILIPPINES:

- License to Operate a Food Establishment
- Registration of Food Products
- Registration as User of the FDA e-Portal
- Import Permit for Plants and Plant Products
- Phytosanitary Quarantine Clearance
- Certificate of Analysis
- Free of Sale Certificate
- Certificate of Good Manufacturing Practice
- Phytosanitary Certificate

SINGAPORE:

- Registration of Importers of Processed Food Products and Food Appliances
- Phytosanitary Certificate

THAILAND:

- Import Permit for Plants and Certain Plant Products
- Plant Quarantine Declaration
- Phytosanitary Certificate

VIETNAM:

- Certificate of Statement of Product Standards
- Product Declaration for Foodstuffs
- Phytosanitary Import Permit for Goods Subject to Pest Risk Analysis
- Quarantine Certificate for Plant Products
- Certificate of Hygiene and Safety Inspection of Food Establishments
- Table of Standards Applied in the Facility
- Certificate of Food Safety and Hygiene Standards
- Free Sale Certificate
- Certificate of Fumigation
- Certificate of Good Manufacturing Practice
- Phytosanitary Certificate
- Certificate of a Pharmaceutical Product (CPP)

CHINA:

- Registration of Foreign Manufacturers of Foodstuffs
- Registration of Foreign Exporters of Particular Foodstuffs
- Registration of Importers of Foodstuffs
- Permit to Import Live Animals and Plants Subject to Quarantine
- Commodity Inspection Certificate
- Phytosanitary Certificate

INDIA:

- License to Import and Sell Foodstuffs
- Permit to Import Plants and Plant Products
- Pest Risk Analysis
- Quarantine and Clearance Certificate for Plants and Plant Products
- Certificate of Fumigation
- Certificate of Post-Entry Quarantine Facility
- Phytosanitary Certificate

A company exporting sweet biscuits to Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam as well as China and India must also comply with varying labelling requirements as shown below:

INDONESIA:

Labels must be written in Indonesian, in Arabic number and Latin letters. The use of other languages is only permissible if there is no equivalent Indonesian term.

General:

- Name of the product
- List of ingredients
- Net weight or volume
- Name and address of the importer
- Expiry date (months and year).
- Net weight
- Bar code
- Batch number
- Identification of the manufacturer
- Indonesia as the country of destination
- Production date
- Type of the product
- Quantity
- Country code of the country of origin
- Container number
- Shipment number.

A halal declaration with a halal logo is required for particular products, e.g. meat, while such labelling is optional for other goods. It is, however, usually displayed for marketing purposes.

MALAYSIA:

Imported commodities must be labelled in Malay or English.

General:

- Name of the product
- Name, address and phone number of the manufacturer
- Name, address and phone number of the importer
- Description of the components and ingredients, if applicable
- Net weight
- Volume or quantity or other measurements, if applicable
- Production date and expiry date, if applicable.

Products which are to be marketed as halal products in Malaysia must be certified and labelled accordingly, i.e. a recognised halal logo is to be affixed to them.

PHILIPPINES:

All imported products must be labelled either in English or Filipino and labels must be readily legible.

General:

- Name of the exporter
- Name and brand name of the product
- Net weight or volume
- Country of origin

Specific:

- Complete list of ingredients
- Name and address of the manufacturer, repacker, packer, importer, trader and distributor
- Lot identification
- Storage conditions
- Expiry date/use-by date/best-before date (recommended consumption date)
- Food allergens (ingredients known to cause hypersensitivity, e.g. crustaceans, eggs and egg products, peanuts, soybeans and products thereof, amongst others, must always be indicated on the label)
- Directions or instructions for use
- Nutrition facts.

SINGAPORE:

All information must be written in English in clear and legible letters.

General:

- Name or commercial description of the foodstuffs
- List of ingredients and their percentage; constituents of compound ingredients must be stated individually (if appropriate; intoxicating
- Liquors are exempt from these requirements)
- Net quantity
- Net weight or volume
- Quality, strength, purity (if applicable)
- Name and address of the importer
- Name and address of the manufacturer
- Country of origin
- Shelf-life (if applicable)
- Information on vitamins and minerals (if applicable)
- Information on nutritional value (if applicable)
- Trans fat content (if fat and oil products intended for retail).

In addition to the basic information for foodstuffs, labels of products containing permitted artificial sweetening agents must contain the following statement: "This (name of the food) contains the artificial sweetening agents (names of the artificial sweetening agents)".

THAILAND:

General:

- Name of the product
- Name, address and phone number of the manufacturer
- Name, address and phone number of the importer
- Description of components and ingredients, if applicable
- Net weight
- Volume or quantity or other measurements, if applicable
- Country of origin
- Production date and expiry date, if applicable
- Storage instructions, if applicable

PHILIPPINES:

Vietnam:

Labelling should be done in Vietnamese using clear and legible letters

General:

- Name of the product
- Name and address of the individual or organisation responsible for the product
- Origin of the goods.

Specific:

- Product name
- Composition
- Product quantity
- Production date
- The timeline for use
- Instructions for use and storage
- Name of the person and the organisation responsible for the product
- Country of origin
- Number of receipt of conformity to food safety, if applicable
- Recommendations or warnings on food safety, if applicable.

CHINA:

Labelling in Chinese is mandatory

General:

- Name and address of the manufacturer
- Name, address, and contact information of the local agent
- Registration number/product license number in the P.R. (People's Republic) of China
- Kind of product (and function, if applicable)
- Brand name
- List of ingredients and their quantities
- Generic names of food additives, if applicable
- Net weight
- Conditions of storage
- Date of manufacture
- Expiry date, if applicable
- Lot numbers and product codes
- Product standard code, if applicable
- Country of origin
- Description of the way of preparation, if applicable.

INDIA:

Labeling of imports should be done in English or Hindi using clear and eligible letters

General:

- Name and address of the manufacturer
- Name and kind of the product
- International details and signs that should be observed in the course of transportation and handling
- Country of origin
- Production date
- Expiry date, if applicable.

Specific:

- Name and address of the manufacturer
- Name and address of the packer, if the manufacturer is not the packer
- Name and address of the importer
- Common or generic name of the product
- Net quantity
- Number of commodities, if applicable
- Month and year in which the commodity was manufactured, pre-packaged or imported
- Maximum retail sale price.

Regulations, requirements and procedures differ from country to country, and from one type of goods to another as shown in the above examples. The differences in the regulatory requirements such as import permits and licences, certification standards and labelling requirements are substantially adding costs to businesses, hindering small firms that do not have the resources and capability to comply with the regulations to export their products and expand in other markets. Others assume additional costs in the form of re-testing fees, since certificates of analysis issued by testing laboratories in their countries are not recognized by importing authorities.

Moreover, it usually requires a long timeframe to comply with the pre-requisite requirements prior to applying for the phytosanitary certificate and import permit/license. For instance, in the case of Indonesia, the processing time of registration of foodstuffs would take up to 150 working days, which varies depending on the kind of products to be registered. In the case of India, the license to import and sell foodstuffs would take 60 days to be processed.

c) Procedural Obstacles/Administrative Barriers to Trade (i.e. Implementation). In most instances, the industry faces hurdles not on the measures per se, but on how these measures (e.g. import licenses, customs procedures, origin certification procedures) are applied. Implementation of some trade measures as well as application for FTA preferential treatment and trade facilitation mechanisms (e.g. advance rulings, self-certification, authorized economic operators) can be so stringent and stricter than what is actually necessary. In addition, many countries have yet to automate/digitalize application processes, requiring companies to submit physical documents to relevant government agencies, which is time-consuming and entails additional costs (i.e. hard copies, transport). Also, there is no definite timeframe for the completion of the application process and issuance of necessary permits and certifications. Lastly, further delays can occur because of contradictory advice received from authorities, e.g. the Ministry of Agriculture and Food Authority/Agency, with experts from these institutions tending to have different interpretations of existing regulations.

Challenges on the practical implementation of measures faced by the industry include:

- Multiple and lengthy authorisation and registration procedures on technical regulations and standards;
- Complex and lengthy issuance of import licensing without any definite timeline and timeframe for the completion of the process;
- Limited manpower to manage the high volume of application, causing delays in the approval and issuance of certificates, permits or licenses;
- Overlapping responsibilities of government institutions; and
- Tedious customs and origin certification procedures, as well as restrictive origin criteria.

These practical challenges in the administration create uncertainty and unnecessary barriers to trade, especially for MSMEs that lack the time, resources and capability to comply with the requirements and procedures. The documentary requirements and lengthy associated procedures can even result in food loss and waste due to deteriorating quality of goods that can ultimately lead to food spoilage.

Case Study 3. Using the example on the importation of maize (corn) flour into ASEAN countries (i.e. Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam) as well as China and India, it is apparent that some countries require more documentary requirements than necessary. It can be assumed that if a phytosanitary certificate and import permit have been secured by a company for its product, it has gone through the necessary product analysis and has submitted the necessary pre-requisite requirements to prove and ensure that the product is safe for consumption. However, some countries (e.g. Philippines, Vietnam, China, India) still require the importer to submit/re-submit the pre-requisite requirements, in addition to the phytosanitary certificate and import permit. This shows the lack of trusts between the competent authorities of different countries, which is negatively impacting cross-border trade transactions as they result to additional costs and delays.

Furthermore, some countries still do not allow online submission of documents or, in some instances, online application is allowed but importers are still required to submit hard copies of the application form and its supporting documents. This is a duplication of regulatory compliance procedures, which entails additional time and cost for businesses.

Some countries also do not have a specific timeline (e.g. China, Philippines) or require very long timeframe (e.g. India, Indonesia, Thailand) to process the application and issue the permit, making it trade compliance plan and strategy difficult to ascertain. This can lead to significant losses in the form of damaged or spoilt products, especially for highly perishable agri-food products.

In addition, F&B firms operating in the region are not using the trade facilitation mechanisms (e.g. self-certification, Authorised Economic Operator (AEO), ASEAN Customs Transit System (ACTS), advance rulings) that have been put in place to address costly delays of perishable agricultural and F&B products. Aside from the lack of awareness, qualification requirements and procedures tend to be overly stringent and cumbersome than necessary. For instance, F&B companies are not using the AEO as it is difficult to comply with the requirements and procedures imposed by individual companies to be accredited under the system. This defeats the purpose of having the AEO as a means to facilitate cross-border trade transactions of companies with 'good' track record as they cannot qualify under the system.

d) Lack of Consultative Mechanism between the Government and Private Sector. Businesses are deemed to be in the best position to identify supply chain bottlenecks as well as how to practically address them. Private sector engagement (e.g. information sharing, capacity-building, consultation), therefore, is an important step in the decision-making and implementation process and the key to increasing the participation of MSMEs in international trade within and outside ASEAN. However, there remains to be a lack of coordination, consultation and cooperation between the public and the private sector in the region as some initiatives implemented by governments are not aligned with the needs and concerns of the business sector.

Consultations are often conducted on an ad hoc basis, one-time off and rarely lead to concrete follow up actions. Moreover, outcomes of these consultations are not communicated, and thus, traders are faced with the lack of clarity over the terms and requirements of revised or new/planned trade legislation and its associated procedures and fees. New trade developments are also not cascaded to the private sector; hence, companies are not aware of the various initiatives undertaken by ASEAN governments to facilitate cross-border trade such as tariff liberalization, addressing non-tariff challenges through streamlining of procedures and harmonization of regulations and standards, trade facilitation measures. All of these issues contribute to the limited participation of MSMEs in exports, as well as low utilization of FTAs and trade facilitation mechanisms by businesses in the region.

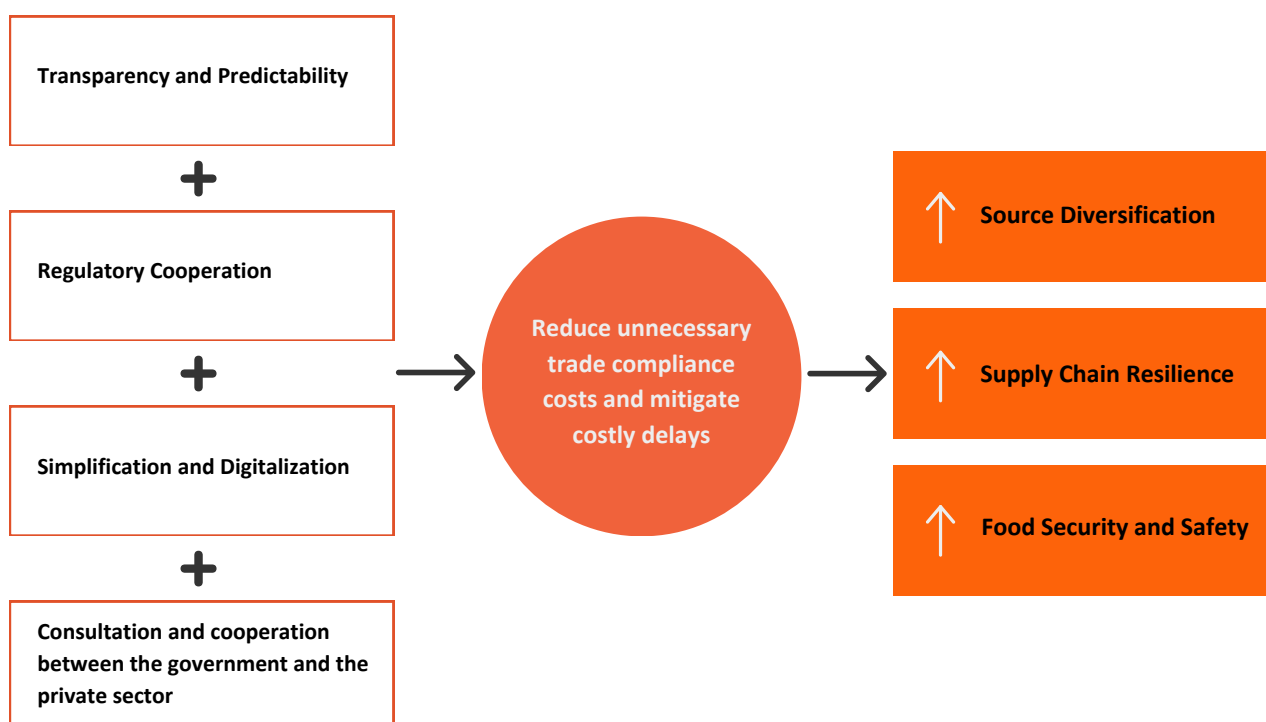
Case Study 4. Currently, there is no online trade helpdesk and enquiry platform in place for companies to obtain and clarify necessary information in the exportation and importation of specific products to different countries in the region. Given the non-availability of complete and up-to-date information and complexity of trade regulations of ASEAN countries as well as China and India, companies are often face with unnecessary delays, penalties, and even, rejection of the shipment at the border.

Furthermore, existing mechanisms (e.g. ASSIST) where companies can provide feedback and comments to address trade compliance issues deem to be ineffective, with most not acknowledging the issues, suitably addressing the issues or rejecting to reply to these complaints rather than offering to collaborate to clarify and address the issues.

Consultations with the private sector on specific issues are also often conducted only once, with mostly key regional business associations (e.g. ASEAN business councils) being invited to these events. These associations do not necessarily cascade the information to other industry players and they may not appropriately represent the concerns of small businesses. Smaller industry associations with more MSME members, which are more affected by new trade policies and regulations, are seldom involved and consulted in new and emerging topics. For instance, climate change topics are now major drivers of international trade policy, with the EU emerging at the forefront of this effort. This is expected to worsen existing frictions with the developing world as compliance with green economy and sustainability regulations is costly and difficult for businesses, especially MSMEs. Of particular concern for businesses is the new EU Deforestation Regulation which requires all relevant products (e.g. cattle, cocoa, coffee, palm oil) to be 'deforestation free'. This means that products covered in this new regulation must prove that they were produced on land that has not been converted from forest to agricultural use, whether human-induced or not. Most agri-food products in the region are produced by MSMEs with limited resources and capability to comply with this new regulatory requirements and procedures. Governments in the region must consult affected F&B firms on the impact of this new regulation to their exports to the EU, as well as the potential impact of adopting EU's regulation in the region. This would allow ASEAN governments to design its own policies and initiatives that would mitigate the risks as well as prepare and strengthen capabilities of MSMEs to comply with tightening environmental regulations of countries around the world.

III. Existing ASEAN Trade Facilitation Initiatives to Address Trade Compliance Bottlenecks

FIGURE 4. KEY TRADE FACILITATION PRINCIPLES



This section discusses existing trade facilitation initiatives under the ATIGA, AANZFTA and RCEP, and whether they are implemented in such a way that they effectively address the identified trade compliance bottlenecks.

8. AFBA recognizes the efforts of ASEAN governments in addressing the aforesaid trade compliance bottlenecks by applying the below trade facilitation guidelines and best practices in various ASEAN FTAs, particularly the ASEAN Trade in Goods Agreement (ATIGA), the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA) and the Regional Comprehensive Economic Partnership (RCEP) Agreement:

(i) Increasing transparency, legal certainty and predictability in ASEAN

AFBA Inputs:

- Enhancement of transparency through the establishment of a trade repository or portal containing trade and customs laws, regulations and procedures, or a user-friendly NTM database with feedback mechanism whereby relevant stakeholders can report restrictive measures, as well as information on adoption of notification procedures and development of effective surveillance mechanism.

Under the ATIGA, ASEAN has developed the **ASEAN Trade Repository (ATR)**, which is a powerful tool to increase regulatory transparency in the region. As it was envisioned in the ATIGA, the ATR is supposedly a comprehensive, detailed and centralized online trade portal ('one-stop shop' for trade-related information) where a company can easily search and gather all trade-related information (tariffs and non-tariffs) for a specific product based either on the product description or its tariff nomenclature (HS/AHTN Code). However, the current ATR design is not user-friendly as it is not searchable by HS/AHTN Code and/or product description. A company needs to look at all the measures of a particular ASEAN Member State (AMS) uploaded onto the ATR in order to identify all relevant regulations and requirements for the importation of a particular product into that AMS, which is not an easy task and also time-consuming. Additionally, the current scope of the ATR only covers trade measures of the 10 ASEAN Member States (AMSS). F&B companies also face regulatory transparency issues when exporting products to ASEAN's FTA partners such as China and India.

Another important initiative in ASEAN, which is available in the ATIGA, AANZFTA and RCEP, is the notification by FTA parties of newly imposed NTMs or any changes made on existing measures as well as any changes in most-favoured-nation (MFN) and FTA tariffs prior to implementation, which should be made publicly available online. Further, parties are expected to exchange relevant verification information through designated focal points. This aims to provide greater legal certainty, commercial predictability and regulatory transparency for enterprises. These commitments were further reiterated in the Guidelines for the Implementation of ASEAN Commitments on NTMs on Goods ('NTM Guidelines'), providing a general framework to improve transparency and management of NTMs, as well as clarity for operationalizing key ATIGA elements (e.g. notification procedures, publication and administration of trade regulations, ATR).

However, in practice, these commitments are not adhered to by FTA parties and/or any key developments in this area are not conveyed to the private sector. For instance, the ATR remains to be a 'work in progress' with only 4 elements (out of 9 ATR components) have been uploaded by AMSS. Also, only a few F&B companies know that the ATR exists. In addition, beginning 2021, ASEAN started to upload onto its website (<https://asean.org/non-tariff-measures-ntms-notifications/>) all WTO notifications provided to the ASEAN Secretariat. Yet, companies, which are the targeted end-user of this platform, may not be aware of this action.

Advance rulings on tariff classification, ROO and customs valuation are other trade facilitation measures available in the ATIGA and RCEP that will ensure certainty, predictability, reliability and consistency in the export/import of F&B products in the region. However, companies are not aware of these mechanisms: thus, utilization is low. Another feedback gathered from the F&B industry that advance rulings issued by one Party (exporting country) may not be recognized by other Parties (importing country). This defeats the purpose of having advance rulings for product exports.

Based on the above examples, the objective of enhancing transparency and predictability of the regulatory environment in the region is only marginally achieved due to the poor design of the mechanisms and weak and/or non-implementation by parties of their commitments.

(ii) Reducing unnecessary trade burdens through regulatory cooperation (harmonization, standardization and mutual recognition)

AFBA Inputs:

- Harmonisation of technical regulations and standards, procedures, documents, information, and operations through the adoption of internationally recognized or acceptable international commercial norms and practices, as well as the development of Mutual Recognition Arrangements (MRAs) for traded food products, particularly on: i) nutrition labeling; ii) pre-market product registration; iii) import/export certification; iv) authorization of food ingredients, additives and flavors; and v) contaminant limits and analytical methods.
- Simplification or elimination of all unnecessary elements (e.g. information and documentary requirements) and duplication in formalities, processes and procedures by exploring best international trade practices (e.g. advance rulings, rational/liberal set of origin criteria, self-certification system on ROO, electronic country of origin (e-CO)).
- Establishment of mechanisms to effectively identify and eliminate NTMs or address barrier components of NTMs applied by ASEAN and its FTA partners.

The ASEAN Economic Community (AEC) Blueprint 2025 identified the need to minimise trade protection and compliance costs in dealing with NTMs as one of the strategic measures to transforming ASEAN into a highly and cohesive economy. The Blueprint also acknowledges that although most NTMs address regulatory objectives such as environmental, health and safety, security or cultural considerations, they can also significantly impede trade inadvertently or by design. Thus, addressing NTMs involves strong regulatory cooperation:

- a)** Accelerating work towards full elimination of non-tariff barriers (NTBs);
- b)** Standards and conformance measures, e.g. equivalence in technical regulations, standards harmonization, alignment with international standards and mutual recognition arrangements (MRAs);
- c)** Streamlining procedures and reducing requirements for certificates, permits and licenses to import or export.

The ATIGA, AANZFTA and RCEP included strong disciplines on the application of NTMs from relevant WTO agreements through greater regulatory cooperation such as import licensing procedures, equivalence, technical consultations, good regulatory practice as well as the use of international standards, guides and best practices. These trade facilitative initiatives are particularly beneficial for F&B companies, as it would reduce redundancy in food safety requirements and procedures (e.g. testing, inspection and other relevant procedures), especially for agri-food products. **However, little has been achieved in this area and F&B companies continue to face a number of challenges and incur approximately 10-20% additional NTM compliance costs when exporting/importing their products in the region. The problem lies in the inadequate design and weak implementation of these principles and commitments.**

(iii) Streamlining and digitalizing trade compliance documentation and procedures

AFBA Inputs:

- Simplification or elimination of all unnecessary elements (e.g. information and documentary requirements) and duplication in formalities, processes and procedures by exploring best international trade practices (e.g. advance rulings, rational/liberal set of origin criteria, self-certification system on ROO, e-CO).

ASEAN has initiated a number of trade facilitation mechanisms to simplify trade compliance documentation and procedures. For instance, on certification procedures to prove 'originating' status of a product to avail FTA preferential tariff, the ATIGA and RCEP allow electronic certificate of origin (e-CO) and self-certification/self-declaration. Another valuable tool for F&B companies is the 'authorized operators' scheme which can significantly cut down time and costs associated with customs clearance of perishable F&B products at the borders. However, companies are either not aware of these measures or if even if they are aware, the criteria, documentation and procedural requirements to avail these tools tend to be complicated and stringent for MSMEs to comply with.

RCEP's expeditious release of goods, allowing perishable goods to be cleared from customs within 6 hours and 48 hours of arrival and lodgement of necessary information, is crucial in ensuring product quality and safety of agriculture, food and healthcare products for human consumption. This also substantially reduces costs associated with customs warehouse/facility rental. However, the F&B industry is not aware of any activities to raise awareness and teach companies how to leverage this scheme.

The COVID-19 pandemic has shown that digitalization is important, not only for longer-term productivity, but also for the resilience of MSMEs to external shocks. ASEAN has developed the ASEAN Single Window (ASW) to facilitate cross-border transactions by allowing submission and exchanges of necessary trade documents online. However, only a few documents (e.g. ACDD, ATIGA CO Form D) are allowed in the platform. ASEAN officials can consider enhancing the relevant ATIGA chapters to accelerate implementation of electronic Phytosanitary (e-Phyto) certificate and electronic Animal Health (e-AH) certificate, through the ASW platform, to facilitate cross-border trade within ASEAN and its trading partners. ASEAN can also leverage digital technology to improve traceability related to SPS across supply chains and through paperless SPS systems that can reduce trade costs and lower fraudulent certificates, which are beneficial to the agro-food sector.

(iv) Institutionalizing private sector engagement

AFBA Inputs:

- With an emphasis that the success of ASEAN economic integration initiatives lies greatly in its implementation, there is a need to increase public-private sector consultation and collaboration (e.g. establishment of an effective mechanism or platform that provides an opportunity for the private sector to give inputs or raise issues regarding RCEP implementation, as well as institutionalization of regular dialogues or consultations between the government and private sector to provide updates on the current initiatives being undertaken by both sides under RCEP and/or obtain feedback or recommendations on how to address issues raised).

The role of the private sector as a key stakeholder in the ASEAN economic integration process is recognized in the AEC Blueprint 2025. Business inputs and partnerships are crucial in identifying impediments to realising deeper regional economic integration and in designing regional strategies and initiatives. Thus, private sector engagement, both to provide easier access to information on implementation and to obtain timely feedback on policies, must be strengthened.

Under the context of the ATIGA, the ASEAN Trade Facilitation-Joint Consultative Committee (ATF-JCC) provides a platform where representatives from the public and private sectors can discuss on how to accelerate work on trade facilitation and ensure expeditious movement of goods within the region. Moreover, the ASEAN Solutions for Investments, Services and Trade (ASSIST) is an online consultative mechanism that aims to provide expedited and effective solution of cross-border trade operational issues faced by businesses in the region. However, a key concern of businesses is that AMSs do not necessarily address the core issues raised by the private sector. In terms of the timeline, ASEAN sectoral bodies and individual AMSs take a long time to respond to requests by businesses. This makes these platforms ineffective in providing practical solutions especially to long-standing issues confronting businesses operating in the region.

ASEAN sectoral committees/bodies also consult the private sector through ASEAN business councils and industry associations whenever the needs arise such as when regulators discuss about regulatory cooperation initiatives, as well as gather feedback on new and emerging issues such as trade and environmental sustainability. However, such engagement is often conducted on an ad hoc basis. Currently, private sector engagement in ASEAN is not regular and continuous. Businesses are also not informed on the outcomes of the consultations. Hence, there seems to be a disconnect between the needs of businesses and the policies and initiatives of governments in the region.

IV. Recommendations – Strengthening Trade Facilitation in ASEAN

This section will draw recommendations on how to practically reduce unnecessary cross-border trade transaction costs and avoid costly delays in the clearance of F&B products based on trade facilitation best practices and effective implementation of existing trade commitments.

9. ASEAN's regional economic integration efforts, especially the establishments of FTAs within and outside ASEAN, have created new trade opportunities for F&B companies. However, the F&B industry remains unable to reap the expected benefits offered under various ASEAN FTAs due to long-standing issues such as lack of regulatory transparency, legal certainty and predictability as well as proliferating 'red tape' (i.e. procedural obstacles to trade).

10. ASEAN FTAs, particularly the ATIGA, AANZFTA and RCEP, provide noteworthy trade facilitation initiatives that aim to address these long-standing trade compliance bottlenecks. However, these initiatives will only yield desirable outcomes if they are suitably designed and adequately implemented by all FTA parties, leading to effective solutions to achieve actual trade facilitation in the region. It is important, therefore, for trade negotiators and regulators to apply the key trade facilitation principles in designing new policies and initiatives as well as in re-designing existing policies initiatives to ensure that costs and delays are kept to a minimum.

KEY TRADE FACILITATION PRINCIPLES



Transparency, communications, consultations and cooperation



Simplification, practicality and efficiency



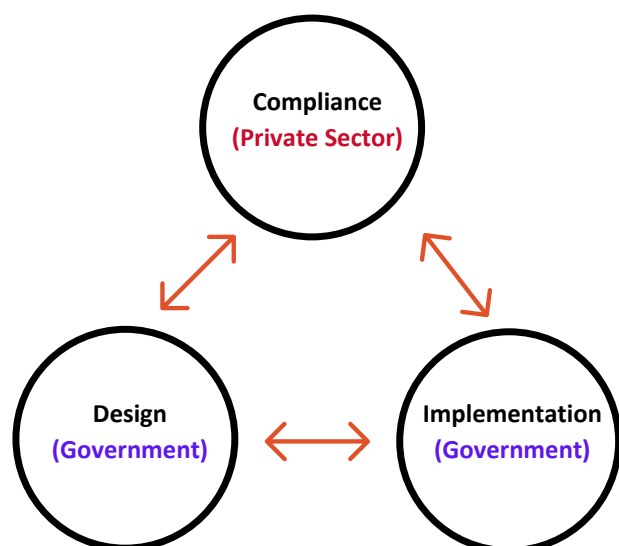
Non-discrimination, consistency, predictability and due process



Harmonization and the use of digital technology

11. As such, the success of ASEAN's regional economic integration lies greatly in strengthening private sector engagement through constant and continuous information dissemination and capacity-building on AEC initiatives, regular public-private sector consultation/dialogue to gather business feedback on existing and new policies and initiatives, and increased collaboration and partnerships between the governments and private sector in addressing long-standing as well as new and emerging issues such as climate change risks.

12. AFBA emphasizes that cross border coordination is heavily dependent on communication and cooperation between government agencies and business organizations. They need to invest more time in each other to create that sense of awareness and establish a certain level of understanding and trust between all parties involved and between the control mechanisms of the various governments. This way, much can be achieved in ensuring more resilient regional supply chains and achieving trade-driven inclusive and sustainable economic development.



13. AFBA recommends the following actions to be undertaken by ASEAN trade officials and regulators in order to reduce unnecessary trade compliance costs, allowing the F&B industry to reap the considerable benefits of ASEAN regional economic integration:

➔ **More transparency is needed through the following:**

a) Regional Trade Portal. Currently, there are two important platforms where ASEAN's trade measures are publicly made available – (i) the ASEAN Tariff Finder and (ii) the ASEAN Trade Repository. ASEAN should consider merging these two platforms to come up with a regional trade portal that covers both tariffs and NTMs, making it more user-friendly and useful for businesses operating in the region. The enhanced ASEAN trade portal should be presented in such a way that is searchable either by HS/AHTN code or product description and would lay out all the tariffs and NTMs applicable to each tariff line. It should also cover ASEAN's FTA partners (i.e. China, Japan, Korea, India, Australia, New Zealand, Hong Kong) to ensure that ASEAN can easily navigate the trade regulatory environments of these countries, allowing ASEAN enterprises to export more to them.

In addition, the ASEAN trade portal should also include the following information:

- Status of implementation and key components of each ASEAN FTA, as well as updates on any on-going negotiations in relation to existing FTA reviews and new FTAs, in which ASEAN-based enterprises can submit insights and suggestions;
- Overview of requirements and step-by-step procedures for application of COs to avail preferential tariffs offered under each ASEAN FTA; and
- The relevant contact points (for FTAs, SPS, TBT, Customs) of each AMS and ASEAN's FTA partners to allow traders to make a clarification and inquiries specific to their products

Noting that this initiative entails considerable resources (e.g. dedicated human resources, funding), it is important for ASEAN governments to explore seeking support from ASEAN's development partners as well as the private sector. This will provide a sense of ownership and collaboration among ASEAN, its development partners and the business sector, which is crucial in ensuring the success and sustainability of this project.

b) Regular and continuous outreach events and capacity-building activities for all relevant public and private stakeholders in ASEAN. It is very important for businesses to be aware of the regional trade trends and developments to utilize FTAs and trade facilitation initiatives available in the region. This will also enable them to provide meaningful feedback and insights to ASEAN trade officials and regulators, allowing them to further enhance existing policies and initiatives as well as to design new policies and initiatives that cater for the needs and interests of ASEAN-based companies. These outreach events and capacity-building activities must be conducted regularly both at the regional and national levels. This will provide wider reach in the promotion of the ASEAN economic integration initiatives and make it more inclusive.

It is also helpful to establish trade helpdesks in each country to allow open dialogue and consultative mechanism between governments (trade officials and regulators) and companies concerning the exports/imports of products and services. This feature can be included in the ASEAN trade portal mentioned above.

Increased transparency in the region could lead to the following positive outcomes:

- Promotes public and private sector awareness of trade rules and procedures;
- Lowers information costs of trade and ultimately, consumer prices;
- Facilitates regulatory cooperation among countries (ASEAN and its trading partners), within a country (across ministries/agencies), and between public and private sectors;
- Facilitates simplification of procedures; and
- Attracts foreign direct investment (FDI).

➔ **Regulatory cooperation (harmonization, standardization, mutual recognition, equivalence)**

AFBA has repeatedly emphasized the importance of regulatory cooperation in facilitating cross-border trade within and outside the region. NTM compliance – with SPS and TBT measures accounting for the majority of incidence and effect — is three times costlier than tariffs. This makes the F&B sector more heavily affected, incurring approximately 10-20% additional NTM compliance costs when exporting/importing their products in the region.

With climate change topics such as climate neutrality, environmental sustainability and green economy becoming the major drivers of international trade policy of countries around the world, tightening environmental regulations are expected to further increase costs for businesses. Therefore, addressing non-tariff challenges is more critical to support businesses, especially MSMEs, to have more resilient regional supply chain over the next 10-years and ensure the delivery of safe, affordable and healthy food products in the region.

It is very important for ASEAN and its FTA partners to align national formalities, procedures, documents, information, and operations with acceptable international commercial norms, practices and recommendations. Such approach would make a desirable contribution to trade within the region by streamlining the procedures, reducing the administrative burdens, and minimising the compliance costs for traders. This approach should be applied to traditional trade topics as well as emerging trade issues such as environmental regulations.

In addition, harmonisation and equivalence could be considered as the ultimate objective in aligning technical regulations and standards among AMSs and would be an important trade-facilitative tool to foster 'ASEAN centrality'. Developing dedicated MRAs in certain sectors (e.g., MRAs on halal, food and beverages standards, and related conformity assessment procedures) would be beneficial and greatly facilitate trade within the region, as well as provides more trade opportunities for ASEAN enterprises outside of the region.

The ATIGA, ASEAN NTM Guidelines, AANZFTA and RCEP contain very important provisions on equivalence and mutual recognition. But it is important for governments to design and implement said commitments, drawing from experiences of the business sector. Thus, conducting regular consultations and dialogues with the private sector is very important in reaching mutual understanding and cooperation between governments and businesses.

➞ **Regulatory coherence through the use of Good regulatory practice (GRP)**

Conducting a regulatory impact assessment (RIA) at the national level is important to ensure coherent policy measures across countries. This will also allow countries to identify overlaps/duplications in their regulations and determine unnecessary procedural obstacles to trade. Countries that improve their regulatory systems should not simply add new measures but should develop a comprehensive and coherent national strategy that includes streamlining of existing measures and observing good regulatory practices in the design of NTMs.

➞ **Work Programme on Agricultural and F&B Sector**

It is logical for the ATIGA and ASEAN Plus One FTAs to adopt a sectoral approach to cater for more specific needs. This can be done by having dedicated chapters and annexes or sectoral work programmes, such as in the case of the RCEP, with tailored policies and initiatives targeted to certain sectors. This could be applied to priority/essential sectors, such as agricultural and F&B sectors, that deserve further attention in increasing cross-border trade to pursue specific SDGs (e.g. food security), taking into consideration supply chain disruptions and risks.

The work programme on agricultural and F&B sector should be comprehensive and contain trade facilitative measures to address long-standing and new/emerging issues. The ASEAN NTM Guidelines on Essential Sectors is a good starting point for the proposed work programme. However, the product coverage should be expanded to include inputs and raw materials in the processing of food products.

➞ **Built-in Mechanism to Ensure Food Security during Social, Economic, Health and Environmental Crisis**

It is crucial for ASEAN FTAs to include a provision wherein parties are committed to facilitate cross-border trade in goods and services, especially for essential sectors/industries, during a crisis. The COVID-19 pandemic exposed some vulnerabilities of the food supply chain, especially in terms of delivering safe, affordable and healthy food products, threatening food security in the region. However, ASEAN member states acted swiftly and collaboratively with the private sector to ensure a continued supply of fresh and packaged foods. Nevertheless, global and regional supply chain disruptions and shocks, which are expected to continue, are already affecting the available supply and have inflated the prices of agricultural and food products. It is critical that ASEAN and its FTA partners work together to ensure the continuous supply of food in ASEAN markets through enhanced trade facilitation in the region to allow diversified inputs and processed food sources



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