INDEX

ACIA see ASEAN Comprehensive Investment Agreement (ACIA)

ACMB see ASEAN Compliance Monitoring Body (ACMB)

AC-SPS see ASEAN Committee on Sanitary and Phytosanitary Measures (AC-SPS)

ACT see ASEAN Consultation to Solve Trade and Investment Issues (ACT)

AEC see ASEAN Economic Community (AEC)

AEC Blueprint, 46–49
  Article 6, single market and production base, 48
  Article 9, single market and production base, core elements, 48
  Article 70, accountability, 49
  Article 73, statistics to monitor progress (Scorecard), 49
  resemblance to European Commission White Paper, 50

AEC Scorecard, 49
  data collection process flaws, 55
  enforcement of shortcomings, 57
  negative publicity and peer pressure value, 108

progress in legislation and agreements, 56–57
qualitative analysis, 55–56
secrecy and compliance, 52–54
Secretariat and self-reporting, 51
AFTA see ASEAN Free Trade Area (AFTA)
  Agreement on ASEAN Preferential Trading Arrangements (AFTA), 281–295
  Annex 1, rules of origin, 291–295
  Annex 2, operational certification, 295
  Article 1, aims and purposes, 283
  Article 2, scope of products, 283
  Article 3, instruments, 284
  Article 4, basic commodities, 284
  Article 5, long-term quality contracts, 284
  Article 6, preferential interest rates, 284–285
  Article 7, international tenders, 285
  Article 8, margin of tariff preference, 285–286
  Article 10, industrial complementation projects, 286
  Article 11, maintenance of concessions, 287
INDEX

Agreement on ASEAN Preferential Trading Arrangements (APTA), (cont.)
  Article 12, emergency measures, 287
  Article 13, trade and tourism, 288
  Article 14, consultations, 288–289
  Article 15, rules of origin, 289
  Article 16, exceptions, 289
  final provisions, 290–291
Agreement on the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area (CEPT-AFTA), 296–306
  Article 1, definitions, 297–298
  Article 2, general provisions, 299–300
  Article 3, coverage, 300
  Article 4, schedule of tariff reduction, 300–301
  Article 5, other provisions, 301–302
  Article 6, emergency measures, 302–303
  Article 7, institutional arrangements, 303–304
  Article 8, consultations, 304
  Article 9, exceptions, 304–305
  Article 10, final provisions, 305–306
  see also rules of origin
Agreement to Establish and Implement the ASEAN Single Window, 117, 416–423
  Article 1 and 2, definitions, 418–419
  Article 5, development and timeline, 420–421
  Article 7, monitoring implementation, 421–422
  Articles 10–11, final provisions, 422–423
  see also ASEAN Single Window (ASW)
  ATIGA statement on, 378
  CEPT statement on, 28
Agreement for the Promotion and Protection of Agreements, 122
  antidumping/countervailing duties
  ACIA Article 4, definitions, 430–432
  APEC (Asia Pacific Economic Cooperation) see free trade agreements
  ASC see ASEAN Security Community (ASC)
  ASCC see ASEAN Socio-Cultural Community (ASCC)
ASEAN Agreement on Customs, 384–415
  Articles 1–5, general provisions, 386–391
  Article 5, definitions, 389–391
  Articles 6–36, customs procedures and formalities, 391–402
  Articles 16–18, release of goods, 396–397
  Article 19, tariff nomenclature, 397–398
INDEX

Articles 23–28, duties and taxes, 398–400
Articles 30–36, movement of goods, 401–402
Article 31, single window, 401
Articles 37–41, information and communication, 403–404
Articles 42–45, enforcement, 404–406
Articles 46–47, border management, 406–407
Articles 48–51, stakeholders, 407–408
Article 52, appeals, 408–409
Articles 53–57, implementation, 409–411
Articles 58–65, final provisions, 411–415
ASEAN Agreement on the Movement of Natural Persons, 470–484
Articles 1–2, objectives and scope, 471–472
Article 3, definitions, 472–475
Articles 4–7, temporary entry or stay, 475–477
Articles 9–10, exceptions, 478–480
Article 11, dispute settlement, 480
Article 12, ACIA exception, 480–481
Article 13, recognition of education or experience, 481–482

ASEAN Business Advisory Council (ABAC), 175
ASEAN Business Club, 174–175
ASEAN Charter, 243–280
Annex 1, Sectoral Ministerial Bodies, 272–275
Annex 2, associated entities, 275–278
Annex 3, ASEAN flag, 278–279
Annex 4, ASEAN emblem, 279–280
Article 1, purpose of peace, prosperity, and quality of life, 248–249
Article 1, single market and production base, 37, 248
Article 2, fundamental principles, 249–251
Article 3, legal personality, 251
Article 4, member states, 251
Article 5, equal rights and obligations, 251
Article 6, new members, 252
Article 7, Secretary-General appointment, 253
Article 7, Summit of national leaders, 163, 252–253
Article 8, Coordinating Council, 253–254
Article 9, Community Councils, 254–255
Article 10, Sectoral Ministerial Bodies, 255, 272–275
Article 11, Secretary-General, 255–257
Article 12, Permanent Representatives, 257–258
INDEX

ASEAN Charter, (cont.)
Article 13, National Secretariat, 258
Article 14, Human Rights Body, 258
Article 15, ASEAN Foundation, 259
Article 16, associated entities, 259
Article 17, immunities and privileges, 259
Article 18, Secretary-General immunities and privileges, 260
Article 19, Permanent Representatives, immunities and privileges, 260
Article 20, Consultation and consensus, 152, 260–261
Article 21, Community Council rules, 261
Article 22 to 28, dispute resolution, 45, 261–263
Article 28, dispute resolution, non-ASEAN, 45
Articles 29–30, budget and finance, 263–264
Articles 31–32, chairmanship, 264–265
Article 33, diplomatic protocol, 265
Article 34, working language English, 265
Articles 35–40, identity and symbols, 265–266, 278–280
Articles 41–46, external relations, 266–267
Article 42, Dialogue Coordinator, 267

Articles 47–55, final provisions, 269–271
Article 50, review and revision, 176–177
conflict of charter and national law, 165
dispute resolution improvements, 167–169
economic integration, goal of, 2
financial support, 182–185
general description, 146–147
guiding principles of ASEAN, 43
legal process improvements needed, 8
possible improvements, 199
role of law, 44
rule of law, 44
rules of procedure, lack of, 148–149
single market, 42
single market and production base, 1–3, 197–198
single production base, 3–4, 39–40, 42
ASEAN Charter, officers of chairmanship, 25, 148–149
chairmanship, Charter statement on, 264–265
Deputy Secretary-General Charter statement on, 256–257
private sector experience, 154
Secretary-General Charter dispute resolution role, 262–263
Charter immunities and privileges, 260
Charter statement on, 255–257
INDEX

free trade dispute resolution role, 379
research institute proposed, 187
Secretariat head, 26, 147, 149–150
ASEAN Committee on Sanitary and Phytosanitary Measures (AC-SPS)
non-tariff barrier (NTBs), 103, 351
see also sanitary and phytosanitary (SPS) measures
ASEAN Committee on Trade and Tourism, treaty directive, 288
ASEAN Community, pillars and core elements, 222
ASEAN Compliance Body (ACB), established per Bali Concord II, 237
ASEAN Compliance Monitoring Body (ACMB), 131
customs treaty statement, 410
established per Bali Concord II, 239–240
see also Declaration of ASEAN Concord (2003), Annex
ASEAN Comprehensive Investment Agreement (ACIA), 27, 424–469
Annex 2, expropriation and compensation, 468–469
Articles 1–3, objectives and scope per AEC Blueprint, 427–430
Article 4, definitions, 430–432
Articles 5–6, MFN and national treatment, 432–434
Article 7, WTO TRIMs provisions, 434
Articles 8–10, Senior Management and Board of Directors, 435–437
Articles 11–15, treatment of covered investments, 437–442
Articles 16–19, restrictions and exceptions, 442–446
Articles 21–26, transparency and cooperation, 447–451
Article 27, member state dispute resolution, 451
Articles 28–41, investor dispute resolution, 451–464
Article 33, private investor access, 170
Article 47, transitional arrangements for ASEAN IGA and AIA Agreement, 466
Articles 48–49, final provisions, 466–467
benefits to members, 30–31
coverage of, 30, 123–124
dispute resolution, international arbitration, 33
see also ASEAN Investment Area (AIA)
ASEAN Connectivity Initiative, 184
ASEAN Consultation to Solve Trade and Investment Issues (ACT), 130–131
customs treaty statement, 410
per Bali Concord II, 236, 238–239

543
## INDEX

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single market and production base</td>
<td>226–227</td>
</tr>
<tr>
<td>ASEAN Economic Community Council (AEC Council)</td>
<td>25, 254, 261</td>
</tr>
<tr>
<td>Charter list of bodies</td>
<td>272–273</td>
</tr>
<tr>
<td>ASEAN Economic Ministers (AEM)</td>
<td></td>
</tr>
<tr>
<td>ASEAN Agreement on the Movement of Natural Persons role</td>
<td>477, 482</td>
</tr>
<tr>
<td>ATIGA statements on</td>
<td>379</td>
</tr>
<tr>
<td>Role in economic integration and cooperation</td>
<td>236</td>
</tr>
<tr>
<td>Role in implementing EDSM</td>
<td>518–520</td>
</tr>
<tr>
<td>Role in implementing Protocol on Dispute Settlement Mechanism (1996)</td>
<td>498–499</td>
</tr>
<tr>
<td>ASEAN Framework Agreement on Services (AFAS)</td>
<td>23, 485–493</td>
</tr>
<tr>
<td>Articles 1 and 11, objectives and areas of cooperation</td>
<td>486–487</td>
</tr>
<tr>
<td>Article 11, liberalization of service trade</td>
<td>8, 124, 488</td>
</tr>
<tr>
<td>Article 1iv, negotiation of commitments</td>
<td>488</td>
</tr>
<tr>
<td>Article v, mutual recognition of education or experience</td>
<td>488–489</td>
</tr>
<tr>
<td>Article vi, non-member states</td>
<td>489</td>
</tr>
<tr>
<td>Article vii, dispute settlement</td>
<td>489</td>
</tr>
<tr>
<td>Article xi, administration</td>
<td>491</td>
</tr>
<tr>
<td>Article xiv, final provision</td>
<td>492–493</td>
</tr>
<tr>
<td>Compliance</td>
<td>127–128</td>
</tr>
<tr>
<td>Liberalization beyond GATS</td>
<td>31</td>
</tr>
<tr>
<td>Member market access</td>
<td>31–33</td>
</tr>
<tr>
<td>Mutual recognition agreements (MRAs) in professional services</td>
<td>126</td>
</tr>
<tr>
<td>Priority to single production base</td>
<td>125</td>
</tr>
<tr>
<td>Progress in concluding commitments</td>
<td>126–127</td>
</tr>
<tr>
<td>ASEAN Framework Agreement on the Facilitation of Goods in Transit</td>
<td>85, 401</td>
</tr>
<tr>
<td>ASEAN Free Trade Area (AFTA)</td>
<td>23, 59</td>
</tr>
<tr>
<td>Article 5.D, customs valuation</td>
<td>109–110, 158</td>
</tr>
<tr>
<td>Free trade agreement</td>
<td>23, 59</td>
</tr>
<tr>
<td>Success and problems</td>
<td>59</td>
</tr>
<tr>
<td>Tariff dismantling</td>
<td>58</td>
</tr>
<tr>
<td>ASEAN Free Trade Area (AFTA) Council</td>
<td></td>
</tr>
<tr>
<td>ATIGA statements on</td>
<td>379</td>
</tr>
<tr>
<td>Non-tariff barrier (NTBs)</td>
<td>103</td>
</tr>
<tr>
<td>Role in tariff concessions</td>
<td>71–73, 334–336</td>
</tr>
<tr>
<td>ASEAN Harmonised Tariff Nomenclature (AHTN)</td>
<td>397</td>
</tr>
<tr>
<td>ASEAN Investment Area (AIA)</td>
<td>23</td>
</tr>
<tr>
<td>Council, ACIA agreement role</td>
<td>447–448, 464–465</td>
</tr>
<tr>
<td>ASEAN Investment Cooperation (AICO) scheme</td>
<td>170–173</td>
</tr>
<tr>
<td>ASEAN Movement of Natural Persons Agreement</td>
<td>129</td>
</tr>
</tbody>
</table>
INDEX

ASEAN Political–Security
Community Council, 254, 261
Charter list of bodies, 272
ASEAN Protocol on Enhanced Dispute Settlement Mechanism (EDSM), 509–538
ACIA dispute resolution, 451
Appendix i, covered agreements, 27, 531–534
Appendix ii, panel procedures, 535–538
Article 1, coverage, 33, 510–511
Article 2, administration, 511
Articles 3–4, consultations and alternative paths, 512–513
Articles 5–10, panel, 513–517
Article 11, third parties, 517–518
Article 12, appeal to AEM, 518–520
Article 13, panel and appellate body communications, 520–521
Articles 14–15, recommendations and implementation, 521–523
Article 16, compensation and suspension of concessions, 523–528
Article 17, DSM fund, 528–529
Article 19, secretariat role, 529
Article 21, final provisions, 530–531
ASEAN DSM, enhance per Bali Concord II, 237
ASEAN Single Window (ASW) application, 422
customs treaty statement, 410–411
dispute resolution, 131–132, 158–159
dispute resolution, problems with, 44–46
jurisdiction, choice of, 34–35
Movement of Natural Persons Agreement role, 480
possible improvements, 168–169
private sector forum for dispute resolution, 169–170
problems with, 134–135
SEOM role, 34–35, 131, 133–134
state use of, 34
targeted for reform by Secretary-General, 35
WTO DSU, comparison to, 132–133
WTO DSU substitute use, 136–137
ASEAN Regional Forum (ARF) role, 223, 225–226
ASEAN Secretariat
Agreement on CEPT role, 303–304
Charter budget, 263–264
Charter statement on, 257
customs treaty role, 409–410
establish legal unit per Bali Concord II, 236
establishment of, 25
funding, 182
human resources, recruitment, and training, 155–156
institutional memory and recordkeeping, 155–156
## INDEX

| National Secretariats, Charter statement, 258 | ASEAN Socio-Cultural Community (ASCC) |
| non-tariff barrier (NTBs), 106 | ASEAN Vision 2020, 24 |
| role in implementing AFAS, 491 | Bali Concord II statement, 228–229 |
| role in implementing ASEAN Protocol on Enhanced Dispute Settlement (EDSM), 529 | ASEAN Socio-Cultural Community Council |
| role in implementing ASEAN Single Window, 421–422 | Charter list of bodies, 274–275 |
| role in implementing ATIGA, 379–380 | Charter rules of procedure, 261 |
| role in implementing Protocol on Dispute Settlement Mechanism (1996), 500 | Charter statement on, 254 |
| role in Notications, 69–70, 325 | ASEAN Trade Facilitation Work Programme, 353–357 |
| role in trade dispute resolution, 464 | ASEAN Trade in Goods Agreement of 2009 (ATIGA), 3, 312–383 |
| strengthened powers of, 153, 177–182, 195, 198 | Appendix 8 (Rule 7), Form D, 82 |
| support for EDSM process, 134 | Appendix 8 (Rule 16), Form D Minor Discrepancies, 83 |
| ASEAN Security Community (ASC), 224–226 | Article 1, free flow of goods, 60, 62–65, 318 |
| ASEAN Vision 2020, 24 | Article 2, definitions, 318–321 |
| role of High Council of the TAC, 225 | Articles 3 and 4, ASEAN Harmonised Tariff Nomenclature (AHTN), 321 |
| ASEAN Single Window (ASW), 116–117 | Article 5, most-favored-nation treatment, 67, 321 |
| ATIGA statement on, 357 | Article 6, internal taxation, 322 |
| benefits of, 118 | Article 7, import and export fees, 322 |
| Customs Agreement statement, 401 | Article 8, exceptions, 322–324 |
| legal hurdles, 118–120 | Article 9, security exceptions, 324–325 |
| National Single Window, 116–118 | Article 10, balance of payments, 325 |
| National Single Window, adoption of, 118 | Article 11, notification, 68–70, 325–327 |
### INDEX

<table>
<thead>
<tr>
<th>Topic</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASEAN Trade in Goods Agreement of 2009 (ATIGA), (cont.)</td>
<td></td>
</tr>
<tr>
<td>Article 12, publication of regulations</td>
<td>327</td>
</tr>
<tr>
<td>Article 13, ASEAN Trade Repository</td>
<td>327</td>
</tr>
<tr>
<td>Article 19, reduction of import duties</td>
<td>329–332</td>
</tr>
<tr>
<td>Article 20, tariff rate quotas</td>
<td>332–333</td>
</tr>
<tr>
<td>Article 21, legal enactments</td>
<td>333</td>
</tr>
<tr>
<td>Articles 22–23, concessions</td>
<td>71–73, 333–336</td>
</tr>
<tr>
<td>Article 22, reciprocity clause on tariff reductions</td>
<td>66–67, 76</td>
</tr>
<tr>
<td>Article 24, rice and sugar</td>
<td>336</td>
</tr>
<tr>
<td>Articles 25–39, rules of origin</td>
<td>336–350</td>
</tr>
<tr>
<td>Article 38, Form D, Certificate of Origin</td>
<td>348–349</td>
</tr>
<tr>
<td>Article 39, sub-committee on rules of origin</td>
<td>336–350</td>
</tr>
<tr>
<td>Articles 40–44, non-tariff measures (NTM)</td>
<td>102, 350–353</td>
</tr>
<tr>
<td>Article 42, non-tariff barrier (NTBs)</td>
<td>102–104</td>
</tr>
<tr>
<td>Article 44, licensing procedures</td>
<td>352–353</td>
</tr>
<tr>
<td>Articles 45–50, trade facilitation</td>
<td>353–357</td>
</tr>
<tr>
<td>Articles 51–70, customs</td>
<td>109, 358–366</td>
</tr>
<tr>
<td>Article 52, definitions</td>
<td>358–359</td>
</tr>
<tr>
<td>Article 60, repayment of overcharge</td>
<td>361–362</td>
</tr>
<tr>
<td>Article 62, customs rulings</td>
<td>362–363</td>
</tr>
<tr>
<td>Articles 71–78, standards, technical regulations</td>
<td>366–373</td>
</tr>
<tr>
<td>Article 73, technical barriers to trade (TBT)</td>
<td>91–92</td>
</tr>
<tr>
<td>Articles 79–85, sanitary and phytosanitary (SPS) measures</td>
<td>373–378</td>
</tr>
<tr>
<td>Article 80, definitions of sanitary and phytosanitary (SPS) measures</td>
<td>373–374</td>
</tr>
<tr>
<td>Article 81, sanitary and phytosanitary (SPS) measures</td>
<td>92–93</td>
</tr>
<tr>
<td>Articles 86–87, trade remedies</td>
<td>114, 378</td>
</tr>
<tr>
<td>Article 87, anti-dumping and countervailing duties</td>
<td>114</td>
</tr>
<tr>
<td>Articles 88–90, dispute resolution</td>
<td>378–380</td>
</tr>
<tr>
<td>Articles 91–98, final provisions</td>
<td>380–383</td>
</tr>
<tr>
<td>bilateral FTA issues, 85–86</td>
<td></td>
</tr>
<tr>
<td>customs administration, 108, 159–160</td>
<td></td>
</tr>
<tr>
<td>dispute settlement mechanism</td>
<td>65</td>
</tr>
<tr>
<td>establishment of, 27</td>
<td></td>
</tr>
<tr>
<td>free trade agreement among developing countries, 61</td>
<td></td>
</tr>
<tr>
<td>national treatment of ASEAN-originating goods, 68</td>
<td></td>
</tr>
<tr>
<td>necessary strength for success, 60</td>
<td></td>
</tr>
<tr>
<td>rule of origin, 77, 79</td>
<td></td>
</tr>
<tr>
<td>tariff liberalization deadlines, 65</td>
<td></td>
</tr>
</tbody>
</table>
INDEX

transit within ASEAN countries, 85
weaknesses, 65–66, 76
see also ASEAN Free Trade Area (AFTA)
ASEAN Trade in Services Agreement (ATISA), 127
ASEAN Trade Repository Article 14 and 15, confidentiality and communication, 328
database for non-tariff measures, 350–351
ASEAN Vision 2020, 23, 224
ASEAN–Australia–New Zealand–FTA (AANZFTA) Economic Cooperation Work Program, 183
ATIGA see ASEAN Trade in Goods Agreement of 2009 (ATIGA)
Authorized Economic Operators (AEO), 361
Bali Concord I see Declaration of ASEAN Concord (1976)
Bali Concord II see Declaration of ASEAN Concord (2003)
Bangkok Declaration of 1967, 1, 19 economic priorities, 20
Basel Convention on the Control of Hazardous Wastes and their Disposal, 104
border crossings of goods see ASEAN Single Window (ASW)
Brunei self-certification pilot program for country of origin, 86 zero duty rates, 59

business organizations, Charter list, 275
Cambodia treaty ratification authority, 163 see also CLMV countries
CCA see Co-ordinating Committee for the Implementation of the ATIGA (CCA)
CEPT see Agreement on the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area; Common Effective Preferential Tariff (CEPT) charter, definition and comparison to treaty, 43
Charter of the Association of Southeast Asian Nations see ASEAN Charter
Chinese investors, expectations, 191
civil society organizations, Charter list, 276–277
CLMV countries, 23
ACIA special treatment, 449
AFTA differences among countries, 59
Common Effective Preferential Tariff (CEPT), 28
import duties reduction, flexibility, 329
Codex Alimentarius Commission (Codex), 92
Committee of Permanent Representatives (CPR)
Charter immunities and privileges, 260
INDEX

Committee of Permanent Representatives (CPR) (cont.)
- Charter statement on, 257–258
- increased responsibilities, 151–152
- role of, 25

Common Effective Preferential Tariff (CEPT)
- Agreement rules set out, 307–311
- antidumping/countervailing duties, 28
- ASEAN origin goods, 28–29, 59
- base rates for ATIGA, 332
- CLMV countries, 28
- exceptions, 28, 298–299
- PTA definitions, 298
- Temporary Exclusion List, 76
- transparency recommendation in Bali Concord I, 231–232
- treaty definition, 297–298
- treaty statement on scope, 299
- under use of preferences, 84–85

see also Agreement on the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area; see also ASEAN Trade in Goods Agreement of 2009 (ATIGA)

Co-ordinating Committee for the Implementation of the ATIGA (CCA)
- non-tariff barrier (NTBs), 103–104, 351–352
- currency, foreign exchange restrictions under ATIGA, 352
- currency union, challenges of, 140
- customs, administration of, 109
- advance rulings, 362–363
- Bali Concord II recommendations, 232
- customs laws, ATIGA definition, 319
- documentation requirements, 393–396
- goods, treatment of, 392–398
- impact on ASWs, 120–121
- weaknesses, 7–8, 113–114, 159–160, 190

see also ASEAN Agreement on Customs

customs duties
- ATIGA definition, 319
- ATIGA statements on, 358–366
- ATIGA transparency requirements, 364
- double imposition, 63–64

Declaration of ASEAN Concord (1976), 21, 213–219
- Chapter A, political action, 215
- Chapter B, economic cooperation, 215–217
- Chapter C, social issues, 218
- Chapter D, culture and education, 218
- Chapter E, security, 218
- Chapter F, final provisions, 219
- purpose, 213–214

see also Bali Concord I

Declaration of ASEAN Concord (2003), Annex, 24, 220–229
- Annex I, dispute settlements through ACT, 238–241

550
INDEX

Annex I on dispute resolution through ACMB, 131, 239–240
Chapter A, trade in goods, 231–233
Chapter B, services, 233
Chapter C, investment, 233–234
Chapter D, intellectual property rights, 234
implementation by member countries, 231
institutional strengthening, 236–237
outreach, 237
priority sectors: goods, services, people, 234–236
defense procurement see ASEAN Defense Ministers’ Meeting (ADMM)
dispute resolution
ACIA Article 27, member state dispute, 451
ACIA Article 28 to 41, investor dispute, 451–464
AFAS statement on, 489
arbitration under EDSM, 34
ATIGA statements on, 379
Charter Article 22 to 28, 45, 261–263
choice of forum, non-ASEAN, 45, 158–160
European Union (EU), 50, 130
national government involvement, 149
North Atlantic Free Trade Agreement (NAFTA), 42, 130
possible improvements, 168–169, 195, 198
private parties recourse under ASEAN charter, 166–167, 170–173
standing for nationals, 150
Summit of ASEAN national leaders, 44, 168, 262
TAC Article 13 to 17, 210–211
Treaty of Amity and Cooperation (TAC), 45
United Nations role, 263
see also ASEAN Protocol on Enhanced Dispute Settlement (EDSM); see also Protocol on Dispute Settlement Mechanism (1996)
dispute resolution, non-binding see ASEAN Compliance Monitoring Body (ACMB); see ASEAN Consultation to Solve Trade and Investment Issues (ACT)
disputes, arbitration of, 34, 45–46, 454–464
awards under ACIA, 463–464
procedure under ACIA, 459–460
procedure under EDSM, 526–527
selection of arbitrator under ACIA, 457–459
disputes, investor-state, 33, 451–464
economic cooperation
Bali Concord I statement, 215–217
Bali Concord II statement, 226–227
INDEX

economic cooperation (cont.)
Committee of Permanent Representatives (CPR), increased responsibilities, 151–152
priority integration sectors per HLTF report, 234–236
Treaty of Amity and Cooperation (TAC) statement, 208
economic problems, joint ASEAN approach, 217
Economic Research Institute for ASEAN and East Asia (ERIA), 187–189
Economic Support Institute, creation of, 187
EDSM see ASEAN Protocol on Enhanced Dispute Settlement (EDSM)
Eminent Persons Group, creation of, 186
English language, 265, 328
environmental and health issues, ASEAN Health Ministers’ Meeting (AHM), 143–144
EPA (Economic Partnership Agreements) see free trade agreements
European Commission legislative and judiciary role, 39, 177
policy reviews, 50
European Community common market, 38–39
harmonization of national regulations, 95
European Court of Justice (ECJ), 39

Cassis de Dijon case, 95
role in early harmonization of national regulations, 95–96
European Union (EU) bilateral FTA instead of ASEAN, 147–148
comparison to AEC, 198
compliance in dispute resolution, 50
free flow of goods, 73–74
regional economic integration project, 36
role of law, 43
rule of law, 43
single market, 37–38
expropriation and compensation, 440–442, 468–469
external relations, Charter statements, 266–267

food safety see sanitary and phytosanitary (SPS) measures

foreign minister role in ASEAN Coordinating Council, 253–254, 267
Framework Agreement on the ASEAN Investment Area (AIA), 122–123
free flow of goods, 63, 92
ATIGA objective, 318
see also ASEAN Trade in Goods Agreement (ATIGA)
free trade agreements ASEAN China FTA (ACFTA), 11–12
Asia Pacific Economic Cooperation (APEC), 9
INDEX

comparison within ASEAN, 14
Economic Partnership
Agreements (EPA), 9
preference and abuse of, 89
Trans Pacific Partnership (TPP), 9
United States Canada Free Trade
Agreement, 42

General Agreement on Tariff and
Trade (GATT), 22
Article 111, 68, 322
Article vi, 378
Article vi, Anti-dumping and
countervailing duties, 114
Article ix, 378
Article x, 327
Article xi, 104–105, 351
Article xii, 325
Article xiii, 352
Article xiii, 114
Article xxiv, 9, 12, 60, 65
ATIGA definition, 320
Customs Valuation Agreement, 398
Enabling Clause, 61, 65, 75
General Agreement on Trade in
Services (GATS), 31
Article iv, 60
Article v, 10
Greater Mekong Sub-region (GMS), 7, 10

High Level Task Force (HLTF) on
ASEAN Economic Integration
see Declaration of ASEAN
Concord (2003), Annex

High Level Task Force on ASEAN
Economic Integration
(HLTF), report, 230–237
HLTF see High Level Task Force on
ASEAN Economic Integration (HLTF)

Indonesia, 19
NTBs to limit agricultural
imports, 107
self-certification pilot program
for country of origin, 87, 89
treaty ratification authority, 163
see also Konfrontasi
industrial subsidies, 141–142
infrastructure deficiencies, ASEAN
Infrastructure Fund (AIF), 142, 189
infrastructure funding, 184–185
Initiative for ASEAN Integration
(IAI), 184
Initiative for ASEAN Integration
(IAI) Strategic Framework
see Roadmap for an ASEAN
Community
intellectual property, further work
needed, 137
International Centre for the
Settlement of International
Disputes (ICSID), 34,
451–452, 455
International Court of Justice (ICJ),
preferred forum over
EDSM, 157
International Monetary Fund
(IMF), 352
freely usable currency, 438–440
INDEX

International Monetary Fund (IMF), (cont.)
freely usable currency definition, 430
International Plant Protection Convention (IPPC), 93
Internet and electronic data, secure virtual network, 155–156
Internet secure virtual network, 120
investments, foreign market access and investment protection, 121
restrictions reduced, 33
see also ASEAN Comprehensive Investment Agreement (ACIA)

Japan
ASEAN Infrastructure Fund (AIF) funding, 189
automotive and electronics industries, 5
Economic Partnership Agreements (EPA), 9
ERIA funding, 188–189
Japanese Greater Co-Prosperity Sphere of World War II, 19

Konfrontasi, 19

labor, skilled see ASEAN Agreement on the Movement of Natural Persons

Laos
self-certification pilot program for country of origin, 89
see also CLMV countries

legal weight of agreements made by non-political officials, 164–165
legal weight of agreements under international law, 162–163
legal weight of agreements within ASEAN bodies, 164
Lisbon Treaty see Treaty of Lisbon (EU)

Malaysia, 19
prime minister’s authority in treaty-signing, 162
self-certification pilot program for country of origin, 86
see also Konfrontasi
Malphilindo proposal, 20

member states
ATIGA listing, 318
founding states, 19
legal enactment of ATIGA by, 333
responsibility for harmonizing standards and technical regulations, 366–373
see also CLMV countries

Most Favored Nation (MFN), 22, 30, 66, 321, 433–434
Mutual Recognition Agreement (MRA) for Electrical and Electronics Equipment, 94

Mutual Recognition Agreement (MRA) on Good Manufacturing Practices of Inspection of Manufactures of Medicinal Products, 94
INDEX

Mutual Recognition Arrangements (MRA), Bali Concord II recommendations, 232–233

Myanmar see CLMV countries

Najib Razak, 154

national legislation adoption

ASEAN Cosmetic Directive (ACAM), 94
ASEAN Harmonized Electric and Electronics Equipment Regulatory Regime (AHEEERR), 94

National Secretariats, establishment of, 203

natural persons, movement of

problematic issues with, 128–129
see also ASEAN Agreement on the Movement of Natural Persons

newer ASEAN member states see CLMV countries

non-ASEAN country relations, free trade agreements, 67–68

non-ASEAN legal instruments, 46
non-tariff barrier (NTBs)

ASEAN Cosmetic Directive (ACAM) compliance, 107
ATIGA definition, 320
confusion and problems with NTMs, 101–102
elimination deadlines under ATIGA, 103
elimination under CEPT, 301
EU member compliance, 106–107
NAFTA member compliance, 106
post entry issues, 190–191
quantitative restriction elimination per ATIGA, 28, 102, 320, 351
quantitative restriction elimination per CEPT, 298, 301
treaty definition, 298
weakness in confronting, 105–108
non-tariff measures (NTMs)
ATIGA statement on transparency, 350
transparency recommendation in Bali Concord I, 232
see also ASEAN Trade Repository; sanitary and phytosanitary (SPS) measures; technical barriers to trade (TBT)

North Atlantic Free Trade Agreement (NAFTA), 2
Articles 12 and 14, service trade, 127, 129
Article 101, 61–62
Article 309, non-tariff measures (NTMs), 104–105
Article 712, standards for sanitary and phytosanitary (SPS) measures, 98–99
Article 718, sanitary and phytosanitary (SPS) measures, 99–100
Article 756, sanitary and phytosanitary (SPS) measures, 98
## INDEX

North Atlantic Free Trade Agreement (NAFTA), (cont.)
- comparison to AEC, 198
- compliance in dispute resolution, 50
- free flow of goods during transition to FTA, 74–75
- market access and investment protection, 121
- policy reviews, 50
- Preamble, 40–41
- regional economic integration project, 36
- role of law, 43
- rule of law, 43
- Secretariat, powers of, 41, 177
- single production base, 39–41

NTB see non-tariff barrier (NTBs)

Ombudsman, establishment of, 185

Organisation for Economic Co-operation and Development, research function to emulate, 187

Permanent Court of Arbitration (PCA), 451

Philippines
- founding state, 19
- low use of FTAs, 13
- self-certification pilot program for country of origin, 89

see also Thailand - Customs and Fiscal Measures on Cigarettes from the Philippines

political and security cooperation
- ASEAN Regional Forum (ARF) role, 223
- ASEAN Security Community (ASC), 142, 224–226
- Bali Concord II statement, 222
- Protocol on Dispute Settlement Mechanism (1996) (DSM), 494–508
- Appendix 1, covered agreements, 501–505
- Appendix 2, panel procedures, 505–508
- Article 1, coverage, 495
- Articles 2–3, consultations and negotiation, 495–496
- Article 4, SEOM role, 497
- Articles 5–6, panel, 497–498
- Article 7, SEOM role, 498
- Article 8, appeal to AEM, 498–499
- Article 9, compensation and suspension of concessions, 499–500
- Article 11, Secretariat role, 500
- Article 12, final provisions, 501

see also ASEAN Protocol on Enhanced Dispute Settlement (EDSM)

PTA see Agreement on ASEAN Preferential Trading Arrangements (APTA)

regional integration
- benefits of, 13
- Greater Mekong Sub-region (GMS), 10–11
INDEX

low ASEAN member involvement, 15
rice and sugar, special treatment, 336
Roadmap for an ASEAN Community, 47
rules of origin
ATIGA statement on rules, 336–350
CEPT Agreement rules set out, 307–311
Form D, Certificate of Origin, 80
Form D, Certificate of Origin, problems, 81–82, 84–86
Form D, scrutiny of or self-certification, 89–90
loss of origin, 84–85
self-certification, 86, 89
self-certification and trading companies, 87–89
specific products, 77–79
treaty definition, 299
sanitary and phytosanitary (SPS) measures
ATIGA statements on, 90–91, 373–378
ATIGA statements on emergency situations, 376
in European Union, 94–97
in NAFTA, 97–101
Secretariat see ASEAN Secretariat
Senior Economic Officials meeting (SEOM)
non-tariff barrier (NTBs), 351
report on underutilization of FTAs, 14–15
role in EDSM, 34–35, 131, 133–134
role in implementing AFAS, 491
role in implementing ASEAN Single Window, 421
role in implementing EDSM, 511, 513–514, 516, 522–523
role in implementing Protocol on Dispute Settlement Mechanism (1996), 495, 497–498
role in Notifications, 69, 325
role in supporting AEC Council, 25
role in trade dispute resolution, 379, 464
SEOM see Senior Economic Officials meeting (SEOM)
services trade see ASEAN Framework Agreement on Services (AFAS); see ASEAN Trade in Services Agreement (ATISA)
Singapore, 19
bilateral FTA with EU, 148
high utilization of FTAs, 13
prime minister’s authority in treaty-signing, 162
self-certification pilot program for country of origin, 86
zero duty rates, 59
Single European Act of 1985 (SEA), 96–97
voting changes, 38
single market

557
<table>
<thead>
<tr>
<th>INDEX</th>
</tr>
</thead>
</table>
| single market (cont.)competition and consumer protection in, 138government procurement and, 138secondary priority to single production base, 6
| see also Declaration of ASEAN Concord (2003) |
| single market and production baseAEC Blueprint, 48ASEAN Charter, 2–3, 37, 197–198, 248ASEAN Economic Community (AEC), 226–227single production base, 4–5lack of definition, 39–40North Atlantic Free Trade Agreement (NAFTA) statement, 41prioritization needed, 16, 90, 190
| see also ASEAN Charter; Declaration of ASEAN Concord (2003) |
| single window see Agreement to Establish and Implement the ASEAN Single Window; ASEAN Single Window (ASW) |
| socio-cultural cooperationASEAN Vision 2020, 24Bali Concord II statement, 222, 228–229Committee of Permanent Representatives (CPR), increased responsibilities, 151–152 |
| Southeast Asia Treaty Organization (SEATO), 20sovereignty of ASEAN membersCharter statement on, 250comparison to sports leagues, 150Secretariat, delegation to, 178stumbling block to development of ASEAN, 6, 75, 193SPS see sanitary and phytosanitary (SPS) measuresSuharto, 19Summit of ASEAN national leadersASEAN agreement commitments, 163Charter statement on, 25, 163, 252–253Charter statement on role in dispute resolution, 262role in dispute resolution, 44, 168supranational institutions, in European Union, 43Surin Pitsuwan, 149TAC see Treaty of Amity and Cooperation in Southeast Asia (TAC)tari
taff and trade liberalization, 7–8ASEAN progress, 64, 66–68cooperation under CEPT treaty, 302flexibility in ATIGA, 75–76Greater Mekong Sub-region (GMS), 7
| see also ASEAN Free Trade Area (AFTA); ASEAN Trade in Goods Agreement of 2009 (ATIGA) |
INDEX

tariffs, internal and external
ASEAN origin goods, 29
ATIGA statement on reduction, 329–332
benefits of reductions through ATIGA, 333–336
Common Effective Preferential Tariff (CEPT), 28–29, 66
schedule of tariff reduction, 300–301
tax harmonization, 140–141
technical barriers to trade (TBT)
Code of Good Practice for standards, 367–368
elimination of, 90–91, 93
harmonization of national regulations, 94, 367
NAFTA provisions, 97
technical regulations, 368–370
see also national legislation adoption
Thailand, 19
self-certification pilot program for country of origin, 86
Thai Industrial Standards and NTBs, 107
treaty ratification authority, 163
see also Thailand – Customs and Fiscal Measures on Cigarettes from the Philippines
Thailand – Customs and Fiscal Measures on Cigarettes from the Philippines, 110–114, 136, 158, 161
think tanks, 276

TPP (Trans Pacific Partnership) see free trade agreements
trade and investment, reduction of barriers, 16
trade preferences
Declaration of ASEAN Concord (1976), economic cooperation, 215–217
member market access, 31–33
product by product, 22
see also Agreement on ASEAN Preferential Trading Arrangements (PTA)
trade remedies, 115–116
see antidumping/countervailing duties
Treaty of Amity and Cooperation in Southeast Asia (TAC), 205–212, 223
Article 1, aims and purposes, 206
Article 2, fundamental principles, 207
Article 3, strengthening ties, 207
Article 4, cooperation in economic, social, technical, scientific, and administrative fields, 207
Article 5, non-discrimination, 208
Article 6, agriculture and economic growth, 208
Article 7, economic cooperation, 208
Article 8, training and research, 208
Article 9, communication and consultation, 209
INDEX

Treaty of Amity and Cooperation in Southeast Asia (TAC), (cont.)
Article 10, threats, 209
Article 11, national resilience, 209
Article 12, regional prosperity, 209
Articles 13–17, dispute resolution, 210–211
Article 16, consent of parties, 45
Articles 18–20, final provisions, 211–212
dispute resolution, 45
Treaty of Lisbon (EU), market access and investment protection, 2, 121
Treaty of Rome (EC Treaty), 2, 27
Article 2, common market, 38
Article 14, service trade, 127, 129
Articles 28–30, non-tariff measures (NTMs), 105
Article 169, 181
Article 177, Court of Justice jurisdiction, 165–166
common commercial policy, 38–39
common customs tariff, 38–39
Title 1, free movement of goods, 63

UN Conference on Trade and Development (UNCTAD), resolutions among Developing Countries, 22
United Nations, ASEAN relations with, 268
United Nations, role in dispute resolution, 263

Arbitral Award convention, 452, 455
Vietnam
low use of FTAs, 13
see also CLMV countries

World Customs Organization
Harmonized Tariff Nomenclature, 398
SAFE Framework of Standards, 387
World Organization for Animal Health (OIE), 92
World Trade Organization (WTO)
Agreement of Establishment (Marrakesh), 432
Annex 1A, Agreement on Technical Barriers to Trade, 91
Annex 1A provisions apply to ACIA, 434
Customs Valuation Agreement, 109, 111–113, 361–362
Dispute Settlement Understanding (DSU), 131–132, 158
Enabling Clause, 12
member policy reviews, 50
Mode 4 (movement of natural persons) see natural persons, movement of rules compatible with GATT and GATS, 9–10
Understanding on Balance-of-Payments Provisions, 325

Yaung Chi Oo v. Myanmar, 122

560