

**2020 MEMORANDUM OF UNDERSTANDING ON THE
IMPLEMENTATION OF NON-TARIFF MEASURES ON
ESSENTIAL GOODS UNDER THE HANOI PLAN OF ACTION ON
STRENGTHENING ASEAN ECONOMIC COOPERATION AND
SUPPLY CHAIN CONNECTIVITY IN RESPONSE TO
THE COVID-19 PANDEMIC**

Adopted on 13 November 2020

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Adopted on 13 November 2020

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic (Lao PDR), Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam, Member States of the Association of Southeast Asian Nations (hereinafter collectively referred to as "Member States"):

RECALLING the Declaration of the Special ASEAN Summit on Coronavirus Disease 2019 (COVID-19), issued on 14 April 2020, where the ASEAN Leaders reaffirmed their determination and commitment, in the spirit of a Cohesive and Responsive ASEAN, to remain united and to act jointly and decisively to control the spread of the disease while mitigating its adverse impact on our people's livelihood, our societies and economies;

RECALLING FURTHER the Statement on Strengthening ASEAN's Economic Resilience in Response to the Outbreak of the Coronavirus Disease (COVID-19), where the ASEAN Economic Ministers (AEM) agreed to take collective course of action to mitigate the economic impact of COVID-19 and resolved to, among others, continue addressing non-tariff barriers, particularly those that impede the smooth flow of goods and services in supply chains, and refrain from imposing new and unnecessary non-tariff measures; and

DETERMINED to implement the Hanoi Plan of Action on Strengthening ASEAN Economic Cooperation and Supply Chain Connectivity in Response to the COVID-19 Pandemic, in particular, where Member States committed to ensure the smooth flow of essential goods, including food, medicines, and medical and other essential supplies associated with combating the COVID-19 pandemic and facilitate timely information sharing amongst the Member States with regard to trade-related measures on these essential goods and supplies,

HAVE REACHED THE FOLLOWING UNDERSTANDING:

SECTION 1: DEFINITIONS

For the purpose of this Memorandum of Understanding (MOU):

- a) **Essential goods** include food, medicines, and medical and other essential supplies, as listed in the Appendix of this MOU, for the purpose of combating the COVID-19 pandemic, subject to agreement by all Member States;
- b) **Rollback** means the undertaking to phase out or eliminate non-tariff measures which would unnecessarily impede intra-ASEAN trade flows of essential goods;

- c) **Non-Tariff Measures (NTMs)** refers to government measures or policies other than duties which affect trade flows, in accordance with the rights and obligations of the Member States under the WTO Agreement, the ASEAN Trade in Goods Agreement (ATIGA), and any other international agreements;
- d) **WTO** means the World Trade Organization; and
- e) **WTO Agreement** means the Marrakesh Agreement Establishing the World Trade Organization, done on 15 April 1994 and the other agreements negotiated thereunder.

SECTION 2: SCOPE AND COVERAGE

1. This MOU will cover all types of trade restricting or distorting NTMs applied to essential goods.
2. Member States will conform with the arrangements on essential goods under this MOU, except where exceptional circumstances compel them to do otherwise, in accordance with the WTO rules.

SECTION 3: RELATIONSHIP TO THE WTO AGREEMENT, THE ATIGA, AND OTHER INTERNATIONAL AGREEMENTS

1. Nothing in this MOU prevents Member States from exercising their rights and obligations under the WTO Agreement, the ATIGA and any other international agreements to which they are party.
2. Member States will not, to the extent possible, introduce or maintain trade restrictive NTMs on essential goods except for public health emergencies, in which case such measures must be targeted, proportionate, transparent, temporary, and in conformity with their rights and obligations under the WTO Agreement, the ATIGA, and other international agreements.
3. Member States will, to the extent possible, unilaterally rollback all NTMs on essential goods that are not in conformity with the WTO Agreement. In cases where complete rollback of NTMs on essential goods are not feasible, Member States will discuss an appropriate modality to address the NTMs' trade distorting effects, if any.

SECTION 4: NOTIFICATION PROCEDURES AND TRANSPARENCY

1. Member States will observe notification obligations and abide by the notification procedures provided for in Article 11 (Notification Procedures) of the ATIGA.
2. Notwithstanding Article 11 (Notification Procedures) of the ATIGA, Member States will endeavour to immediately notify the ASEAN Secretariat with an overview of their NTMs on essential goods, including the products covered and impacted, the objective and rationale of the measure, and the nature of the circumstances. Should an issuing Member State not be able to comply with the above notification procedures, other Member States may notify the relevant ASEAN bodies and the ASEAN Secretariat of the NTMs on essential goods being introduced or amended by the issuing Member State.
3. Member States will ensure the timely publication and dissemination of regulatory information on matters pertaining to their NTMs on essential goods. Member States will make full use of the ASEAN Trade Repository provided for under Article 13 (ASEAN Trade Repository) of the ATIGA, where possible, towards this end.

SECTION 5: INSTITUTIONAL MECHANISM

1. The Senior Economic Officials (SEOM), assisted by the ASEAN Trade Facilitation Joint Coordinating Committee (ATF-JCC) and supported by the ASEAN Secretariat, will monitor the implementation of arrangements under this MOU, including notifications made pursuant to Section 4 (Notification Procedures and Transparency).
2. The appropriate modality to address trade distorting effects of NTMs on essential goods referred to in paragraph 3 in Section 3 (Relationship to the WTO Agreement, the ATIGA, and Other International Agreements) will be discussed by the ATF-JCC, which will then provide regular updates to the AEM, through SEOM.

SECTION 6: IMPLEMENTATION ARRANGEMENT FOR THE MOU

1. This MOU will come into effect from the date of its signature and will apply for a period of two years unless Member States agree otherwise, following a mid-term review.
2. This MOU including its Appendix, may be modified through amendments agreed upon in writing by all Member States. Such amendments will come into effect on such date as may be agreed to by all Member States and will form an integral part of this MOU.
3. This MOU will be deposited with the Secretary-General of ASEAN who will then promptly furnish a certified copy thereof to each of the Member States.
4. This MOU does not create any rights or legal obligations under international law and will not be subject to any dispute settlement mechanism.

SIGNED on the Thirteenth Day of November in the Year Two Thousand and Twenty.

For the Government of Brunei Darussalam
Dato Dr. Amin Abdullah
Minister at the Prime Minister's Office and
Minister of Finance and Economy II

For the Government of Cambodia
Pan Sorasak
Minister of Commerce

For the Government of Indonesia
Agus Suparmanto
Minister of Trade

For the Government of the Lao People's Democratic Republic
Khemmani Pholsena
Minister of Industry and Commerce

For the Government of Malaysia
Dato' Seri Mohamed Azmin Ali
Senior Minister and
Minister of International Trade and Industry

For the Government of the Republic of the Union of Myanmar
Thaung Tun
Minister for Investment and Foreign Economic Relations

For the Government of the Philippines
Ramon M. Lopez
Secretary of Trade and Industry

For the Government of Singapore
Chan Chun Sing
Minister for Trade and Industry

For the Government of the Kingdom of Thailand
Jurin Laksanawisit
Deputy Prime Minister and
Minister of Commerce

For the Government of Viet Nam
Tran Tuan Anh
Minister of Industry and Trade